

# **PENSION DEFICIT IN BRAZILIAN SOCIAL SECURITY SYSTEM: *LEGAL REMARKS AND STRATEGIES TOWARDS FINANCIAL SUSTAINABILITY*<sup>1</sup>**

Cristiane Miziara Mussi

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PhD in Social Security Law by Pontifícia Universidade Católica de São Paulo - PUC / SP. Master of Laws in Social Relations (subarea Social Security Law) by PUC / SP. Specialist in Consumer Law by UNIRP. Adjunct Professor of tax Law and Social Security Law at the Federal Rural University of Rio de Janeiro - UFRRJ; Research Group Leader certified by CNPq. Attorney at law.

Marcos Roberto Pinto

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PhD in Accounting by Universidade de São Paulo - USP / SP. Master in Accounting by Universidade Federal do Rio de Janeiro - UFRJ / RJ. Adjunct Professor at the Federal University of Rio de Janeiro – UFRJ.

**Abstract:** The present article consists in the brief analysis of the evolution of the Brazilian General Regime Social Security, depicting its frailty against subsequent legal reforms through which it has passed in recent years. It also deals with the impact of socioeconomic changes on the current and future financial sustainability of the Brazilian pension system. In fact, the evolution of the statistics concerning such social indicators can be quite decisive for the future sustainability of the Brazilian social security system. For this, we used the phenomenological method - hermeneutics, by privileging theoretical studies and analysis of documents and texts. Such research is very important in order to provide a glimpse of the general social security regimen in Brazil and its future prospects. The main results show that there is a budgetary concern due to the growth in life expectancy and declining birth rate. Even with the absence of the current financial deficit proclaimed by the media and the federal government, there will be the need for reform to fit the budget of Brazil's future Social Security System. According to our analysis, the improvement of Brazilian Social Security requires

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<sup>1</sup> Translated by: Bruno Rodrigues de Almeida

legal autonomy of the Social Security Revenue (thus preventing the withdrawal of it funds to defray social security benefits belonging to another public sectors), the increase of minimum wage in the country, and public policies to stimulate the entry of informal workers in the General Social Security Regimen. Furthermore, this article suggests that, as a matter of immediate public policy, the Brazilian government should focus more energetically in improvement of educational systems, which presents itself as a strong indicator for the improvement of social welfare budget.

**Keywords:** Brazilian Social Security - Financial Sustainability - Financial Regime.

## 1. INTRODUCTION

Created in order to protect the social needs caused by so-called “social risks”, the Brazilian Social Security has been structured and subsequently modified since its inception, reaching the pinnacle of Brazilian Legal Order in the Federal Constitution of October 5, 1988, included as a component of the Social Security System<sup>2</sup>.

Within Brazilian legal order, Social Security is the institution through which State and Civil Society conjointly sustain an important vessel for safety network. In this perspective, this study presents an overview of the historical evolution of Social Security in Brazil, marked by its constant reforms, in order to promote reflection on current economic and financial aspects of its financial sustainability towards future developments of welfare budget in Brazil. This study also presents economic and financial data of the current situation of social security that supports that suggested changes would actually improve the future balancing of the welfare budget.

## 2. SOCIAL PROTECTION IN THE PENSION CONTEXT

Grounded in the need for supporting workers, social security is undoubtedly the most efficient mechanism of social protection in Brazil. Designed to protect the worker, this kind of social insurance mobilizes State and civil society institutions to provide a wide coverage of social needs. Thus, while the Consolidation of Labor Laws – (CLT) protects the employee during his or her active period, the Social Security Legislation ensures a decent livelihood in the retirement to those who

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<sup>2</sup> Article 194 of 1988 Constitution estates that three different institutions compose Brazilian Social Security System: Health, Welfare and Social Security.

have performed remunerated activities<sup>3</sup>.

Drawing on the need for social protection, pension means planning. In seeking a legal concept of social security, it is possible to consider it as the embodiment of the idea of prevention against possible social risks to which the whole of society, regardless of economic status. It means that State authorities become responsible for administering the finances reverted to them (directly or indirectly) by civil society institutions in order to provide for social security funding (MUSSI, 2010, p.153).

Security, in the conceptual sense, comes from the idea of prevention. Within the years, public policy makers realized that individuals are subject to certain misfortunes (illness, death, disability, old age etc.), needing support from the State, when facing situations of social risk. (SÜSSEKIND, 1955, p. 42).

When dealing with the concept of social risk, we must bear in mind that risk is associated with the idea of the future. Risk, therefore, represents a future event, uncertain, but possible. An event can be considered as “social risk” if it implies potential damage or loss for not just the individual but also his or her family and even that local community to which he or she belongs (FEIJÓ COIMBRA, 2001, p 17)<sup>4</sup>.

Upon the occurrence of a harmful event, the once potential social risk actually becomes a claim, which entitles the individual (and/or his or her family) to be secured by the (SÜSSEKIND, 1955, p 13)<sup>5</sup>.

Heloísa Hernandez Derzi points out that likelihood is also required to the concept of social risk, since an event considered impossible of occurring cannot be object of social security (2004, p. 61).<sup>6</sup>

Social risk is danger to which the whole society is subject. Historical experience has shown that although some risks may initially inflict directly the worker, their consequences can radiate throughout

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3 Article 11 of Law Number 8.213/1991 determines the subjects to General Regimen of Social Security: employees, domestic employees, individual contributors and special insurance cases.

4 *In verbis*: “Risco é o evento futuro e incerto, cuja verificação independe da vontade do segurado. A legislação social desde logo voltou-se para a proteção de determinadas espécies de riscos, cuja ocorrência traria desfalque patrimonial ao conjunto familiar do trabalhador, ou seja, a morte do segurado, ou a perda de renda deste, por motivo de incapacidade laborativa, decorrente de doença, acidente ou velhice) ”.

5 *In verbis*: “dá-se o nome de risco ao perigo a que está sujeito o bem segurado, seja esta pessoa ou coisa, ante a possibilidade da ocorrência de um acontecimento previsível que lhe cause dano. Esse acontecimento ou evento danoso, quando ocorrido, transforma o risco em sinistro [...]”.

6 *In verbis*: “a futuridade e a incerteza são igualmente elementos lógicos do conceito de risco. Um evento de impossível realização não pode ser objeto de seguro; logo, o evento deve ser de possível ocorrência”

society.

Considering the practical inconveniences caused by such risks, Otto Von Bismarck (1883, Germany), regarded to be “*the father of social insurance*”, noted the need to hedge against risks that afflicted workers and actually resulted in the lack of restfulness and general satisfaction .

Social Security System was thus created. For the first time in its history, the State was responsible to compensate the misfortunes that afflicted workers. The role of State transmutes from a merely welfare to protectionist one. (CASTRO & LAZZARI, 2010, p. 44) <sup>7</sup>.

The standard of Social solidarity, currently applied to many Social Security Systems such as the Brazilian one, was historically first established in Great-Britain in the year of 1944, through Beveridge Plan, elaborated by English Economist William Beveridge during the World War II. Such plan aimed to include all society in the funding of Social Security, in order to find ways of fighting the five ‘Giant Evils’ of ‘Want, Disease, Ignorance, Squalor and Idleness’.

Risks such as old age, sickness, disability, maternity, are gaining new contours and social security protection worldwide. The State authorities protect not because institutional benevolence, but out of actual social necessity, and civil society must also contribute to its funding because it is necessary to be prescient.

Primarily associated with the notion of harm, the concept of risk has evolved in the social doctrine, considered, in our times, as a situation of “necessity” as suggested by Almansa Pastor (1991, p. 223):

*Y es que la noción de daño no se ajusta fielmente a la función protectora del seguro social, ya por defecto, ya por exceso. Por defecto, porque existen acaecimientos deseados y felices (nupcialidad, natalidad, etc.) que no pueden ser considerados como dañosos en sí, y, sin embargo, son merecedores de protección, en cuanto provocan una onerosidad económica o necesidad como consecuencia. Por exceso, porque así como la necesidad supone la falta de bienes esenciales, necesarios para la vida del sujeto protegido, el daño sobrevenido puede referirse a bienes superfluos que exceden los*

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<sup>7</sup> *In verbis* : “No modelo bismarckiano ou de capitalização [...] somente contribuíam os empregadores e os próprios trabalhadores empregados, numa poupança compulsória, abrangendo a proteção apenas destes assalariados contribuintes. Ou seja, embora o seguro social fosse imposto pelo Estado, ainda faltava a noção de solidariedade social, pois não havia a participação da totalidade dos indivíduos, seja como contribuintes, seja como potenciais beneficiários”

*necesarios, en la medida en que sean atacados por el acaecimiento. Si, pues, la consecuencia abarca necesidades que no son dañosas, al tiempo que rechaza daños que no constituyen necesidades, ha de concluirse que el concepto necesidad conviene mejor que la noción del daño.*

Thus, the reason for Social Security protection evolved from the eventuality of harm to potential necessity, because policy makers realized that social risk not only justifies in the occurrence of harmful events. One example is motherhood leave of female workers, which cannot be associated with the idea of damage. Still, it requires the woman to drop her workplace during a certain moment of her pregnancy to give birth and to provide for the early cares of her newborn, a period in which family expenses are likely to increase. Without social security protection, not only the woman but also her husband and children would be helpless in this time of need.

In the light of such arguments, the need for social insurance becomes an essential mechanism of social protection, especially in the case of the venues provided by Social Security System, which are fundamental rights constitutionally protected within many legal orders, such as Brazilian.

### **3. SOCIAL SECURITY IN BRAZIL: BRIEF HISTORICAL OVERVIEW.**

The idea of Social Security is historically associated with the awareness towards the need of a network of social protection for workers, the main source of wealth of the country.

In Brazil, Social Security System is relatively recent, since its first landmark is Legislative Decree number 4,682, of January 24<sup>th</sup>, 1923, also known as Eloy Chaves Law, which implemented the Cash Retirement and Pensions System for workers in Railroad industry, which represents the implementation period of Brazilian Social Security System.

Following that milestone, and due to increasing popular demand, Brazilian Government established several other Institutes of Retirement and Pensions (*Institutos de Aposentadorias e Pensões* – IAP's) between 1933 and 1959.

This represents the second period of social security in Brazil, also known as the period of its expansion, during which each category of workers was protected by a different institution. In this scenario there was comes the Institute of Retirement and Pensions for Naval Workers

(IAPM)<sup>8</sup>, the Institute of Retirement and Pensions of Bank Workers (IAPB)<sup>9</sup>, the Institutes of Retirement and Pensions of Workers in Commerce (IAPC)<sup>10</sup>, Institute of Retirement and Pensions of Industrial Workers (IAPI)<sup>11</sup>, Institute of Retirement and Pensions of Public Servers (IPASE)<sup>12</sup> among others.

The Third Period represents the Unification. Brazilian government realized that not only the management of so many different institutions proved to be very difficult, but also that many workers were still not contemplated within the IAP's structure. Thus, it was decided to unify the pension system rules in 1960, through the enactment the Organic Law of Social Security - LOPS (Law nº 3807 of August 26<sup>th</sup> 1960), establishing a single standard to which all workers would subject. One should notice that unlike IAP's system, Law 3.807/60 (LOPS) expressly excluded from its reach civil public servants and rural workers.

Starting in 1977, the fourth period of social security in Brazil takes place, also known as restructuring period. During this period, government created three different institutions that would enforce the provisions of Law nº 3.807/60, through Law 6.439, of September 1<sup>st</sup>, 1977, which implemented the National System of Social Security (SINPAS), the Institute of Financial Management of Social Security (IAPAS) and the National Institute for Medical Treatment Social Security (INAMPS).

Finally, the Federal Constitution of 1988 inaugurated the fifth period of social security in Brazil, also known as Social Security System period. In this context, article 201 establishes that Social Security as one of the components of Social Security System, which also encompasses health and social assistance within its structure.

Notwithstanding, article 6 of the of 1988 Charter lists social security as a social right:

*Article 6. Education, health, food, work, housing, leisure, security, social security, protection of motherhood and childhood, and assistance to the destitute are social rights, as set forth by this Constitution. (CA No. 26, 2000; CA No. 64, 2010)*

Brazilian State should provide for social essential needs, through the adoption of measures to compensate individual weakness,

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8 Decree 22.872 of 06/29/1933.

9 Decree 24.615, of 09.07.1934.

10 Decree 24,273, of 05.22.1934.

11 Law 367 of 12.31.1936.

12 Decree-Law 288 of 02/23/1938.

thus enforcing fundamental social rights as established by Brazilian Constitution, and such compensation is enacted by public policies based on distributive justice and material equality (OLIVEIRA, 1996, p. 19)<sup>13</sup>.

Brazilian Social security – comprised within the context of Social Security System – is defined in Article 194 of 1988 Charter as “an integrated whole of actions initiated by the Government and by society, with the purpose of ensuring the rights to health, social security and assistance”.

Enacting the need for participation of the whole society in Social Security System, Constitutional Amendment number 20 (in December 15<sup>th</sup>, 1998) introduced the new section VII for the sole paragraph of article 194, establishing the democratic and decentralized nature of administration, through quadruple management, with the participation of workers, employers, retirees, and the Government in the related collegiate organs.

Corroborating the importance of social participation in Social Security, articles. 10 and 204 of the current Constitutional Charter, estates that:

*Article 10. The participation of workers and employers is ensured in the collegiate bodies of government agencies in which their professional or social security interests are subject of discussion and resolution.*

*Article 204. Government actions in the area of social assistance shall be implemented with funds from the social welfare budget, as provided for in article 195, in addition to other sources, and organized on the basis of the following directives: (CA No. 42, 2003) (...)*

*II – participation of the population, by means of organizations representing them in the formulation of policies and in the control of actions taken at all levels.*

Emphasizing its solidary nature, article 195 of the current Brazilian Bill of Rights determines that resources to the Social Security

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13 *In verbis*: “o Estado se apresenta, então, como meio de satisfazer as necessidades sociais, através de medidas que compensem as fraquezas dos indivíduos, pela introdução dos direitos sociais. Essa compensação se justifica em nome de uma justiça distributiva, da equidade ou da igualdade de oportunidades”



System are to allocated directly (via social contributions) and indirectly (through funds originated from the budgets of the Federal Union, Member States, Federal District and Municipalities).

Furthermore, article 201 of the Federal Constitution of 1988 confers protection to some selected social risks by ensuring: I - coverage of the events of illness, disability, death and old age; II - maternity leave to pregnant working women; III - protection to workers in involuntary unemployment situation; IV - family allowance and imprisonments benefit for dependents of low income insured individuals; V - pension by death of the insured person, man or woman, to be paid to the spouse or partner and/or his/ her dependents, subject to the provisions of § 2.

#### **4. BRAZILIAN PENSION SCHEMES**

Regarding the Brazilian Social Security, Constitutional Charter of 1988 establishes three pension schemes (or regimens) in Brazil: Special Social Security System (Regime Próprio de Previdência Social), General Social Security (Regime Geral de Previdência Social) and the Supplemental Security also known as Private Security.

According to *caput* of Article 40 of 1988 Constitution, only tenured civil servants are entitled to Special Social Security Scheme (RPPS).

*Article 40. Employees holding effective posts in the union, the states, the federal district, and the Municipalities, therein included their associate government agencies and foundations, are ensured of a social security scheme on a contributory and solidary basis, with contributions from the respective public entity, from the current employees, retired personnel, and pensioners, with due regard for criteria that preserve financial and actuarial balance and for the provisions of this article.*

Hence, Paragraph 13 expressly determines that temporary workers, public employees and those who solely occupy commission offices (legally characterized as of free appointment and discharge) belong to the General Social Security regimen (RGPS):

*Paragraph 13. The general social security scheme applies to employees who hold exclusively commission offices declared by law as being of free appointment and discharge, as well as other*



*temporary posts or public positions.*

Federal Law number 8.112 of December 11<sup>th</sup> 1990 establishes the rules and regulations of Special Social Security for tenured civil servants of the Federal Union and, symmetrically, Member States, Federal District and Municipalities must regulate Social Security Schemes to their own tenured civil servants.

The General Scheme - RGPS is disciplined by art. 201 of the Federal Constitution of 1988, having contributory and compulsory membership as its main characteristics.

In this scheme, contributions and prospective payments are subject to criteria in order to preserve financial and actuarial balance, and all workers in general are included, ranked by welfare legislation in five categories: employees, domestic workers, casual workers, single taxpayers and special insured. In addition, even those without an official steady income can registry in the General Scheme of Social Security, contributing in the quality of voluntary insured.

The General Regimen of Social Security is regulated by Federal Law number 8.213, of July 24<sup>th</sup> 1991, which disciplines the kinds of benefits conferred in the GRSS, while Federal Law number 8.212, also from July 24<sup>th</sup> 1991, regulates the funding plan for the General Scheme. In addition, Decree Number 3048 of May 6<sup>th</sup>, 1999 establishes practical regulations for the provisions set in the above mentioned laws.

Both Special and General Schemes are structured under the financial arrangement PAYG, which means the money reverted to the scheme by a member is not kept under his or her account, so those in active period actually fund the monthly benefits of those who already are regarded thus establishing a high degree of solidarity between generations (BALERA; MUSSI, 2014, p.43).<sup>14</sup>

One must notice that the major concern in this scheme refers to the number of contributors. There must be a sufficient number of contributors to the maintenance of social security benefits. In the future, given the apparent decline in the birth rate and the increasing life expectation of Brazilian population, Federal government will have to restructure the contributions system in this scheme, or face, otherwise severe budgetary imbalance (MUSSI 2010, p. 100).

Furthermore, article 202 of the Federal Constitution establishes the possibility of Private Systems of Social Security of voluntary

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14 *In verbis*: “[...] existe solidariedade entre gerações: o indivíduo contribui para a geração que hoje necessita de proteção, para receber o benefício amanhã, quando será amparado pela geração futura. A Previdência Social adota o regime de repartição simples, em que há alto grau de solidariedade entre os participantes (segurados). Os trabalhadores em atividade financiam os inativos, que, no futuro, quando na inatividade, também serão financiados pelos trabalhadores em atividade”.

adhesion and contribution, in order to supplement GRSS incomes. Such pension scheme is clearly contractual in nature and involves establishment of a pre-composed background under the rules of capitalization system, regulated by Complementary Laws 108 and 109 both from May 29<sup>th</sup>, 2001.

## **5. FUTURE OF BRAZILIAN SOCIAL SECURITY SYSTEM**

For the maintenance of the General Social Security System, it needs to keep its financial and actuarial balance, in order to provide social protection for future generations with

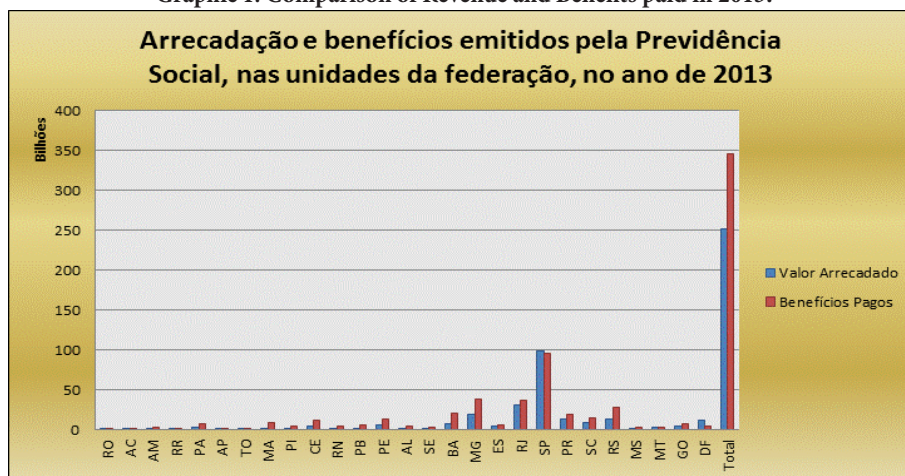
In Brazilian legal scenario, numerous proposals for pension reform were presented, many scholars have spoken and finally, the so awaited reformulation was enacted through Constitutional Amendment 1998 number 20, of December 15<sup>th</sup>, 1998. However, this reform was not able to remedy the problems mentioned by the Federal Government such as increasing cash-flow issues, and the desired equality between the rules for Special and General Social Security Schemes.

Moreover, increased longevity, declining birth rates and changes in the labor market reflected governmental concerns. Thus, there was a new Social Security Reform, carried forth by Constitutional Amendment number 41 in December 19<sup>th</sup> 2003, which focused mainly in the issues to keep financial and actuarial balance of the Social Security System.

Since then, Brazilian scholars and policy makers discuss about new proposals for pension reform in Brazil, and numerous bills have been presented accordingly, without any solid result by the year 2014.

Comparing collected amount by Social Security in each State of the Brazilian federation, and the respective value of benefits paid will reveal current trend of deficit. In fact, an analysis of the year 2013 shows a general unbalance throughout Brazilian Member-states. The only exceptions to this trend are the state of São Paulo and the Federal District, which, display surplus roughly equivalent of US\$ 5 billion. Although such numbers can be quite meaningful in isolate perspective, the positive result on these Member States were not enough to offset the total deficit in the focused year. On such note, the grand total of benefit payments surpasses by nearly US\$ 50 billion the collected amount in the respective period.

Graphic 1: Comparison of Revenue and Benefits paid in 2013.

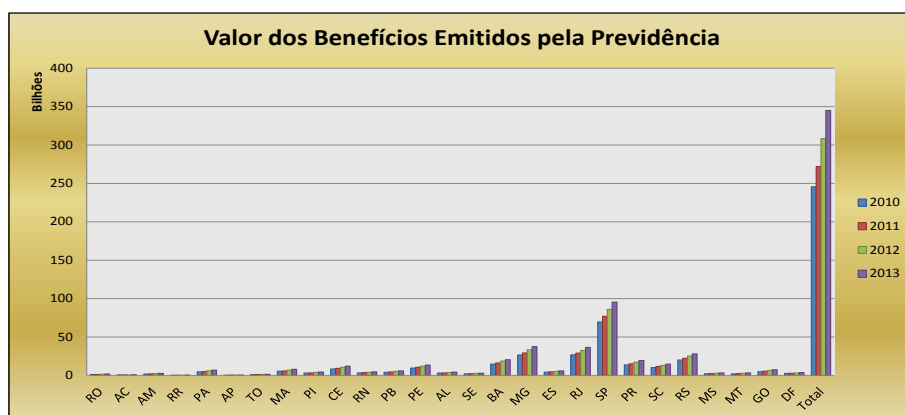


Source: Synthesis Dataprev

Municipal Statistics. Available at: <<http://www.previdencia.gov.br/estatisticas/>>. Accessed: 17/09/2014.

From such data, it is clear that one of the main factors for the mentioned imbalance is the successive increase on the benefit payments within Social Security System. In the period between 2010 and 2013, there was an increase of 40.4% in the total amount of new benefits financed by social security agencies. Such growth is caused not only the increase in the value of benefits paid, but also because of the inclusion of about 3 million new beneficiaries into the system, which represent a 11% increase on social security expenses.

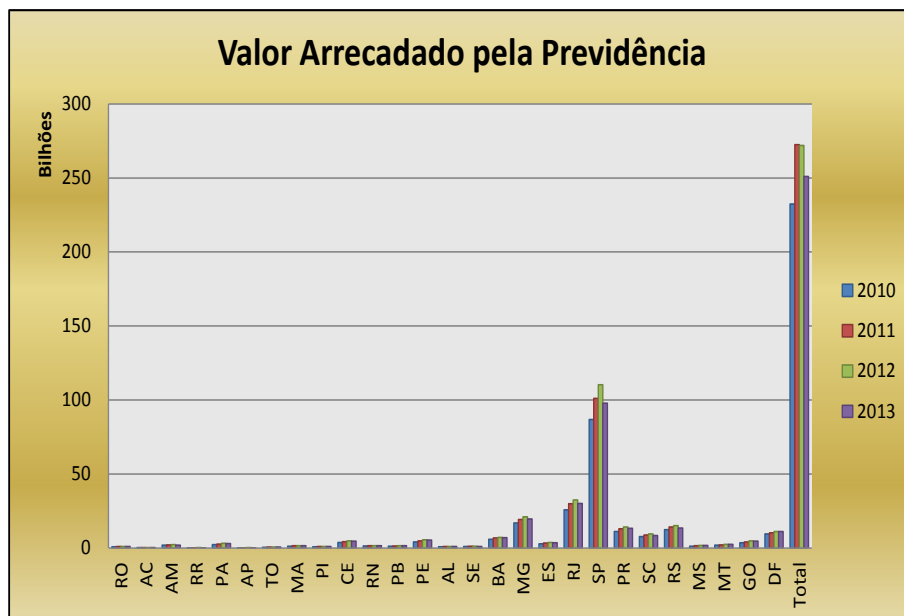
Graph 2: Benefit Payments in the period 2010-2013.



Source: Synthesis Dataprev Municipal Statistics. Available at: <<http://www.previdencia.gov.br/estatisticas/>>. Accessed: 17/09/2014.

On the other hand, albeit increase on overall expenses, there has been no corresponding collection increase for the same period. This becomes clear in the comparison between the years 2013 and 2012, which shows an overall decline in the Social Security System collection in the Federal Units and consolidates a loss of 8% in the total collection amount within the focused period.

Graph 3: Collection of Social Security, in the period 2010-2013.



Source: Synthesis Dataprev Municipal Statistics. Available at: <<http://www.previdencia.gov.br/estatisticas/>>. Accessed: 17/09/2014.

Right now it is important to highlight that such data exclusively represents collection through GRPS (*Guia de Recolhimento da Previdência Social*), which is made directly by workers and their employers.

However, pursuant to Federal Constitution of Brazil of 1988, and Federal Law nº 8212/1991, Brazilian Social Security System has other funding sources (art. 194, sole paragraph item VI, of Federal Constitution). Brazilian Society, as a whole, is called upon the duty to contribute to Social Security whether directly (through social contributions) or indirectly (through taxes). In fact, besides GRPS, there are also other social contributions from other venues such as those obtained with the funding of lottery games, or the revenue obtained by

federal authorities with the auctions of seized and abandoned properties, among others.

Notwithstanding, a more comprehensive approach on economic and financial sustainability of the Brazilian social security system must also include governmental programs for areas such as social security, social assistance and healthcare. Registering all revenue sources for the financing of this system, just within the yearly budget of 2013, for example, there is a surplus of roughly US\$ 65 billion in the same period.

**Table 1: Revenue from financial sources of the social security system**

<b>FONTE DE RECEITAS</b>	<b>2013</b>	<b>2012</b>
COFINS - CONTRIB. P/ A SEGURIDADE SOCIAL	201.527.000.000	174.470.000.000
CONTRIBUIÇÃO PARA O PIS/PASEP	51.899.000.000	46.217.000.000
CSLL - CONTRIB. SOCIAL S/ LUCRO LÍQUIDO	65.732.000.000	57.514.000.000
RECEITA PREVIDENCIÁRIA	331.937.000.000	302.321.000.000
<b>TOTAL</b>	<b>651.095.002.013</b>	<b>580.522.002.012</b>

Source: Secretariat of the Federal Revenue of Brazil - Center studies tax and customs.

Available at: <[www.receita.fazenda.gov.br/publico/arre/2013/Analismensaldez13.pdf](http://www.receita.fazenda.gov.br/publico/arre/2013/Analismensaldez13.pdf)>.

Accessed: 23/09/2014.

**Table 2: Expenses with governmental programs implemented in the areas of social security, social assistance and healthcare in the federal budget for the year 2013.**

<b>COMPONENTES DO SISTEMA DE SEGURIDADE SOCIAL</b>	<b>DESPESAS IDENTIFICADAS NO ORÇAMENTO DE 2013</b>
MINISTERIO DA PREVIDENCIA SOCIAL	373.556.078.146,78
MINISTERIO DA SAUDE	30.832.422.846,75
TRANSFERÊNCIAS (SAÚDE)	44.038.428.584,37
MINISTERIO DO DESENV. SOCIAL E COMBATE A FOME	621.239.050,77
TRANSFERÊNCIAS (ASSISTÊNCIA SOCIAL)	111.514.589,44
BOLSA FAMÍLIA	24.890.107.091,00
PROGRAMA DE ERRADICAÇÃO DO TRABALHO INFANTIL	8.467.295,00
GARANTIA SAFRA	285.433.019,21
PESCADOR ARTESANAL	6.681.302.123,66
APLICAÇÕES DIRETAS	25.990.087,61
<b>TOTAL DAS DESPESAS EXECUTADAS</b>	<b>481.050.982.834,59</b>

Source: Union Comptroller General - Transparency Portal <<http://www.portaltransparencia.gov.br>>.

Accessed: 23/09/2014.

Thus, social security system displays surplus, not only within its own direct contribution/benefit payments dynamics, it has also helped in balancing of Brazilian Government's expenditure, which resulted in primary surplus of roughly US\$ 30 billion in the year of 2013, according to Brazilian Banking Authority<sup>15</sup>.

Even so, over the last 20 years, encouraged by selected Social Security scholarly opinion, under risk of "bankruptcy of Brazilian social security system", Brazilian Federal Government has placed Social Security among the issues which demanded emergency strategic plans of the State. Such reality has led to a number of uncertainties and, especially, the insecurity of the worker who has always contributed in anticipation of future social security guard. In this scenario, numerous restrictions were made to contain the so-called "pension deficit."

In fact, there are several alarming problems affect Brazilian workers in the Social Security area such as the reduction of the benefit of retirement for contribution period (through implementation of the "social security" factor); the abuse of regulatory powers conferred to the Ministry of Social Security, constantly issuing Instructive Measures and Decrees extrapolating the limits prescribed in the Social Security Legislation (Law 8.212/91 and Law 8.213/91); the wrongful denial of disability benefits, under the allegation the insured is fully able to work activities; the flawed process of rehabilitation, whose responsibility is the responsibility of social security; the low-income criterion to the aid-seclusion benefit; the lacking of increase of pension benefits, which became incompatible with the economic reality experienced in Brazil, among other factors.

Policy makers often estate that Social Security System is in high deficit situation, which cause successive discussions over the need of other institutional reforms. Nonetheless, because of alleged deficit alarm, Brazilian society feels constantly insecure about this topic, sharing mixed-up opinions between the institutionalized desire for a calm and decent retirement and the possible "threat" of new social security rules.

One might consider that despite the dispute between those defending the Welfare State politics and those supporting a stronger Economic Balance, Social Security should be regarded as a fundamental right, a mandatory collective insurance, in order to maintain the minimum subsistence of its insured members and beneficiaries.

On the other hand, since the implementation of Social Security in the early 20<sup>th</sup> century, the actuarial and demographic situations of Brazilian society have changed dramatically. For instance, official statistics show that life expectation of the population was under forty

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15 [www.bcb.gov.br/pec/indeco/Port/ie4-02.xls](http://www.bcb.gov.br/pec/indeco/Port/ie4-02.xls). Acesso: 23/09/2013

(40) years old, and the families were extremely numerous<sup>16</sup>.

However, with the steady growth of life expectation of the population and declining birthrates, new pension reforms are expected in the near future, in order to keep balance of the pension budget.

Another study also disclosed by IBGE (Brazil Projection of population by sex and age: 1980 to 2050) (Revised 2008)<sup>17</sup> concludes that in 2010 the average life expectation for both sexes is 73.40, arriving at 81.29 in 2050.

Such data also demonstrates the process of aging of the Brazilian population. According to IBGE, in 2008, for every 100 children between 0-14 years there were 24.7, individuals of 65 years old or older. Between 2035-2040 the elderly population will be 18% higher than the children and, in 2050, this ratio may be up 100 to 172.7<sup>18</sup>.

In order to demonstrate such position, it is necessary to analyze the comparative study regarding income, economic and financial profile of Brazilian Social Security, held by Brazilian Social Security System in collaboration with the United Nations Development Programme - UNDP.

In this survey, relevant Human Development Indicators of the 25 Brazilian cities with the highest surplus in Brazilian Social Security were compared with those HDI indicators belonging to the 25 municipalities that showed the greatest deficits in Social Security System within the same period.

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16 In the statement carried by the Brazilian Institute of Geography and Statistics, the life expectancy in 1910 was 33.4 years pass, in 2000, to 64.8 years, as shown in the Table below:  
Brazil: Unity: years of life

Period	Life expectation
1910	33,4
1920	33,8
1930	35,7
1940	43,3
1950	52,3
1960	54,9
1970	58,8
1980	59,0
1990	62,6
1991	62,6
2000	64,8

Source: IBGE Available at: <<http://seriesestatisticas.ibge.gov.br/series.aspx?vcodi-go=POP210&t=esperanca-de-vida>>. Accessed in: 06/13/2014.

17 Studies and surveys and demographic and socioeconomic information 24 Available at: <[http://www.ibge.gov.br/home/estatistica/populacao/projecao\\_da\\_populacao/2008/projecao.pdf](http://www.ibge.gov.br/home/estatistica/populacao/projecao_da_populacao/2008/projecao.pdf)>. Access in: 16/06/2014, p. 57.

18 Studies and surveys and demographic and socioeconomic information 24 Available at: <[http://www.ibge.gov.br/home/estatistica/populacao/projecao\\_da\\_populacao/2008/projecao.pdf](http://www.ibge.gov.br/home/estatistica/populacao/projecao_da_populacao/2008/projecao.pdf)>. Access in : 06/16/2014, p. 55.



**Table 1 - Socioeconomic Indicators**

<b>Human Development Indicators</b>	<b>Average of Cities with Surplus</b>	<b>Average of Cities with Deficit.</b>
<b>%Rural/Total</b>	<b>1.65</b>	<b>2.61</b>
<b>Fecundity Rate</b>	<b>1.65</b>	<b>1.6</b>
<b>Aging Rate</b>	<b>6.66</b>	<b>7.76</b>
<b>School Attendance Rate (0-3)</b>	<b>34.21</b>	<b>27.86</b>
<b>Analphabetism Rate</b>	<b>3.85</b>	<b>4.53</b>
<b>Fundamental Education Rate</b>	<b>65.14</b>	<b>62.21</b>
<b>High-School Education Rate</b>	<b>49.24</b>	<b>45.24</b>
<b>Superior Education Rate</b>	<b>18.74</b>	<b>14.11</b>
<b>% Formally Occupied</b>	<b>71.56</b>	<b>68.62</b>
<b>% Formally Occupied with Superior Education</b>	<b>20.24</b>	<b>16.5</b>
<b>Unoccupied Rate</b>	<b>6.23</b>	<b>8.88</b>

Source: Atlas HDI - UNDP and Synthesis Dataprev Atlas of Human Development of Municipalities. Available at: <[http://www.pnud.org.br/IDH/Default.aspx?indiceAccordion=1&li=li\\_AtlasMunicipios](http://www.pnud.org.br/IDH/Default.aspx?indiceAccordion=1&li=li_AtlasMunicipios)>. Accessed: 17/09/2014. Municipal Statistics. Available at: <<http://www.previdencia.gov.br/estatisticas/>>. Accessed: 17/09/2014.

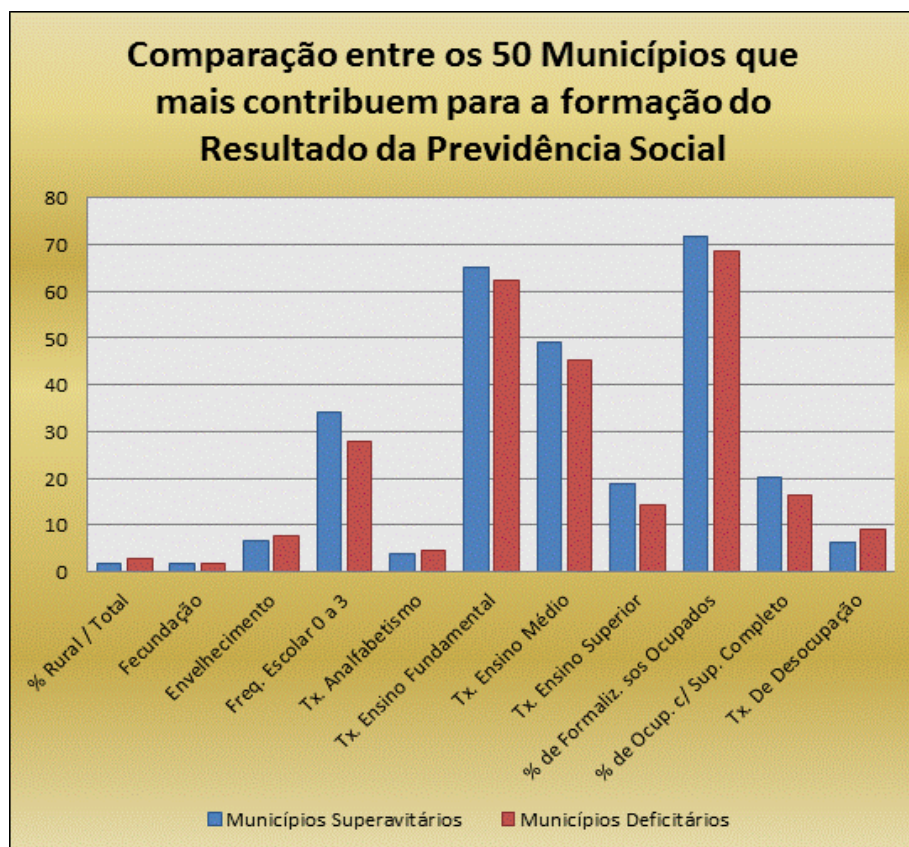
This study can guide Governmental authorities to plan for public policies towards positive effects on the financial sustainability of the Retirement System. In this sense, the influence of the indicators related to the area of education rates might present solutions of immediate impact, as well as those related with medium and long-term results.

Among the indicators with potential for immediate impact stands school attendance rate of children aged between 0 and 3 years. In this case, there are increasing demand from families seeking vacancies in Brazilian public daycare centers. This strongly influence pension schemes, because without security and daycare for children many parents (single, married or otherwise engaged) need to withdraw from formal workplaces to provide care for their children. Consequently, these parents have lower conditions to contribute to the Social Security System.

The analysis reveals that with higher education workers usually have higher income, which means higher contribution capability. Thus,

increasing rates of fundamental education, High School education and Superior education among Brazilian population plays extremely important role for future sustainability of Social Security System.

Chart 4: Comparison of Socioeconomic Indicators



Source: Atlas HDI - UNDP and Synthesis Dataprev. Atlas of Human Development of Municipalities. Available at: <[http://www.pnud.org.br/IDH/Default.aspx?indiceAccordion=1&li=li\\_AtlasMunicipios](http://www.pnud.org.br/IDH/Default.aspx?indiceAccordion=1&li=li_AtlasMunicipios)>. Accessed: 17/09/2014. Municipal Statistics. Available at: <<http://www.previdencia.gov.br/estatisticas/>>. Accessed: 17/09/2014.

In addition to indicators relating to educational activities, other factors, even when not directly under the influence of public policies, also interfere with the result of Brazilian Social Security System. Among these indicators, stands the impact of those benefits paid to rural workers. Within the group of municipalities with surplus, there are less rural workers to receive beneficiary participation from the rural labor is

lower. Meanwhile, in those with higher deficit, there are relatively more rural workers supported by Social Security System.

The State, as custodian of society and public administrator, will have to find other subsidies to ensure the maintenance of the General Social Security, which does not imply in further new restrictions of the rights of Social Security insured members, as occurred in the pension reforms brought through Constitutional Amendments and n.20/1998 n.41/2003.

For that, we suggest some emergency measures. Among these measures firstly comes the need for the State to ensure decent conditions for workers, especially with regard to the minimum wage policy, to meet the real needs of the families supported by the workers in such condition, in order to their children don't have the need not start their activities so young<sup>19</sup>.

Within such perspective, some might consider that Brazilian workers retire still at a young age, but those often forget to say that this only happens because of early entry into the labor market, given the need to supplement the family income. Guaranteeing an efficient minimum wage policy, with corresponding adequate education and health systems, people will join the Social Security in a later period with a higher income, and thus, the increase the retirement age.

Other possible solutions are the binding of the revenue reverted to the General Regime of Social Security, preventing its budget to be spent on the payment of inactive civil servants of Special Regime of Social Security, and the comprehensive inclusion of occupants of informal work positions into General Regimen of Social Security. With this, we might secure a funding specifically targeted to the General Social Security Regimen and a greater number of contributions from the individual and voluntary insured, who are mostly excluded from social security protection.

Art. 165, § 5, number III of the Federal Constitution of 1988 provides that the Annual Budgetary Law shall include the Social Security System Budget, covering all institutions and bodies linked to it, the direct or indirect administration, as well as funds and foundations instituted and maintained by the Government.

According to Ricardo Pires Calciolari, this constitutional provision has never been enforced, since 1988 until 2008 no Government actually implemented the constitutional provision. Only in 2006, under pressure from the Court of Auditors and through an article in the Budget

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<sup>19</sup> For a worker could cover basic expenses during the last month of 2013, he should receive a minimum wage of R \$ 2,765.44, according to a survey conducted by Dieese (Department of Statistics and Socioeconomic Studies). The required value is 4,086 times the minimum wage in period, at \$ 678. In December 2012, the amount determined to meet the expenses of a family was R \$ 2,561.47, or 4.12 times the minimum of the time (R \$ 622).

for the year 2006, Social Security System was contemplated as part of the general budget of the Union, but only as an attachment which was called ‘table statement of revenue and expenditure of the Union - Social Security’ (CALCIORARI, 2009, p 148-149)<sup>20</sup>.

The same author believes that until today Brazil does not have an proper budget on Social Security System, but rather a mere balance between revenues and expenditures (2009, p. 149). Following up, the biggest problem that a considerable part of the Social Security Budget expenditure is focused on payment of retired servants of the Federal Union (19%), which should happen if a proper budgetary provision for the General Regimen of Social Security was thus established (2009, p.154-155)<sup>21</sup>.

Actually, we need to draw the distinction between the funding of General Social Security System and the Special Security System. These are distinct schemes with constitutionally defined social contributions, therefore the payment of the benefits of retirees of the Union cannot be considered as an expense to be supported by General Social Security Regimen.

With respect to rural workers, often regarded as one of the main causes of the alleged deficit of Brazilian pension, it is actually adoption of comprehensive inclusive public policies. The vast majority of rural workers are unaware of the fact that they have been legally included into the General Regimen of Social Security, which is the main reason for the lack of social security contributions from these workers.

Besides, despite express provisions of art. 165, § 5, paragraph III<sup>22</sup> of the Constitutional Charter of 1988, and especially in art. 96 of Federal number Law 8.212/91<sup>23</sup>, a funding plan for the General

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20 *In verbis*: [...] esse dispositivo constitucional não encontrou efetividade mínima na prática. De 1988 até 2008 nenhum governo implementou de fato a determinação constitucional. Somente em 2006, por pressão do Tribunal de Contas e em virtude de disposição expressa na LDO para o ano de 2006, é que passou a integrar o Orçamento Geral da União, em seus anexos, uma tabela denominada ‘demonstrativo de receitas e despesas da União – Seguridade Social.

21 *In verbis*: [...] Assim, verificamos que o regime jurídico da previdência do regime próprio e a do regime geral são diversos. Desse modo, devemos concluir que o sistema de Seguridade Social não abrange a previdência dos regimes próprios dos diversos Estados-membros, Municípios, Distrito Federal e União. Sendo assim, não poderá ser computado como despesa da Seguridade Social o custeio dos benefícios previdenciários dos inativos da União, pois além de atacar a boa hermenêutica dos dispositivos constitucionais citados, ofende a lógica do federalismo cooperativo [...]

22 Article 165, Paragraph 5. The annual budget law shall include: III – the social welfare budget, comprising all direct and indirect administration entities or bodies connected with social security, as well as funds and foundations instituted and maintained by the Government.

23 “The Executive Power shall send to Congress annually, following the Budget Proposal for Social Security actuarial projections related to Social Security, covering a time span of at least 20 (twenty) years, alternative hypotheses regarding demographic variables, economic and

Regimen of Social Security has never been established. Until it is actually enforced, problems of economic nature will surely continue to emerge.

In any event, there must be no social backlash, ensuring a General Regimen of Social Security capable of covering social risks, providing security and satisfaction to the Brazilian workers.

## **6. CONCLUSIONS**

The social security system is designed to protect the social risks to which the whole society is exposed. Risks such as old age, incapacity to work, death among others, provide the basis for the granting of welfare benefits by the Brazilian social security.

Considered relatively new, the Brazilian Social Security system is considered to have started in 1923, with the Eloy Chaves Law, reaching its apex with the Federal Constitution of 1988, which integrated social welfare to the social security system.

The general arrangement of the Brazilian social security system is structured by financial PAYG scheme, which has a high degree of solidarity between generations, a generation is funding another, which increases the risk of budget deficit, since substantial changes in demographic profile of Brazilian population are likely to happen within the following years.

Originated on the concept of private insurance, social security has its foundation in preserving the financial and actuarial balance. Ideally, GRSS should ensure the correspondent protection to the insured individual who contributes monthly, when he or she is suffering from a social risk.

Analysis of important surveys show that Brazilian social security is on the path to budgetary deficit, since there is a significant increase in life expectancy today, opposed to birth rate dwindling. This converges to the understanding that further reforms in the Brazilian social security need to occur, but should respect and protect the vested right to proceed with the worker's social security safety for a moment of social risk.

Brazilian Social Security System has different funding sources. In this sense, the revenue provided directly by workers and their employers currently do not support the current volume of payment of benefits. Within such context, opinions that broadcast unsustainable financial situation of pension systems usually conceal indirect financing sources of Social Security Area which actually have significant value, to the point that such financial data currently helps to balance out Brazilian government's expenditure problems.

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relevant institutions. "(free translated from Portuguese).

Although some studies and campaigns wrongfully divulge current budgetary deficit of the social security system, there are still important steps to be taken in order to avoid financial sustainability over time.

In this sense, financial sustainability of Social Security System must converge with the improvement of social development indicators. Actually, the increase of education rates has significant immediate, medium and long-term positive impact on Social Security System budgetary future. It is evident that investment in education guarantees a more financially sustainable future budget to Social Security System, even with the increase in life expectancy and reduced birth rate, since it will strongly reverberate in the improvement of the number of contributors, and their respective contribution capability as well.

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