

**IT'S NOT A CRISIS,  
IT'S A PROJECT:  
THE EFFECTS OF  
STATE REFORMS  
IN BRAZILIAN  
EDUCATION  
BETWEEN 2016  
AND 2021**

**PAPER 1**

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## PRESENTATION LETTER

Darcy Ribeiro (1922-1997) was one of the most important anthropologists, sociologists, and thinkers of education in Brazil. He used to say that the “education crisis in Brazil is not a crisis; it is a project”, referring to the segregationist social structures of the country, which he tried to identify and fight its roots. Summarized by the reference in the title, this paper will analyze state reforms implemented from the institutional breach in politics that occurred in 2016, with the impeachment of Dilma Rousseff and the impact of these reforms in education.

As we will point out, austerity politics constitutionalized for the long term; guarantees suppression in financing social areas; and labor, tax and administrative reforms have been part of a project of diminishing the role of the state in the protection of human rights and constitutional precepts, that have been implemented for the last five years in Brazil, from the Michel Temer government, and a deepening process in 2019 in the government of Jair Messias Bolsonaro, guided by the antiquated Washington Consensus that still gains traction in the IMF (International Monetary Fund) agenda. The Covid-19 pandemic brought to the surface the devastating effects of disinvestment in health, education, social security, among other areas, promoted by the neoliberal politics that has been implemented.

This paper does not intend to only analyze the effects of these reforms in relation to the right to education and its public workers. It also tries to call attention to the reform’s traits of synchronicity and complementarity between them, in a deformation of the welfare state and a threat of short and long terms to the Brazilian society and democracy. For this very reason, it contains the analysis of impacts already underway, due to measures and laws already approved, and also potential impacts of measures still in progress. Still, this research is part of an international study made by ActionAid International, our decades-long partner, about the effects of regressive politics in social services and its public workers.

It is worth noting that this is not a study that focuses on education reforms - such as the High School Reform and the new

curricular standards (Base Nacional Comum Curricular), among other adjacent ones - because not only would it be a very long material, but there are a number of studies that already make such an analysis and we would also lose the central focus of dialogue between economic and structural decisions (macro), and the impact on education. Furthermore, we chose not to analyze the social security reform, since there is a series of complexities and disagreements among analysts about its effects over time and in different areas, among other elements; but it is necessary to keep in mind that it also generates relevant impacts and is part of this project to the country.

Lastly, but not less relevant, we want to remember that this project is not only the result of isolated decisions made by congressmen or members of the executive power, but also society's stakeholders, members and allies of the economic elites that, since colonization, have imposed a state of social, racial, and regional segregation, among other abysses of injustice.

As Paulo Freire taught, in *Pedagogy of Autonomy*:

Against all the strength of the neoliberal discourse - fatalist, pragmatic and reactionary -, I insist today, without idealistic deviations, on the need for conscientization. I insist on its actualization. In fact, as a deepening of the "crisis of consciousness" of the world, of facts, of events, conscientization is a human demand, it is one of the paths for putting epistemological curiosity into practice. Instead of being strange, conscientization is natural to a human being that, as unfinished, knows itself to be unfinished. The substantive issue is not, therefore, in a pure incompleteness or in a pure inconclusion. (p. 61; translation ours)

In this paper, we provoke updating, awareness, epistemological curiosity, with the certainty that there is a series of incompleteness and inconclusions, arising from the very nature of human awareness and the speed of dismantling of the Brazilian welfare state, which brings new destruction every day and cannot be fully reflected in this study.

Still, we are aware, like Freire, that neoliberalism is more than a mere discourse and a mere project, it is an ideology, that is, a contemporary worldview of the dominant classes, whose ethics

are based on a world for the few, built on the exploitation, discrimination, exclusion, and deaths of the majority. In face of this, our collaboration, day by day, but also in this paper is to write, to speak, to fight with anger, with love, “without which there is no hope”:

a defense of tolerance - which is not to be confused with connivance -, of radicality; a critique of sectarianism, an understanding of progressive postmodernity and a refusal of the conservative, neoliberal one. (FREIRE, 1999, p. 12; translation ours)

In the name of all the people and organizations that contributed to this study,



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Research coordination



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**Brazil, September 1th 2021.**

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## INTRODUCTION

We live in an extreme and unique social and economic context. The Covid-19 pandemic has deepened the inequalities that structure relationships and has made violations of social rights in Brazil even more obvious, causing a scenario with high unemployment, growing poverty, hunger, exclusion of various kinds, and more than half a million deaths. In the country, the coronavirus found a scenario that favored its uncontrolled dissemination, and the reasons are varied: whether because of denialist actions, the delay in adopting measures to face the pandemic, or because of the very disarticulation of actions among municipalities, states, the Federal District, and the federal government, the virus did not meet much resistance.

The only possible measures to curb the spread of the disease and save lives, such as massive public investment in education<sup>1</sup>, health, and social assistance, as well as adequate emergency aid to prevent millions of Brazilians from falling into poverty, were impacted by the logic of austerity<sup>2</sup>. nt millions of Brazilians from falling into poverty, were impacted by the logic of austerity. In an extreme context, in which the Brazilian population badly needs investment in public policies, the Brazilian government has left to execute, in 2020, R\$ 80.7 billion<sup>3</sup> of the emergency budget to fight the pandemic, points out the Report “A Suffocated Country - Assessment of the Union’s General Budget 2020”, carried

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<sup>1</sup>See: <https://agenciabrasil.ebc.com.br/radioagencia-nacional/aceruo/educacao/audio/2020-07/onu-politicas-de-austeridade-dificultam-acesso-educacao-no-brasil-durante/>

<sup>2</sup>Another area impacted by the austerity policy is investment in science and technology. In a Technical Note published in May 2020, NEGRI and KOELLER (2020) compare the new investments in research and development (R&D) made by the United States, Germany, Canada, the United Kingdom, and Brazil as part of the fight against Covid-19. In terms of the percentage of federal budget investment in R&D, Brazil invests the least, 1.8%. Canada (11.8%), the United Kingdom (10.8%), Germany (6.3%), and the United States (4.1%) invest proportionally and significantly more than Brazil. Moreover, at the time of the study’s formulation, Brazil and the United States (then in the Trump government) were the only countries that did not have a scientific advisory group to their governments.

<sup>3</sup>In currency conversion on 08/27/2021, R\$80,7 billion is equivalent to USD 15,4 billion. On that same day, USD 1,00 corresponds to R\$5,2194. To convert the figures of this study access the Central Bank of Brazil Currency Conversion website: <https://www.bcb.gov.br/conversao>

out by Inesc (Institute of Socioeconomic Studies). The resources that were not invested could have guaranteed dignity to millions of Brazilians, even saved lives. Even in the face of a worsening social framework, the Annual Budget Law no for 2021 suffered cuts of 27% in education alone, followed by the blocking of R\$ 2.7 billion by the federal government - with the release of only R\$ 1 billion afterwards.

The austerity measures and the logic of suffocating public policies, however, have a previous history, and one that went together with the coronavirus. The present paper details some of these measures implemented and still underway in the country between 2016 and 2021.

In the first case, we discuss the impacts already verified in education; in the second, we list possible risks to Brazilian's right to education. It is worth remembering that from 2015, with considerable worsening from 2016, in Brazil, we identify a recessive economic model guided by an austerity driven policy. This panorama is presented in the first part of this study.

In 2016, with the change of government after the impeachment of Dilma Rousseff, a period of dismantling of social policies began, whose main milestone is the approval of Constitutional Amendment (EC, in the Portuguese acronym) 95, known as the Spending Ceiling. From this amendment, other measures aligned with the perspective of downsizing the state advanced. In addition to EC 95/2016, this study includes an analysis of EC 109/2021 and the Proposal for Constitutional Amendment (PEC) 13/2020, in progress, aligned with the limitation of public investment that exempt the compliance with the constitutional investment floor; the Labor Reform (Law no 13,467/17); the Proposals for Tax Reform (PEC 110/2019 and PEC 45/2019) and Administrative Reform (PEC 32/2020), the latter three also in legal proceeding. Our analysis begins from a mapping of this legislative scenario, adopting an analytical approach to the impacts of these actions on education. Further detailing on this is in the second part of the study.

Finally, in the last section of the report, we systematize recommendations and possibilities of action in defense of public ser-

vice, especially public education. At a time when public service and public policies themselves are under attack in the country, the Brazilian Campaign for the Right to Education, with the support of **Brazilian Campaign for the Right to Education**, with the support of **ActionAid Brasil** and **ActionAid Internacional**, presents a study that denounces this project of deconstruction of educational policies and, also, promotes articulated strategies of action to confront such deconstruction as well as the precariousness of the public sector workers, especially of workers in education.

In addition to the present paper, the research also includes two other thematic papers: the second one focuses on a vertical analysis of the impacts of these state reforms with a race and gender focus, and the third one investigates the risks of the state reforms for the militarization of education. All the papers are published in Portuguese and English. The set of these three papers allows us to delineate an outlook of the threats that surround public education in a scenario of dismantling and reduction of the Brazilian state.

**Enjoy your reading!**

## EXECUTIVE SUMMARY

**1.** As a result of a broad social mobilization in Brazil, social rights are guaranteed in the Federal Constitution of 1988, guaranteeing to all Brazilians the right to education, to labor social protection, to health, and to social security, among others, although many of them have not yet been fully implemented. This set of rights is guaranteed by the implementation of public policies, the main measure, in Brazil, to reduce social inequalities. From 1997 to 2016, the federal government's primary spending grew from 14% to 19% of GDP, which largely reflected the regulation of social rights provided for in the Federal Constitution of 1988.

**2.** However, it is incorrect to state that there has been an outburst of the Brazilian public service. The vast majority of jobs generated in Brazil are in the private sector, which reacts more quickly to cycles of economic expansion and retraction. In 2015, the economic crisis led to a loss of 10 million jobs. In the case of the public sector, from 1986 to 2001 there was some stability in the percentage of public sector jobs, around 4% of the total population. Between 2002 and 2012 the percentage rose gradually to 5.8%, and since then there has been some stability.

**3.** Contrary to what the reformist agenda claims about inefficiency and performance, public service in Brazil has been professionalized and trained. This can be seen in the increasing number of professionals with higher education degrees. The expansion of the Brazilian state's service capacity took place through public bonds with higher education institutions. Between 1986 and 2017, the number of public workers with this education level grew from just over 9,000 to 5.3 million.

**4.** The trend of improvement in the education level of public workers is also found in the municipalities, where most education professionals are established. In this context, there was an increase from 10% to 40% of professionals with higher education. In contrast, those with incomplete secondary education or less education dropped from 14% to 10% and 53% to 9% of the total, respectively.

**5.** The Brazilian public service is not an anomaly, either. The average OECD country spends, in absolute terms, more than twice as much - 2.2 times - on public workers compared to Brazil, when we consider the size of the population. In relation to per capita spending in areas such as health and education, the investment is also much lower than the levels verified in other emerging countries, especially in relation to the OECD average.

**6.** However, the significant improvement in the education of those workers has not been accompanied by an equivalent increase in salaries. Despite the increase in schooling, the real average salary in the Municipal Executive system went from R\$2,000 to R\$2,800 in the same period, with an average real increase of 1.1% per year. The biggest salary increase actually occurred in the Judiciary, with an accumulated growth of 82%. Therefore, the argument that public workers receive much more than workers in the private sector is a fallacy.

**7.** Although Brazilian inequalities are structural and historical, some social advances were perceptible in the first 15 years of the 21st century, thanks to the implementation of different and complementary policies, such as the policy of minimum wage increase, the Bolsa Família (conditional cash-transfer program), the evolution from FUNDEF to FUNDEB (main basic education fund), the wage floor for teachers, the expansion of the basic education period to 12 required years, and also the expansion and development of higher education.

**8.** Since 2016, with the impeachment of President Dilma Rousseff, a series of reforms guided by austerity policies have been implemented in various areas. While the country is going through a serious economic and political crisis, demanding public investments, the reforms implemented or in process of implementation reduce the state's capacity to ensure quality public services that guarantee social rights and well-being to the population, while public workers have a precarious labor situation.

**9.** The scenario is even more aggravated due to the Covid-19 pandemic, which leaves the country with a dire legacy, with more

than half a million Brazilians dying from the new coronavirus, a scenario that has transformed Brazil into one of the main epicenters of the pandemic in the world. In addition to the worsening of the economic scenario, there is an increase in inequality, and in the impoverishment of the Brazilian population.

**10.** The reforms analyzed in this study can be grouped into three blocks: labor, administrative and tax reform, also considering the measures to implement the limitation of public spending.

**11.** Starting with the limitation of public spending, the EC 95 (Spending Ceiling Constitutional Amendment), approved in 2016, intends to roll back, in its 20-year duration, everything that the country has advanced in the previous 20 years in terms of consolidation of social rights. Even considering only until 2026, a period in which the Extended National Consumer Price Index - IPCA, cannot be changed, the contraction is to 15.5%, reaching a figure close to that of 1997. It is the only fiscal measure like this - of such a long duration - in the world, and makes the PNE (National Education Plan), among other public policies, unfeasible.

**12.** The EC 109/2019 is another measure that proposes to reduce public spending on social areas, especially through an economy made at the expense of public workers, through measures such as freezing wage figures, the suspension of public tenders and the limitation of public investments.

**13.** Recently, the proceedings for the PEC 13/2021 have started. The proposal exempts the compliance for constitutional spending floor, has advanced in the Federal Senate, putting at risk, once more, the financing of education. It is worth saying that the approval of a PEC that gives retroactive forgiveness (from 2020) is a stimulus so that, in the future, municipal administrators will stop worrying about the constitutional requirements and start spending less effort to meet the constitutional minimum on education investments.

**14.** PEC 32/2020, on the other hand, which dismantles the Brazilian state, presents significant impacts on several fronts: (1)

inclusion of the principle of subsidiarity in the Federal Constitution, which makes the public sector complementary to the private sector; (2) disfiguration of the Single Legal Regime (Regime Jurídico Único), which creates several types of job positions, changes the career progression in public service and creates the “typical state position”; (3) expansion of hiring temporary workers and, finally (4) attribution of “superpowers” to the President of the Republic, who could, if the proposal is approved, promote structural changes in the Brazilian state.

**15.** In relation to public workers, PEC 32/2020 understands workers as a homogeneous and privileged group, which is not true. In addition to this, these changes can lead to the phenomenon of job turnover in public service, a possible discontinuation in the execution of public services and an increase in expenses with the training of new public workers once the door is opened to hiring without access through public tenders and possibly through indications of political patronage. In other words, the proposed measures contaminate the public service with problems and challenges typical of the private sector, especially the high job turnover. In addition, the PEC may also increase corruption in the public administration.

**16.** It is also important to mention the labor reform (Law no 13,467/2017), which changed and loosened labor and union rights. For all teaching categories that have their labor contracts governed by the private system, in addition to lower wages and more precarious working conditions, the enabling of intermittent work by the new legislation may cause teachers to be paid only for the classes taught, making teaching more precarious and directly impacting the quality of education.

**17.** Lastly, in the restructured tax framework proposed by PECs 45/2019 and 110/2019, although both bids indicate the maintenance of the earmarked revenues, it is still necessary to advance in research studies to understand, in the case of PEC 110/2019, the Union’s new percentage (7.79% of the IBS) proposed corresponds to the current 18% earmarked. The PEC 45/2019, on the other hand, also provides for the maintenance of the constitutional earmarking percentages but allows the nominal figures to be made more flexible through singular rates, in order to

benefit a specific area to the detriment of another, which may harm the arrangement of public sector policies. The measure also foresees the extinction of the Salary-Education (social contribution intended for funding actions of basic public education).

**18.** In both bids, there is an important impact on Brazilian private higher education. The tax on private education, for example, would go from the current 3.65% to 12%. According to representative entities, this would generate a process of elitism spreading in private higher education in Brazil, since it would make tuition fees more expensive and the access unviable for practically 90% of the public, those coming from families with per capita income of up to three minimum wages. In Brazil, private higher education institutions are responsible for 75% of enrollments and the measure may impact PROUNI (higher education access program).

**19.** The set of measures analyzed thus presents sensitive impacts for Brazilian society, whether in the precariousness and even interruption of public services, or in the weakening of social protection. In education, the guarantee of the right to education, labor rights, and working conditions for Brazilian teachers are at risk, presenting risks to pedagogical practice and even to academic freedom. The National Education Plan and the implementation of CAQ (Cost of Quality Education per Student) also suffer impacts, making it impossible to ensure quality education for Brazilians.



## 1. BRAZILIAN AUSTERITY: THE INTERRUPTION OF SOCIAL ADVANCES IN THE LAST 5 YEARS

Since 2015, Brazil has experienced a regression of the social advances that had been achieved during the previous two decades<sup>4</sup>. With an austerity agenda that echoes international principles and recommendations, the federal government has weakened social policies, de-funded public services, and weakened social protection systems through a series of reforms that have affected structures of labor and tax legislation, and the state bureaucracy itself. As a result, public services have been made more precarious, affecting both the public workers themselves and the population in general, whose rights have been violated. Moreover, this scenario coincided with the Covid-19 pandemic, which not only highlighted but also deepened Brazilian social inequalities.

Among a set of measures implemented and in progress in the country, we highlight 1) the Labor Reform (Law no 13.467), approved in 2017; 2) the austerity policies and cuts - especially guided by the Spending Ceiling agenda imposed by EC 95<sup>5</sup>, and EC 109 - and by PEC 13/2021; 3) the regressive tax reform - PEC 110/2019, of the Federal Senate, and by PEC no. 45/2019, of the House of Representatives - and 4) the administrative and public service reform, following an economic agenda of liberalization and weakening, a front that gained strength around the PEC 32, in proceeding since 2020.

It is important to mention that besides these measures, in the current and complex Brazilian political scenario, there are other bids already approved - such as the social security reform -, or in progress, which attack and reduce rights. For the purposes of this paper, the analysis is centered on the aforementioned reforms, with the goal of contributing to pushing the debate forward

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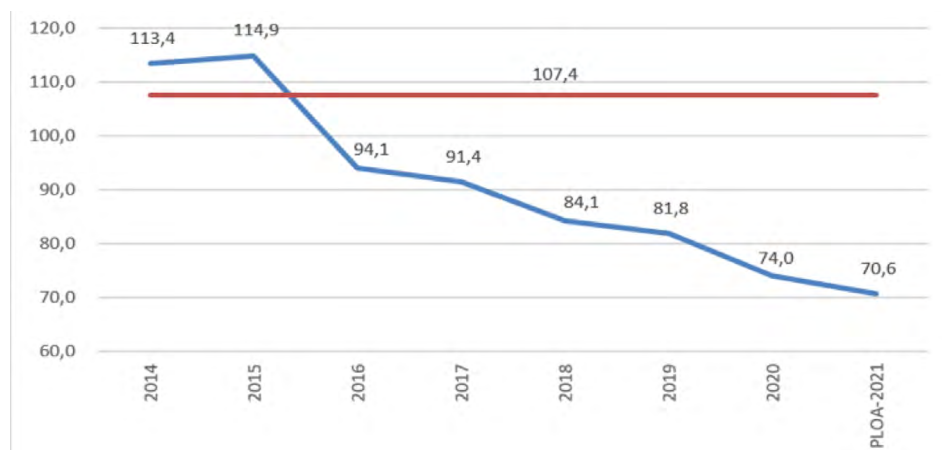
<sup>4</sup>For detailed data, see the BRAZILIAN CAMPAIGN FOR THE RIGHT TO EDUCATION. Study on Education and Inequalities. Brazil Chapter. 2020. The effects of investment in education for the reduction of social inequalities and those of cuts for the deepening of the gap: an analysis of the last two decades. Available at <https://campanha.org.br/aceruo/estudo-educacao-e-desigualdades-capitulo-brasil/> Accessed on 08/19/2021.

<sup>5</sup>For more information and civil society's Technical Notes on the subject, access: <https://direitosualemmais.org.br/>

and to new and expanded research, considering new and complementary analytical approaches.

Considering the austerity agenda underway in the country, education has been particularly affected. In a Technical Note<sup>6</sup>, the Direitos Valem Mais Coalition<sup>7</sup> proves that the operating conditions of Brazilian education have deteriorated due to the intense and constant reduction of its budget. From a budget of R\$ 114.9 billion in 2015, education had a budget forecast for 2021 of only R\$ 70.6 billion, which means a reduction of 38.6%, causing a serious social regression in the right to education of the Brazilian population. The graph below allows for a better understanding of the systematic reductions in the education budget.

**Evolution of budget updated for education, 2014 to 2021, (figures in R\$ billion, corrected to July 2020, by IPCA)**



Source: CGU-Transparency website and PLOA-2021

Elaborated by: FINEDUCA | Direitos Valem Mais Coalition

<sup>6</sup>DIREITOS VALEM MAIS COALITION. Technical Note LDO/LOA 2021 AND PEC 188: Emergency minimum floor for essential services, the dismantling of the State by the PEC of the Federative Pact, and the need for urgent changes in fiscal rules. Available at [https://direitosvalemmais.org.br/wp-content/uploads/2020/09/NOTATECNICA\\_DVM\\_LOALDOPEC188.pdf.pdf](https://direitosvalemmais.org.br/wp-content/uploads/2020/09/NOTATECNICA_DVM_LOALDOPEC188.pdf.pdf) Accessed in 23/08/2021.

<sup>7</sup>Created in 2018, the Coalition is a cross-sector effort that works to build a new economy committed to human rights, socio-environmental sustainability, and overcoming the country's deep inequalities. More information at: <https://direitosvalemmais.org.br/>

In order to reverse the deterioration of Brazilian education, the Direitos Valem Mais Coalition defends that the budget should be minimally returned to what it was in the 2014-2016 period, that is, R\$107.4 billion. The minimum figure is, however, far from ideal. According to the Coalition's estimate, the emergency floor for investment in the area is R\$184.4 billion, an amount considered adequate to ensure expenses in infrastructure and security of schools to resume classroom activities, school meals and payment of staff.

However, even with great pressure from organized civil society, the 2021 budget has undergone new cuts and blockages. With a total spending cap of R\$1.48 trillion<sup>8</sup>, the approved budget imposes more significant impacts on education. In relation to the 2020 budget, the Education ministry lost 27%, counting, after the processing, with 75.6 billion approved. It is worth remembering that the initial budget proposal foresaw an amount of R\$144.5 billion<sup>9</sup>, almost twice the amount that was effectively sanctioned.

The approval of the 2021 budget occurred in a hurried and authoritarian way, making it impossible to listen to the civil society and to have a broad public debate about the budget priorities. It did not prioritize sensitive areas or ensured resources and feasibility for public policies to deal with the pandemic and its consequences<sup>10</sup>.

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<sup>8</sup>Source:

<https://www.tesourotransparente.gov.br/visualizacao/painel-do-teto-de-gastos>  
Accessed on 08/23/2021

<sup>9</sup>It is important to mention that the calculation made by the Direitos Valem Mais Coalition foresaw an emergency floor for education in the budget law of 2021 with the minimum amount of R\$181.4 billion. Higher, therefore, than the value guaranteed in the initial budget proposal (R\$144.5 billion). After the process, the approved figure was R\$75.6 billion, that is, less than half of the ideal figure to ensure investments focused on overcoming educational inequalities and ensuring the right to education. More information about the calculation made by the Coalition can be accessed here: [https://direitos-valem-mais.org.br/wp-content/uploads/2020/09/NOTATECNICA\\_DVM\\_LOALDO-PEC188.pdf.pdf](https://direitos-valem-mais.org.br/wp-content/uploads/2020/09/NOTATECNICA_DVM_LOALDO-PEC188.pdf.pdf)

<sup>10</sup>For a detailed analysis of the budget approved in 2021, see Direitos Valem Mais Coalition's Technical Note "LDO 2022 at risk". Available at: [https://direitosvalem-mais.org.br/wp-content/uploads/2021/07/2021\\_DVM\\_NotaTecnica\\_LDO2022emRisco\\_FINAL.pdf](https://direitosvalem-mais.org.br/wp-content/uploads/2021/07/2021_DVM_NotaTecnica_LDO2022emRisco_FINAL.pdf)

This measure is no different from a certain *modus operandi* of the current government. In the midst of the pandemic, resources were directed to certain ministries in response to the calamity context, such as health and other social areas. This scenario left education more vulnerable when placed in competition with other areas. Together with this, the government, as well as having an economic position based on austerity, embraces an extreme conservative right-wing agenda, which leads to a deliberate attack against the sector for political-ideological reasons. Education workers have been destabilized by labor changes and investment cuts, directly affecting salaries, career plans, and the quality of the work environment and professional bonds. As a result, women have been disproportionately affected, as public workers and as main users of public services in education, a scenario that we will explore furthermore in this project's second paper.

Therefore, these reforms have implied the precariousness of public service and labor relations and working conditions, salaries, and careers. Professionals who work at the top are particularly affected, that is, workers who work in essential areas such as education, health, and social assistance, and who are directly responsible for serving the population - far from being "parasites" as Minister of Economy, Paulo Guedes, has qualified them<sup>11</sup>.

It is important to highlight that among the 11.5 million employment relationships in Brazil's public service in 2018, a quarter received up to R\$ 1,566 and half received up to R\$ 2,727, about 2.5 minimum wages (LOPEZ et al, 2021).

To better understand this scenario, this study presents a mapping of the state reform measures promoted and in progress in Brazil in the period from 2016 to 2021, when essential social policies to address inequalities and socioeconomic crises were interrupted, halting a trajectory of improvement in social indicators, and making the impacts of the Covid-19 pandemic even

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<sup>11</sup>See <https://g1.globo.com/jornal-nacional/noticia/2020/02/07/paulo-guedes-compara-servidores-publicos-com-parasitas.ghtml>

more sensitive. Each reform is presented with a general description of its scope, together with an analysis of its narrative (with the arguments presented by the government along with counter-arguments), and finally an exploration of the effects and/or risks that such reform presents to the right to education. The analysis allows us to demonstrate the logic of the limitation of social services and its cumulative effects on the rights of the population. The methodology considers the legislation itself, technical notes, quantitative data, and specialized research studies. This is a documental analysis.

The study points out that, although immediate measures are necessary to curb the impoverishment, sickness, and death of the Brazilian population, with challenges intensified by the social context of the post-pandemic, manageable only with a robust implementation of social, public, and free policies, the government has gone against these needs. The supply of quality public services is essential to overcome the social abyss created by the austerity policies implemented in the country from 2016, which was worsened by the pandemic. Therefore, the study concludes with decision making recommendations based on the promotion and guarantee of rights, considering the urgency of promoting human rights, especially the right to education.

## **1.1. Inequality and social advances in Brazil from the beginning of the century to 2015**

At the beginning of this century Brazil presented social, employment and income indicators far from an ideal scenario. According to data from IPEA, in 2001 the country had an unemployment rate of 13%, formal work mobilized only 41.9% of the workforce, and poverty reached 37% of the population, which reveals that already at that time income inequality, poverty, unemployment and labor market informality rates were excessively high.

The educational data were also worrisome and unsatisfactory. Still at the beginning of the century, the illiteracy rate among people over 15 years old was 12.4%. The percentage is considered high in comparison with other Latin American countries and, internally, it is also marked by regional inequalities, being higher in the rural region (28.7%) and in the northeastern region (24.3%).

While school attendance of children between 7 and 14 years old reached 96.5%, only 34.9% of 6-year-olds attended school. When it comes to school lag, the beginning of the century also presented challenges and the indicator reached 15.4% of 7-year-olds; 51.8% of 11-year-olds, and 68.7% of 14-year-olds<sup>12</sup>.

Although the socioeconomic challenges at the beginning of the century were significant, there was an improvement and an advance in the indicators in relation to previous decades. Thanks to the regulations of the 1988 Federal Constitution<sup>13</sup> and subsequent legislation, public policies were implemented aimed at facing the historic Brazilian inequalities.

In the same period, a set of factors favored the advance of social indicators: the greater participation of organized civil society together with a favorable economic scenario for the Latin American region led to improved social protection and education indicators. Added to this are the policies for the increase of minimum wage<sup>14</sup>, a measure that has reduced inequalities and poverty -, as well as the reduction of labor market informality, unemployment, and the creation of conditional cash-transfer

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<sup>12</sup>For consolidated data, see BRAZILIAN CAMPAIGN FOR THE RIGHT TO EDUCATION “Study on Education and Inequalities, Brazil Chapter, 2020 - The effects of investment in education for the reduction of social inequalities and those of cuts for the deepening of the gap: an analysis of the last two decades”. The study consolidates data on public investment in education and its redistributive effects, also considering the impacts of austerity measures implemented in the country until 2015. Available on <https://campanha.org.br/aceruo/estudo-educacao-e-desigualdades-capitulo-brasil/>

<sup>13</sup>It is important to point out that in Brazil, the 1988 Federal Constitution enshrines a series of rights that need to be enforced by public policies in order to actually exist. Among this set of rights are the so-called “social rights”, which include education, health, food, housing, work, leisure, security, social security, protection to motherhood and childhood, and also social assistance. Without public policies, these rights, which are universal and must be guaranteed at all stages of a person's life, are not accessed by a significant portion of the population. For this very reason, public policies protect the entire Brazilian population, and their destruction also represents setbacks for society as a whole, not just for the socially and economically vulnerable population.

<sup>14</sup>Between 2001 and 2015, the Brazilian minimum wage was raised by 72.84% in real terms. Figures from December 2001 to December 2015 from Ipea Data ([ipeadata.gov.br/](http://ipeadata.gov.br/)). IN: CAMPANHA NACIONAL PELO DIREITO À EDUCAÇÃO (2020).

measures, such as Bolsa Família<sup>15</sup>.

In the field of education, some measures and legislations also contributed to the reduction of inequalities: the substitution of FUNDEF by FUNDEB in 2007 was one of them<sup>16</sup>. FUNDEB expanded the sources of revenue, improving the funding formula and broadening the scope of coverage, also including early childhood education, secondary education, and adult education. Eight years later, in 2015, school attendance in the 7-14 age group reached 98.8%, while in the 15-17 age group, it reached 85% (OSÓRIO, 2017). Fundeb is evaluated as one of the most successful educational policies in the recent history of Brazilian education (CARA; PELLANDA, 2017).

In 2008, the teachers' salary floor also came into effect. It promoted professional development for the teaching career and

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<sup>15</sup> Created in 2003, during Lula's government, the Bolsa Família Program is a cash-transfer program that has become known worldwide and serves families living in poverty and extreme poverty. The Program has three main axes: income supplementation, access to rights, and family development. The management of Bolsa Família is decentralized: the Union, the states, the Federal District and the municipalities all have responsibilities in its execution. The program also has conditionalities, such as monitoring school attendance, the vaccination schedule, weight and height of children aged 0 to 6 years old, and also the identification of pregnant women and prenatal care. In 15 years since its implementation, the program has reduced poverty by 15% and extreme poverty by 25% among its beneficiaries, being responsible for the reduction of 10% of Brazilian inequality in the period, a positive result considering its cost: only 0.5% of GDP. More information about the program can be accessed here: <https://www.gov.br/cidadania/pt-br/acoes-e-programas/bolsa-familia>. For IPEA's analysis on the results of Bolsa Família: [https://www.ipea.gov.br/portal/index.php?option=com\\_content&view=article&id=34948&Itemid=444](https://www.ipea.gov.br/portal/index.php?option=com_content&view=article&id=34948&Itemid=444)

<sup>16</sup> FUNDEF (Fund for Maintenance and Development of Primary Education and for the Valorization of Teaching) was in effect in Brazil between 1997 and 2006. FUNDEF was created to guarantee a sub-tabulation of the education resources for primary education and also to ensure a better distribution of these resources, bringing more transparency to the financing of education. With this fund of an accounting nature, each state and each municipality would receive an equivalent amount to the number of students enrolled in their public elementary school system. The problem is that FUNDEF did not advance in overcoming educational inequalities. In 2007, thanks to a great popular mobilization through the movement "Fundeb Pra Valer!" (NASCIMENTO, 2020), FUNDEF was replaced by FUNDEB (Fund for Maintenance and Development of Basic Education and Valorization of Education Professionals), which expanded the sources of revenue, changed the funding formula and expanded the scope, encompassing early childhood education, high school and youth and adult education, allocating more federal supplementary resources. In 2020, thanks to pressure from the civil society, notably the Brazilian Campaign for the Right to Education, the new and permanent FUNDEB was approved, which would soften the impacts of the de-funding policies in the area, since it foresees the increase of revenue transfers and a federal percentage for complementation.

reduced the wage gap between teachers and other professional segments. The federal government's investment in education, in that period, privileged basic education, going from R\$899.00 per student in 2000 to R\$7,273.00 in 2015. In higher education, the investment per student also jumped from R\$8,849.00 to R\$23,215.00, in current figures. The leap was essential to reduce the investment gap between the segments of basic education and higher education, from 10.47 in 2001 to 3.65 in 2015. The increase in investment presents objective results, increasing equity and privileging the poorest population, since public investments in education privilege the poorest 40% of the population (BRAZILIAN CAMPAIGN FOR THE RIGHT TO EDUCATION, 2020).

Despite the significant advances that have occurred at the beginning of this century, there are still structural issues to be addressed in education. Despite the narrative that large sums of money have been invested in education, the country still invests less per student compared to countries in the Organization for Economic Cooperation and Development (OECD) and other emerging countries. That narrative is clearly manifested in government proposals, in criticism directed at the education field and at projects that aim to increase investment in the sector. Such criticism goes beyond the legislative environment (represented here by liberal congressmen and senators who defend austerity measures, competition, and "meritocracy" for the sector), and is often found in the mainstream media, which tends to reproduce this discourse.

## **1.2. Change of government and realignment with the austerity agenda and the IMF**

In 2016 there was an intensification of the economic model guided by austerity, breaking the trajectory of social advances, and accelerating the dismantling of Brazilian social policies.

It is important to note, however, that some austerity measures had already been implemented in the second Rousseff administration. The appointment of Joaquim Levy for the Ministry of



Economy is an instance of that. “The Chicago Boy”<sup>17</sup> took over the ministry with strong criticism of sectoral policies and promising fiscal adjustment. He remained in office for almost a year. He was replaced by Nelson Barbosa, with the promise of continuity.

Since then, several reforms have been undertaken with strong support from the economic ministries of the Temer and Bolsonaro administrations, which follow a minimalist state agenda inspired by the archaic and anti-rights Washington Consensus. The reforms directly impacted both the state’s capacity to promote social welfare and the guarantee of human, economic, social, cultural, and environmental rights (HESCR), as well as public workers in general and education workers, particularly.

It is beyond the scope of this project and report to review the role of the International Monetary Fund (IMF) in Brazilian economic and social policy, nor an in-depth discussion of power relations in international economic policy, which are permeated by complex social, economic, political, and historical variables dating back to colonial times. However, brief considerations about the relationship between the IMF, the Brazilian government, and the austerity measures implemented in the period analyzed in this report are necessary.

The Brazilian public external debt with the IMF was contracted during the military dictatorship (1964–1985), in 1982, as a result of the Oil Crisis. From this moment on, a series of recommendations about economic, fiscal, and social policies were imposed on the country, together with debt negotiations and other loans. Because of that, the national social policy of the 1980s and 1990s was marked by the organization’s recommendations.

In December 2005, during the Lula administration, Brazil settled its debt to the organization with the payment of USD 15.5 billion,

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<sup>17</sup>The former Minister of Economy under Dilma Rousseff, after leaving office, took on the position of finance director at the World Bank and, under the Bolsonaro government, returned to the country to head the National Bank for Economic and Social Development (BNDES), leaving the government in 2019. See: <https://www.infomoney.com.br/politica/quem-e-joaquim-levy-o-ex-ministro-de-dilma-que-sera-o-nome-forte-do-bndes-com-bolsonaro/>

resulting in the saving of USD 900 million in interest. However, the government claimed that the objective was to strengthen national sovereignty by strengthening the Real internationally, and particularly by freeing the country from the recommendations of the organization with its limitations in social investment<sup>18</sup>. Since then, the relationship between Brazil and the IMF has changed, with the country changing from debtor to creditor, which has altered the forms of relationship, pressure, persuasion, and subjection.

When the first reform of the series analyzed here was implemented, EC 95/2016, called the “Spending Ceiling” it received mixed reactions in the international arena. On the one hand, the UN Human Rights Council rapporteur condemned the measure, arguing that it would limit public spending at inappropriate levels, put an entire generation at risk of receiving less social protection, and have a severe impact on the poorest<sup>19</sup>. The manifestation considered that the cuts violated international human rights standards on education, housing, food, sanitation, and gender equality. In particular, the measure violates Brazil’s obligations under the International Covenant on Economic, Social and Cultural Rights, ratified in 1992, which prohibits the adoption of “deliberately regressive measures” unless there is no other alternative and full consideration is given to ensure that the measures adopted are necessary and proportional<sup>20</sup>.

In contrast, the IMF approved the measure and recommended that the country move forward on its structural reform agenda and review mandatory spending in order to comply with the ceiling. More recently, in the midst of the pandemic, the IMF reiterated the relevance of the spending cap and the reforms, saying that the spending limit should be maintained - while the country should provide social support to vulnerable groups in the midst

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<sup>18</sup> See: <https://www.camara.leg.br/radio/programas/266702-quitacao-antecipada-de-divida-com-fmi-causa-polemica-05-18/>

<sup>19</sup> Source: [www.brasil.elpais.com/brasil/2016/12/09/politica/1481308911\\_239622.html](http://www.brasil.elpais.com/brasil/2016/12/09/politica/1481308911_239622.html)

<sup>20</sup> See: <https://campanha.org.br/noticias/2020/05/07/covid-19-politicas-economicas-e-sociais-irresponsaveis-do-brasil-colocam-milhoes-de-vidas-em-risco-dizem-especialistas-da-onu/>

of the crisis<sup>21</sup>. In its late 2020 report on the Brazilian economy, the IMF recommended viewing the constitutional “spending cap” as a fiscal anchor to support market confidence. However, compliance with the spending cap should not come at the expense of abrupt withdrawal of fiscal measures to support the economy during a pandemic, such as emergency aid. The report assessed that “the government’s response to the crisis has been swift and considerable. Authorities implemented emergency cash transfer and job retention programs, increased health care spending, financial support to local governments, and credit lines to small businesses”.

However, while reinforcing the prevalence of the spending limit over the guarantee of rights, even amid the greatest crisis of the century, the IMF argued that social programs and income distribution could not extrapolate the limit of public spending. They also considered that the ceiling would be a ballast for international investors, which the country would need, considering the flow of dollars that left the country in recent months - even though the measures had already been in place for some years. They argue, therefore, that the way out would be through structural reforms “to reallocate resources under the expenditure ceiling and strengthen the social safety net on a permanent basis.”

The IMF recommendations, in general, go hand in hand with the measures implemented by the Brazilian government in recent years: reduction of mandatory spending and budget rigidity, reform of the social security and tax system, acceleration of concessions and privatizations, and reform of labor legislation. These changes should be sought “with greater urgency to make the economy more competitive, open to business and trade, and attractive to investment”.<sup>22</sup>

In short, there is a diffuse relationship of synchronization between the national austerity agenda and the IMF’s international recommendations. Although the organization reinforces the importance of an active role of the state in the economy and in the social sphere during the Covid-19 pandemic crisis, the IMF

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<sup>21</sup> Source: <https://www.bbc.com/portuguese/brasil-55167052>

<sup>22</sup> IMF Brazil Country Report No. 20/311 – December 2020

continues to support severe austerity measures, materialized in the measures analyzed here. Its role in this period has been to represent international economic interests with its recommendations that, despite not having institutional weight and value through the conditions attached to loans, have an impact on international investments and pressure on the Brazilian government, as occurs in many countries.

The Brazilian case shows how the implementation of austerity policies in national contexts does not follow a direct and organized hierarchy between global and local, or external and internal agents. Rather, we find that political economy and international relations depend on a variety of factors, which may manifest themselves in forms of institutionalized coercion in loans, or more diffuse forms of dialogue and persuasion. The case elucidates how austerity policies materialize at the national level, which participate in complex global and local dynamics that, although non-linear, lead to the transportation of similar policies in different formats and contexts.

### **1.3 The Covid-19 Pandemic and the urgency to end austerity policies**

In contrast to the austerity agenda, which proclaims the minimum role of the state in the economy and in the social sphere and relies on the market to provide well-being, the Covid-19 pandemic reiterated at the international level the fundamental role of the state in providing rights and provider of services that guarantee the well-being and social security of citizens, which has become even more necessary in the sanitary and economic crisis contexts, which puts people's own lives at risk.

However, in Brazil, the pandemic broke out amid the intensification of this austerity agenda, with its social cuts formulas. Even so, the emergency created spaces for resistance and dispute, allowing the strengthening of progressive ideas and its groups while arguing that public, free and universal social services are essential "to minimize the contrast with the privileged conditions of minority sections of the population, and capable of comply with social isolation and virus containment measures" (DIAS; MENEZES; SALLES, 2020). It has been in this tension and so-

cial dispute that some conditions and benefits have been maintained or even expanded, such as guaranteeing the emergency aid<sup>23</sup>. Still, after the adoption of initial social protection measures, the economic agenda was reaffirmed, materialized in the expansion of privatizations, reforms and cuts in public spending (DWECK; ROSSI; OLIVEIRA, 2020).

The effects of austerity and denialist measures have manifested quickly and intensely. In the economic sphere, the impacts are devastating and aggravated by the lack of social security policies and measures. The unemployment rate was 14.7% in the quarter ended in March/2021, according to data gathered from PNAD Contínua and released by the IBGE. There are more than 14 million people unemployed, the largest contingent since the beginning of the historical series.

Among those who still manage to remain in the labor market or carry out some type of paid activity, the impacts were also sensitive and profoundly unequal: the drop in the average income of the Brazilian population in the second quarter of 2020 was 20.1% in comparison with the first three months of the year, but among the poorest population the decrease in income was much more sensitive, reaching almost 30%.

Data from the Getúlio Vargas Foundation indicate that between August 2020 and February 2021, around 17.7 million people returned to poverty, adding to 27.2 million people<sup>24</sup>.

Hunger and food insecurity are also among the devastating effects of the impoverishment of the Brazilian people and the widening gap that separates rich and poor. The survey “National Survey on Food Insecurity in the Context of the Covid-19 Pan-

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<sup>23</sup>The emergency aid was created in April 2020 to guarantee a minimum income for vulnerable people affected by the pandemic. The initial proposal sent by the government initially foresaw a R\$200.00 (two hundred reais) benefit, which increased to R\$500.00 (five hundred reais) after debate in Congress, and was approved at R\$600.00 (six hundred reais). With the extension of the emergency situation, five installments were paid to the beneficiaries. In 2021 the emergency aid was reduced and the beneficiaries received four R\$250.00 (two hundred and fifty reais) installments. More information about the benefit at: <https://www.gov.br/cidadania/pt-br/servicos/auxilio-emergencial>

<sup>24</sup>Source: <https://cee.fiocruz.br/?q=a-pandemia-agravou-a-desigualdade-de-renda-e-a-pobreza-no-brasil>

demic in Brazil”<sup>25</sup> presents a shocking scenario: the majority of Brazilian households (55.2%) are in food insecurity and 9% live with hunger. To scale these figures, of the 211.7 million Brazilians, 116.8 million live with some degree of food insecurity. Of these, 43.4 million had no food and 19 million people were facing hunger. The scenario is even worse in rural areas. This level puts Brazil back to 2004 levels, being the worst index since the beginning of the historical series.

Unfortunately, this landscape tends to be mirrored throughout Latin America. In the recent Regional Human Development Report for Latin America and the Caribbean (UNDP, 2021), the United Nations Development Program (UNDP) points out that the socioeconomic horizon of the region is critical, leaving the region “trapped” in the face of the high (and growing) inequality and low economic growth. The report points out that the solutions to restore this scenario would involve improving social policies, combating violence, and also reducing the concentration of economic and political power.

However, Brazil and its neighbors tend to follow an austerity agenda, related to the recommendations of the IMF<sup>26</sup> to reduce the state. This scenario further promotes the deepening of inequalities at the most diverse levels, such as access to public goods and services, working conditions, wage, gender and race inequalities, among others, in one of the countries that already holds the title of one of the most unequal in the world<sup>27</sup>.

Finally, there is the impact of deaths. At the time of the closing of the first part of this study, in June 2021 more than half a million

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<sup>25</sup> See: [http://olheparaafome.com.br/VIGISAN\\_Inseguranca\\_alimentar.pdf](http://olheparaafome.com.br/VIGISAN_Inseguranca_alimentar.pdf)

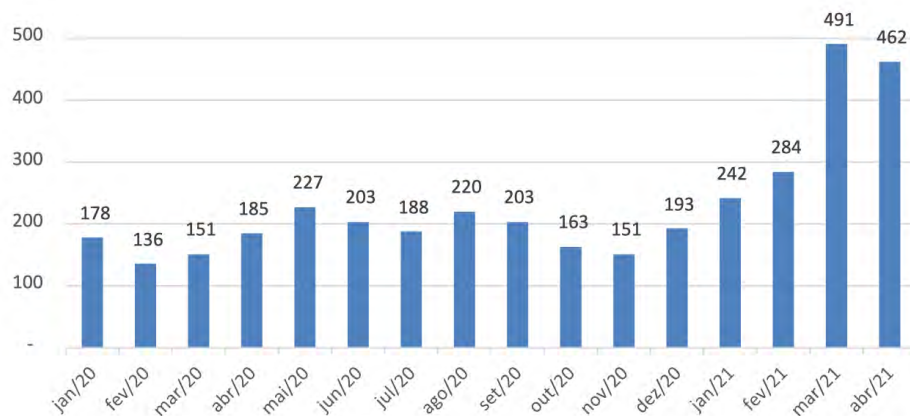
<sup>26</sup> The Brazilian Campaign for the Right to Education signed a letter with international membership, more information here: <https://campanha.org.br/noticias/2020/10/06/sociedade-civil-mundial-alerta-sobre-continuacao-de-politicas-de-austeridade-do-f-mi-mesmo-em-meio-pandemia/>

<sup>27</sup> A 2020 report from UNDP (United Nations Development Program) indicated that Brazil fell five positions in the world HDI (Human Development Index) ranking. Going from 79th to 84th position, among 189 countries. The Brazilian HDI went from 0.762 in 2018 to 0.765 in 2019. While social indicators fall, income concentration has increased in recent years: Brazil is among the ten most unequal countries in the world, and during the pandemic the richest 1% of the population came to concentrate almost half of the country's wealth (49.4%). IN: IBGE, 2020. Credit Suisse Global Wealth, Synthesis of Social Indicators.

Brazilians and Brazilians died due to the new coronavirus, a scenario that made Brazil one of the epicenters of the pandemic in the world. The data collected by Oswaldo Cruz Foundation (Fiocruz) and systematized in their Covid-19 Observatory Bulletin<sup>28</sup> reveal that, while in the world the death rate is around 497 deaths per million inhabitants, in Brazil there are 2,364 deaths per million inhabitants, that is, 4.7 times higher than the global average.

Brazilian male and female workers have been directly impacted by this Covid-19 lethality in the country. Between January and April 2021, the total number of dismissals due to death in Brazil increased by 89% compared to the same period in 2020. In absolute numbers, the number of formal employment relationships terminated due to the worker's death jumped from 18,580 to 35,125<sup>29</sup>.

**Number of job terminations by death more than doubled in the first months of 2021**



Source: Ministry of Economy of Brazil. *New Caged*. IN: *Boletim Emprego em Pauta* n. 21. June 2021. DIEESE.

When we segment the data for the education sector this number is even higher: the number of employment contracts terminated by death increased 128%, making the sector the fourth with the highest record of formal contracts terminated due to

<sup>28</sup> Source: <https://portal.fiocruz.br/noticia/boletim-destaca-marco-de-500-mil-mortes-por-covid-19-no-brasil>

<sup>29</sup> One of the ways of employment contract termination is the death of the worker. In this case, the worker's rights of the deceased are preserved. During the pandemic, the number of contract terminations due to death increased significantly in Brazil.

the death of workers. The growth was more accentuated in the three states with the highest mortality rates for Covid-19, that is, Rondônia, Amazonas and Mato Grosso.

If we go deeper into the analysis, the professional category that includes teachers, coordinators and other related functions was the one with the most employment contracts terminated by death: 612 in 2021. In second place came other education workers, with 263 dismissals due to death. In this category there are professionals in cleaning, concierge, janitorial and school meals, for example.

The cross-sectional data allows us to infer that, among so many Brazilian workers who had their lives interrupted during the pandemic, the teachers were especially affected.

In this first part of the study, we seek to draw an overview of the adoption of an economic model based on an austerity agenda in the country, barring a cycle of reduction in social inequalities that began at the beginning of the century. The implementation of drastic fiscal austerity policies made Brazil face the pandemic in an extremely fragile situation, considering the historical and systematic budget cuts in social policies.

Once again, given this scenario, we reaffirm that thousands of lives could have been saved. Furthermore, social vulnerability in the pandemic context was further aggravated, thanks to the adoption of a denialist strategy by the federal government. The adoption of broad, strategic, direct, and science-based communication measures and actions to strengthen the health, education and social assistance systems were set aside, which would guarantee, universally, the possibility of adoption for the Brazilian population hygiene measures, physical distance enabling spaces, adequate ventilation, use of high-quality masks, testing, contact tracing, isolation, among others, as advised by the World Health Organization.

Next, we will present a more in-depth analysis of part of the measures implemented and that are in progress in the country between 2016 and 2021, expanding the understanding of the impacts of this scenario on education. The set of measures



analysis, made in a chronological way, allows us to state that they are not isolated and disjointed measures. Such an understanding is essential for us to scale the risks that are currently surrounding Brazilian education.

## **2. THE STATE REFORMS IN BRAZIL FROM 2016 TO 2021 AND THEIR IMPACTS ON EDUCATION**

It is not possible to critically understand the austerity measures implemented in post-2016 Brazil without considering the elements of context and social advances experienced in the country at the start of the century. The topics were already explored in the previous session. In the second part of this study, we advance in the analysis of some of these measures, seeking to understand the scenario that makes Brazil a hostage of austerity (ROSSI, 2020, p. 11). The first of them, enacted soon after the impeachment of President Dilma Rousseff in 2016, set the tone of fiscal policy, guided by austerity.

### **2.1 Spending Ceiling - EC 95/2016**

#### **2.1.1. Presentation**

The Brazilian proposal to implement a ceiling for federal public spending was approved on December 16, 2016, consolidating into Constitutional Amendment n° 95, which instituted a new tax regime for the next two decades. The tax regime proposed by the Temer government was based on the assessment of its economic team, which argued that

the problem of primary public spending would have a structural nature, above all due to the mandatory expenses defined in the Federal Constitution of 1988. Moreover, still according to this diagnosis, the new tax regime would be a medium and long-term adjustment capable of containing and reversing the trajectory of increasing public spending and public debt, increase the confidence of economic agents, reduce inflationary pressures, and thus resume economic growth (LACERDA, 2019, p. 64)

The government's proposal was implemented quickly, without debates with civil society, under protests and popular pressure, and against the recommendation of national and international experts. Even so, the measure was approved.

The policy, which is valid until 2036, establishes that "the primary expenditure of the federal government is limited by a ceiling defined by the maximum amount of the previous year adjusted by the accumulated inflation in 12 months measured by the Exten-

ded National Consumer Price Index (IPCA)<sup>30</sup>.” In other words, total primary spending is frozen at the 2016 level for 20 years. Therefore, the rules of the new regime do not allow the increase in total government spending above inflation, not even in case of good economic performance or population growth, which gives the Brazilian case a singularity compared to other foreign experiences that have adopted the ceiling on public spending. It is the only fiscal measure like this of such a long duration in the world.

The lack of real growth in public spending necessarily implies the reduction of public spending in relation to GDP and per capita, since public spending will not follow the growth of income and population growth: with the application of EC 95, it is only possible to increase investments in a particular area provided that cuts are made in others, disregarding the rates of economic growth, as well as demographic growth for the next twenty years (DWECK et al, 2020).

The new tax regimen, therefore, suspends the 1988 constituent project. The measure also removes from the Brazilian people the right to choose at each election the government program of their preference translated into the budget, opting for public policies that confront inequalities and generate economic growth, as well as removing from the next governments the autonomy over the budget.

### **2.1.2. Arguments and counter-arguments**

The amendment was approved under the argument that it would reduce public debt and lead to economic growth by attracting national and international investors. Once again, faced with the need for greater fiscal balance, the Brazilian government’s “choice” has been, in most cases, to cut spending and/or reduce investments.

However, in the search for greater fiscal balance, the state should not act in the same logic as a company or in the preparation of

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<sup>30</sup> Direitos Valem Mais Coalition. The urgency of ending the Constitutional Amendment 95 while confronting Covid-19 and the post-pandemic scenario, 2020. Available at: <https://direitosvalemmais.org.br/2020/05/08/documento-tecnico-urgencia-do-fim-da-ec95-no-enfrentamento-da-covid-19-e-no-pos-pandemia/>. Accessed on 6/27/2021.

the domestic budget. This metaphor was widely used. “[It] is disingenuous and distorts the responsibilities that fiscal policy has in the economy, in its tasks of inducing growth and cushioning the impacts of crises” (ROSSI, 2020, p. 13). The idea of austerity, therefore, centered on the notion that spending cuts generate confidence, is not supported by reality.

There is no reason for Brazil to be the only country to address the issue of public spending through an amendment to the Constitution and for such a long period (...) because, especially in an international crisis and a domestic recession, public investments represent the only way out in sight (LACERDA, 2019, p.12).

The investment limitation has also negatively affected public spending in several areas, including infrastructure, especially in the offer and quality of public service, and basic care for the population. This brake on social investment deepens social inequalities and tends to impact economic development, restricting the financing of public investments and social policies (LACERDA, 2019). Thus, in the long run the measure deteriorates the quality of basic services, even favoring income concentration.

Tragically, neither have the economic objectives proven:

despite all the impacts of the contraction in primary expenditures, there has not been a robust expansion of the fiscal result in the country. The net public sector debt rose from 46.1% in December 2016 to 55.7% in December 2019, and in the same period, the gross debt rose from 69.8% to 75.8% (DWECK et al, 2020, p. 94).

In fact, interest payments remained high even as the basic interest rate was falling and revenues were down due to “weak economic performance and a reduction in labor market formalization in the period of the amendment”(DWECK et al, 2020, p.94). The spending “freeze” actually resulted in cuts to the federal government’s primary expenses, that is, the expenses needed to maintain basic public services for society.

### **2.1.3. Impacts and risks to education**

In contrast to the advances of the first two decades of the year 2000, the EC 95/2016 promotes a broad cut in public invest-

ment that will ultimately lead to regression in the fulfillment of rights. In a study conducted by the Direitos Valem Mais Coalition focusing on the period from 1997 to 2016, the federal government's primary spending grew from 14% to 19% of GDP, which reflected, in large part, the regulation of social rights provided in the 1988 Federal Constitution.

For the 20-year duration of EC 95/2016, from 2017 to 2036, considering the projection of GDP growth estimated by the Federal Government presented in the PLDO 2021 (Annual Budget Proposal), it is estimated that the federal government's primary spending will return to 12.5% of GDP in 2036. EC 95/2016 proposes to roll back, in its 20-year duration, everything that the country has advanced in the previous 20 years in terms of consolidation of social rights. Even considering only until 2026, a period in which the expenditure correction indicator, the IPCA, cannot be changed, the contraction is to 15.5%, reaching a figure close to that of 1997 (Direitos Valem Mais Coalition, 2020).

The expectation is that by 2022 non-mandatory spending in all areas, including health and education, will be eliminated, followed in the next few years by cuts in mandatory spending. The graphic below illustrates the regression.

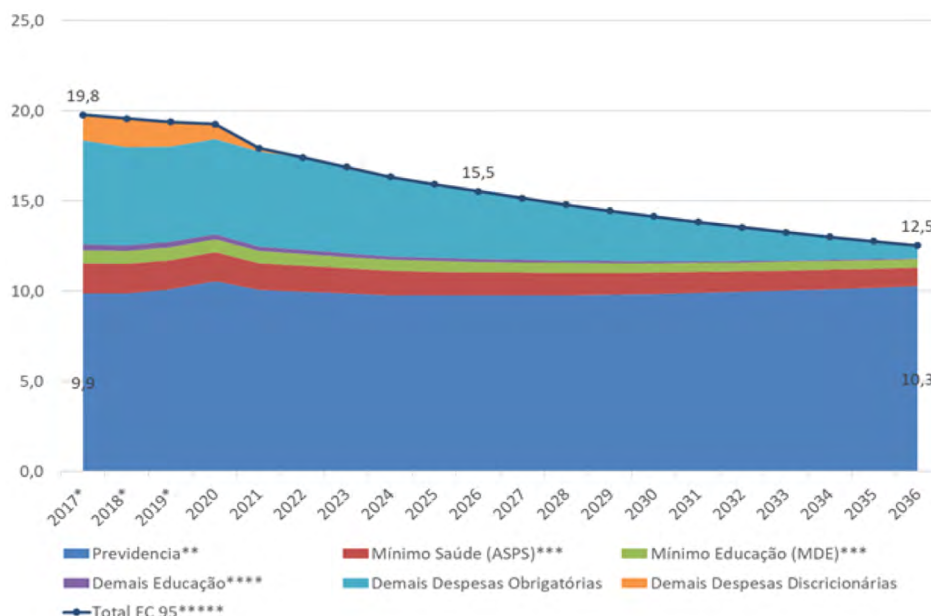


Image: EC 95/2019 Impact Simulation on Federal Government Primary Expenses. Source: Direitos Valem Mais Coalition elaborated it with National Treasury data. It updates estimates presented in Dweck, Silveira e Rossi (2018). The simulation made use of the estimate of real GDP growth and inflation for the federal government presented in the Annexes of the PLDO 2021. \*For the years 2017 to 2019 the figures presented are the ones effectively executed according to STN (National Treasury Secretary) data. \*\* For the year 2020 the budget allocations in the 2020 LOA were used and the projections for 2021 to 2036 are those presented in specific annexes in the 2021 PLDO. \*\*\*Data from the February 2020 RREO, Education Minimum and Health Minimum were calculated according to EC 95/2016. \*\*\* Other payments of the education function that count for the Spending Ceiling, according to the National Treasury report. \*\*\*\* Spending Ceiling according to the Bimonthly Reports of Revenue and Expenditure Evaluation of several years and projections based on inflation projections and real GDP growth contained in the PLDO 2021. For 2020, extraordinary credits that would be used to combat the pandemic are not included, as they are not subjected to the Spending Ceiling.

Federal investments, which between 2010 and 2016 dropped 5% per year, fell by 12% per year in just three years after the amendment was made effective, being that federal investment is not enough to ensure the maintenance of existing assets, preventing the expansion of public capital. Therefore, the amendment also deteriorates public assets as the government is unable to expand its infrastructure.

The tendency is that non-compulsory expenses (discretionary ones) present greater contingencies, both because of the Fiscal Responsibility Law<sup>31</sup> and the EC 95. The education area, for example, had a 17% decrease in the period of the amendment. Health had a 12% drop. The implementation zone for these ex-

<sup>31</sup>The Fiscal Responsibility Law - LRF (Complementing Law no 101/2000) is a Brazilian Law that imposes limits on public spending. The LRF imposes limits on public debt and also limits on spending on salaries, among other measures.

penses tends to end in the next few years. It is important to point out that the drop in federal investment has a direct impact on the transfers to municipalities and states<sup>32</sup>.

**Discretionary Spending - Federal Government Investments (2010-2019)  
calculated by the amount paid**

Ministérios	R\$ Milhões (valores janeiro/2020)					Part%	Var. % a. a.	
	2010	2016	2017	2018	2019		2019-2016	2016-2019
Infraestrutura	22.021,0	11.663,5	10.123,6	9.515,4	7.837,4	21,7%	-10%	-12%
Defesa	11.530,8	9.922,0	8.506,3	8.231,9	7.307,1	20,4%	-2%	-9%
Desenvolvimento Regional	15.253,1	9.406,4	6.973,2	6.450,2	6.932,4	19,2%	-8%	-10%
Saúde	3.851,0	5.422,7	3.158,5	6.301,2	3.723,8	10,3%	6%	-12%
Educação	8.910,4	6.058,0	4.505,9	4.552,1	3.439,8	9,5%	-6%	-17%
Cidadania	2.058,9	2.738,6	1.093,3	995,0	1.076,7	3,0%	5%	-27%
Demais	10.044,4	7.318,2	5.575,6	5.400,7	5.820,1	16,1%	-5%	-7%
<b>Total</b>	<b>73.669,9</b>	<b>52.529,4</b>	<b>39.936,3</b>	<b>41.446,5</b>	<b>36.200,4</b>	<b>100%</b>	<b>-5%</b>	<b>-12%</b>

Source: Elaborated by Direitos Valem Mais Coalition, with SIAFI data.

Still on education, the EC 95 limits the expansion of federal spending in the area, exactly in a context in which the increase of this federal participation is an essential condition for the fulfillment of the goals of the National Education Plan (PNE) 2014-2024<sup>33</sup>. The reduction in the federal government's investment

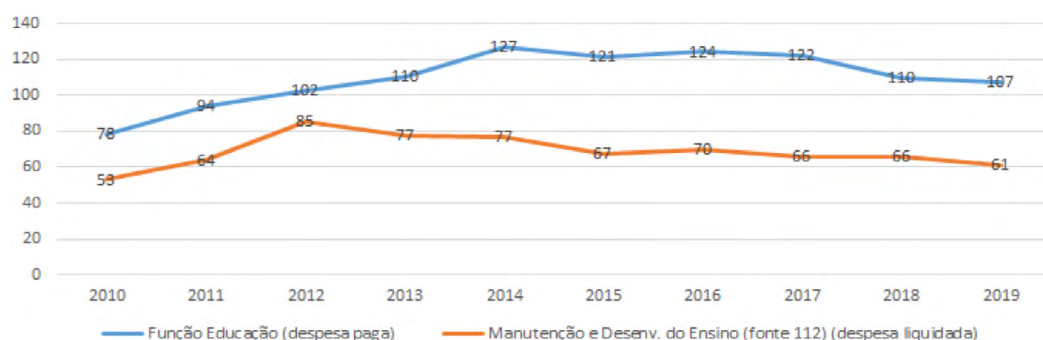
<sup>32</sup>Direitos Valem Mais Coalition. The urgency of ending constitutional amendment 95 in confronting Covid-19 and the post-pandemic scenario, 2020. Available at: [https://direitosvalemmais.org.br/wp-content/uploads/2020/05/DOCUMENTO\\_STF\\_Maio\\_2020.pdf](https://direitosvalemmais.org.br/wp-content/uploads/2020/05/DOCUMENTO_STF_Maio_2020.pdf)

<sup>33</sup>In 1988, the Federal Constitution, through article 214, demanded the formulation of National Education Plans - a Law that determines goals for education every ten years. Therefore, it is a state policy and not a program restricted to one government. On June 25, 2014, in the form of Law 13.005/2014, President Dilma Rousseff sanctioned the National Education Plan 2014-2024 without vetoes. The achievements of the final text, undeniably greater than those of the original version, are due to the influence of civil society, especially the activist network of the Brazilian Campaign for the Right to Education, which acted from beginning to end of the proceedings to improve the text of the Law and for Brazil to have a consistent guideline for its education. Unfortunately, the National Education Plan 2014-2024 has not been fulfilled. The structuring goals of the Plan, with a deadline of 2018, have not been achieved. In five years of effectiveness, only 4 of the 20 goals have been partially met, and the other 16 goals are still far from being fulfilled. For a detailed analysis of the PNE, see: Brazilian Campaign for the Right to Education. National Education Plan: 6 years of non-compliance. Analysis of the execution of the articles, goals and strategies of Law 13.005/2014. 2021. [https://media.campanha.org.br/acervo/documentos/Relat%C3%B3rio\\_2020\\_-\\_Base.pdf](https://media.campanha.org.br/acervo/documentos/Relat%C3%B3rio_2020_-_Base.pdf)

effort in education, together with the drastic drop in investments in science and technology, puts the country in a vulnerable situation not only to face the serious economic crisis that Brazil is going through, but also in finding an economic and social way out from this situation, and then move on to the post-pandemic context.

The National Education Plan intended to advance the goals of improving indicators and quality of education for the different teaching practices. To achieve them, the goal 20 of the plan foresaw that by 2019, 7% of GDP would be allocated to education, reaching 10% by 2024. “Currently, the Union is responsible for about 25% of spending on education, although it keeps 56% of the net tax revenue (already deducting constitutional transfers of taxes). That is, the federal entity has the greatest capacity to expand the financial resources to be allocated to education”<sup>34</sup>. While the Union holds a greater financing capacity, the EC 95 presents significant impacts on investments:

#### Evolution of expenditure on education (figures in R\$ from January 2020)



Source: Elaborated by Direitos Valem Mais Coalition. Spending on education function: SIOF with SIAFI data. MDE:STN (settled expenditure). Updated with IPCA Médio, Jan. 2020.

In the graph (above) when comparing public spending on education, between 2014 and 2019 there was a drop of R\$20 billion in investment in the education function and R\$24 billion with maintenance and development of education (MDE), from 2012 to 2019. Between 2017 and 2019, that is, in a short period of two

<sup>34</sup>Direitos Valem Mais Coalition. The urgency of ending constitutional amendment 95 in confronting Covid-19 and the post-pandemic scenario, 2020. Available at: [https://direitosvalemmais.org.br/wp-content/uploads/2020/05/DOCUMENTO\\_STF\\_Maio\\_2020.pdf](https://direitosvalemmais.org.br/wp-content/uploads/2020/05/DOCUMENTO_STF_Maio_2020.pdf)



years, after the ratification of EC 95, the loss was R\$15 billion in spending in the education function and R\$5 billion in MDE.

The limitation is also substantial in public spending on education when considering the GDP percentage. In Brazil, this percentage grew between 2005 and 2015, rising from 4.5% of GDP to 6.2% in 2015. However, the percentage fell again to 5.6% in 2019. Although the figure remains above the OECD countries' average of 4.4%, several reservations need to be made.

First, the figures still do not meet the objective set by PNE, which had been calculated to enable the achievement of the plan's goals. Therefore, by failing to comply with the necessary spending, the measure makes the whole PNE unfeasible. Second, the increase in the percentage of investment in education is recent. Until 2004 the investment was below 4%, reaching 4.5% of GDP only in 2005. OECD countries have invested more in education for decades, which leads to an accumulation in the sector that promotes quality. This accumulation impacts, for example, on the infrastructure, teacher training, universal access, eradication of illiteracy, increase in formal schooling levels of the population in general (impacting children's education by their parents' education), among other factors.

Third, the Brazilian investment percentage refers to the total public investment, including figures spent by the federated entities on pensions, scholarships, student financing, and others. Direct investment, the one which is actually invested in public institutions discounting these other expenses, has remained stationary at 5% since the early 2010s.

Fourth, expenditure per student in Brazil is far below the necessary and the investment per student in OECD countries. In 2018, Brazilian public spending per student in public primary and secondary education institutions averaged around US\$ 3,800.00 per year<sup>35</sup>, less than half the average of OECD countries (US\$

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<sup>35</sup> Em 2018, a cotação média do dólar no Brasil era de R\$ 3,6542. Dessa forma, US\$ 3.800,00 equivalem a R\$ 13.885,96, o que significa uma média de R\$ 1.157,16 por mês. O investimento médio da OCDE, no mesmo segmento, é, tomando a mesma conversão, da ordem de R\$ 33.984,06 por ano, ou seja, R\$ 2.832,00 por mês. Fonte: <http://www.ipeadata.gov.br/ExibeSerie.aspx?serid=31924>

9,300.00) (Education at a Glance, 2019).

To restore this scenario and ensure quality and access in education for all, the Brazilian Campaign for the Right to Education has been developing the Cost of Quality Education per Student (CAQ)<sup>36</sup> since 2002. CAQ is a mechanism that unites quality, social control, and financing of education. By considering the necessary inputs to ensure a quality standard, CAQ guides the investments that cover the maintenance costs of daycare centers, preschools, and primary and secondary schools, in their different practices, as provided in the Federal Constitution of 1988, in the Law on Brazilian Education Guidelines and Bases (Law no 9.394/1996) and in the National Education Plan (Law no13.005/2014), among other legal frameworks.

Thus, according to the formulation of the Brazilian Campaign for the Right to Education - which built the mechanism -, CAQ pursues the materialization of the first principle of national education inscribed in the Federal Constitution: “Art. 206. Education shall be provided on the basis of the following principles: I – equal conditions of access and permanence in school.”

Based on SIMCAQ (Simulator of Cost of Quality Education per Student)<sup>37</sup>, formulated by the Laboratory of Educational Data, the CAQ 2020 for daycare in urban areas, in part-time, for example, would be R\$866.00 per month, while in full-time, this figure would be R\$1,795.00/month. In rural areas this figure would rise to R\$1,028.00/month part-time, and R\$500.00/month full-time.

For the first part of elementary school, the CAQ figure for the urban context in part-time would be R\$ 487.00/month, an amount that would rise to R\$ 695.00 in the rural context, in the same journey. In secondary education, the figure calculated per

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<sup>35</sup>In 2018, the average dollar rate in Brazil was R\$3.6542. Thus, US\$ 3,800.00 was equivalent to R\$ 13,885.96, which means an average of R\$ 1,157.16 per month. The average OECD investment, in the same segment, is, taking the same conversion, of the order of R\$ 33,984.06 per year, or R\$ 2,832.00 per month. <http://www.ipeadata.gov.br/ExibeSerie.aspx?serid=31924>

<sup>36</sup>More information at <https://campanha.org.br/caqi-caq/>

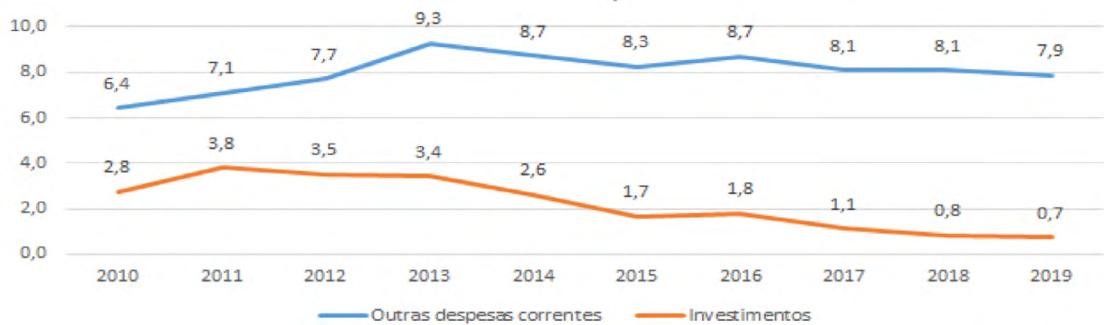
<sup>37</sup>Viewed at <https://simcaq.c3sl.ufpr.br/simulator/results/caqreport>

student/month is R\$ 451.00, part-time, an amount that reaches R\$ 660.00/month in a rural setting.

The investment necessary to guarantee quality in basic education, therefore, is not yet in line with what is being done by the educational systems. With the Spending Ceiling, the expansion of investments finds even more barriers.

In higher education the scenario is no different. Even with a 39% increase in enrollments from 2007 to 2019, the 68 federal universities felt the effects of the EC 95. There was a drop of almost R\$ 3.1 billion in investment in infrastructure and equipment, if compared to the best year (2011). The fall is also observed in current expenses - water, electricity, telephone service, cleaning, surveillance, outsourced workers, supplies, etc. The other federal institutions, Federal Institutes and Federal Centers for Technological Education (IFs and Cefets), University Hospitals and the Brazilian Company of Hospital Services follow the same trend of dismantling the existing funding is observed, as shown in the graphs below:

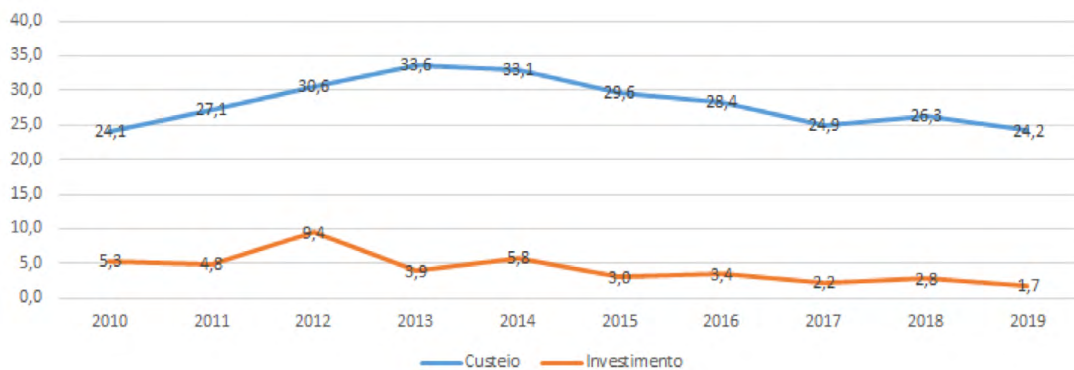
**Evolution of expenditures in federal universities (current figures in billions)**



Source: Direitos Valem Mais Coalition. Elaborated by SIOP with SIAF data. Updated by IPCA, Jan. 2020.

In basic education, the Union acts mainly in support of states and municipalities, complementing the budget of the National Fund for Education Development (FNDE). The following chart shows the evolution of FNDE's expenses.

**Evolution of FNDE's expenses with funding and investment (figures in R\$ billion)**

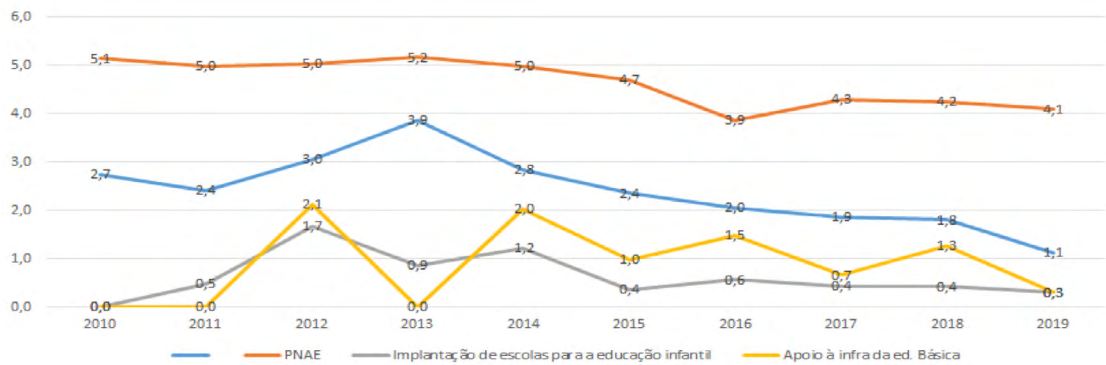


Source: Direitos Valem Mais Coalition. Elaborated by SIOP with SIAFI data. Updated by IPCA, Jan. 2020

The drop in federal investments in FNDE, when compared to the best year (2012) of the series and 2019, reached R\$14.4 billion. Between 2018 and 2019 alone, the drop was R\$3.2 billion. The decrease in funding directly affects Brazilian basic education, since the FNDE is the greatest source of support to states and municipalities for building schools, equipment purchases, and teaching salaries.

Some of FNDE's actions under analysis impact the access to education in states and municipalities. The National School Feeding Program (PNAE) "is a program of enormous social impact, reaching 40 million children, adolescents and young people in the public system – as well as with external partnerships – in basic education. Between 2013 and 2019 there was a drop of R\$ 1.1 billion (21%) in investment. Only between 2017 and 2019 R\$ 200 million stopped making up the program. The Direct Money at School Program (PDDE), which supports the construction of early childhood education schools and infrastructure, and guarantees resources directly to teaching units, reached in 2019 only 28% of the 2013 figure, losing its action potential, as shown in the following chart.

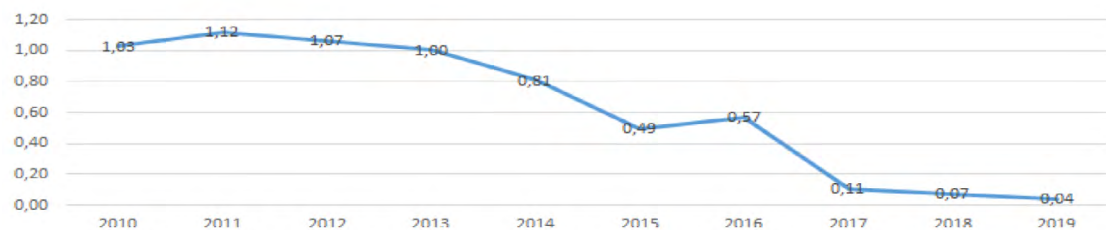
**Evolution of expenses with PNAE, PDDE, support for the construction of schools for early childhood education and infrastructure for basic education (figures in R\$ billion)**



Source: *Direitos Valem Mais Coalition. Elaborated by SIOP with SIAFI data. Updated by IPCA, Jan. 2020*

The Young and Adult Education (EJA) practice, which mirrors a historical debt of the educational system with the most vulnerable population, and that came to move approximately R\$ 1 billion of federal funds in the period 2010 to 2013, saw its expenses plummet to only R\$ 40 million in 2019, which means only 3.6% of the amount applied in 2011. In the 2020 School Census, this practice had the largest drop in enrollments, with 7.5%, indicating regression in PNE's 10th goal<sup>38</sup>. Functional illiteracy, which should decrease, increased from 27% to 29% between 2015 and 2018, indicating the urgency of investment in this practice to ensure the right to education for all.

**Evolution of expenses with EJA (figures in billions)**



Source: *Direitos Valem Mais Coalition. Elaborated by SIOP with SIAFI data. Updated by IPCA, Jan. 2020*

<sup>38</sup> See [https://media.campanha.org.br/semanadeacaomundial/2021/materiais/BALANCO\\_PNE\\_CARTELAS\\_VF.pdf](https://media.campanha.org.br/semanadeacaomundial/2021/materiais/BALANCO_PNE_CARTELAS_VF.pdf)

As we previously indicated, the tendency observed even before the EC 95 was to reduce investments in different areas of education. After the implementation of the amendment, the trend has materialized in reduction and cuts in areas that need great attention and investment, from higher education to basic education.

However, resistance actions have been maintained by the civil society. Through a great mobilization in 2020, with representatives of grassroots organizations and teachers, the new and permanent FUNDEB (main basic education fund) was approved, which may help to mitigate the impacts of the de-funding policies. Fundeb foresees the increase of financing for the area from 10% to 23% of the Union complementation to the fund; the guarantee of quality of education by means of the constitutionalization of the CAQ; a more equitable system of distribution of resources among the education systems; the destination of 70% of the Fundeb resources for the development of all education professionals and the guarantee of the use of public resources exclusively for public education.

These accomplishments were featured by the Brazilian Campaign for the Right to Education and ensure, in addition to the increase of public investment in education, that public resources remain in public schools. The conquest, however, did not occur without disputes. Intense debates took place about amounts, sources, decentralization, privatization, and evaluation of the fund, which involved two main groups. On one side, the agenda was the expansion of funding through fiscal justice for the guarantee of rights and the use of CAQ, supported by subnational governments, social movements, non-governmental organizations, associations of education workers and researchers, and opposition politicians. On the other side, there were with an agenda of minimal state and privatization representatives of the private sector, deputies linked to movements of “political renewal” and supporters of the Bolsonaro government<sup>39</sup>. With a large social mobilization and the use of robust evidence, the first group advanced in guaranteeing the right to education by stren-

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<sup>39</sup>PELLANDA, Andressa; CARA, Daniel. Renewal of Basic Education Fund in Brazil: Disputes on Funding and Federal Distribution, 2020. Available at: < <https://resources.norrag.org/resource/view/630/364> > Accessed on 08/2021.

ngthening the FUNDEB.

#### 2.1.4. Spending Ceiling: consequences in the Covid-19 Pandemic

As we have seen, the impacts of EC 95 are significant and, since its approval in 2016, have weakened social public policies, especially on education, which we are analyzing here. It is worth reinforcing that the result of the underfunding during a pandemic is catastrophic.

For this very reason, in order to face the health crisis, 21 provisional measures of extraordinary credit were edited until May 2020. Of the budget of R\$303.2 billion authorized, 67% was canceled, leaving only R\$131 billion of new credit, an amount that originates from budget reallocation. This means that resources were taken from other areas, including from healthcare<sup>40</sup>.

The amount of R\$ 5.6 billion was reallocated from temporary incremental actions to basic, medium and high complexity health care, redirecting the budget within the ministry itself to face the pandemic. Even though this movement occurred with the objective of facing the sanitary calamity situation:

the volume of resources invested by Brazil in facing the Covid-19 crisis is U\$ 800 per capita while the average of the OECD countries is U\$ 7,000, evidencing the low budget allocation, especially for the country that currently has the highest rate of deaths per day in the world. An analysis carried out by Inesc on the transfers to states and municipalities compared to the number of cases and deaths in each case indicator shows the inequality between regions. While for the south and central-west regions about R\$ 25,000 were transferred per case, for the southeast, north, and northeast the transfer was on average R\$ 9,600 per case (Direitos Valem Mais Coalition, 2020).

As a consequence, disinvestment in education has weakened the sector and made it impossible to react adequately to the health crisis. Amidst the promotion of emergency remote teaching du-

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<sup>40</sup>Coalizão Direitos Valem Mais. 2020. Alerta Público. Covid-19: da execução orçamentária baixa, lenta e desigual regionalmente à insustentabilidade do Teto dos Gastos. Disponível em: < [https://direitosvalemmais.org.br/wp-content/uploads/2020/06/AlertaPublico\\_BaixaExecucaoOrcametaria\\_junho2020.pdf.pdf](https://direitosvalemmais.org.br/wp-content/uploads/2020/06/AlertaPublico_BaixaExecucaoOrcametaria_junho2020.pdf.pdf)> Acesso em : 02/07/2021.

ring the pandemic, between 4.3 and 4.4 million students did not have home access to broadband or 3G/4G internet for remote learning activities, out of the 27.2 million students enrolled in remote education<sup>41</sup>.

Schools also do not have adequate infrastructure to enable the reopening of schools safely, requiring renovations and investments that were made impossible by the public investment ceiling. According to the 2019 Brazilian School Census, only 41.2% of municipal early childhood education schools have bathrooms suitable for this stage, and 4.6% of schools in the municipal system and 5.2% in the state system do not have bathrooms. According to data from WHO and UNICEF Joint Monitoring Programme for Sanitation and Hygiene (JMP), 39% of schools in Brazil lack basic structures for hand washing. This situation is further aggravated by regional inequalities. Only 19% of public schools in the state of Amazonas, for example, have access to water supply, compared to the national average of 68%.

The survey *A Voz Dos Alunos*, conducted by the Brazilian Campaign for the Right to Education and the *Visão Mundial* (Brazilian branch of World Vision International), confirms this scenario, revealing that, regarding the difficulties faced by children during the pandemic, about 58% of the children interviewed reported that they have difficulty accessing the Internet to attend classes, and 34% pointed out that they face problems with school supplies (*materiais escolares*).

When it comes to in-person classes, 45% of the children reported having concerns about aspects such as coronavirus contamination and not being able to learn the lessons' content. The environment of the children that participated in the survey was also mapped: 11% of them pointed out that they were hungry many times and 8% responded that they live with family conflicts that hinder their studies, with a higher incidence of this problem among black children.

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<sup>41</sup>See [https://www.ipea.gov.br/portal/images/stories/PDFs/nota\\_tecnica/200902\\_nt\\_disoc\\_n\\_88.pdf](https://www.ipea.gov.br/portal/images/stories/PDFs/nota_tecnica/200902_nt_disoc_n_88.pdf)



The guarantee of adequate financing is, therefore, central to the resumption of school reopening and to the overcoming of serious educational inequalities accentuated by the confinement situation that Brazilian children and adolescents have experienced<sup>42</sup>.

## **2.2 Labor reform - Law no 13.467/2017**

### **2.2.1. Presentation**

A The labor reform was the second structural reform presented by the Temer government. In Brazil, labor relations in the private sector are regulated by the Consolidation of Labor Law nos of 1943, a paramount legislation to ensure protection for women's work, the right to social security, the minimum wage and the right to vacation, among others. Although the legislation had been updated in the last decades, the core of worker protection and union rights had been preserved.

The federal government's proposal has significantly altered working conditions and worker protection. Among the approved measures is a kind of "menu of precarious contracts" (DIEESE, 2017) that enables the employer to choose from a variety of forms of hiring at lower costs. For workers, this means labor market insertion with less rights and social protection. Moreover, the heterogeneity of the labor market will increase. It will be possible, for example, for workers to coexist with different labor rules in the same work environment, creating a hostile environment and increasing competition among workers.

Among other measures, the labor reform also instituted intermittent work, which occurs when the provision of services, with subordination, is not continuous, occurring with alternating periods of service provision and inactivity, determined in hours, days, or months, regardless of the type of activity of the employee and employer. This type of job allows the company to pay only for the hours of effective service, leaving the worker always available, "solving" a workflow problem for employers and im-

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<sup>42</sup>To access in-depth studies that the Brazilian Campaign for the Right to Education has published on the impacts of COVID 19 on education and technical recommendations for the school community, go to <https://campanha.org.br/covid-19/>

sing precarious working and living conditions on the workers.

Still under the argument of reducing labor costs, the new legislation made it easier to dismiss workers, made it more difficult for the injured worker to go to the Labor Court, made the working day of 12 hours followed by 36 hours of rest (12 x 36h working day) indiscriminate - a measure that was only applied in exceptional situations and was subjected to a collective agreement with unions -, and also relaxed rights such as vacations, pay equity, and protection for women.

With less social protection and weakened labor relations, unionism also suffered impacts. The extinction of the compulsory union contribution by the worker is a hard blow to the union arrangement of the most diverse categories. In Brazil, until 2017, the funding of unionism was basically composed of each employee's contribution, corresponding to one day of work per year. The Labor Reform made the contribution optional, impacting the maintenance and funding of unions. Unions' budgets, therefore, suffered significant drops, from R\$18.96 billion in 2017 to R\$399 million between January and July 2019<sup>43</sup>. Unprotected, workers may find even weaker unions, which directly impacts the arrangement of the working class.

Even after this significant change in labor legislation, the protection of the working class is still on the radar. To exemplify the continuous attacks on labor rights, we point out that in the current Bolsonaro government, with the slogan "fewer rights and more jobs", the creation of a "Green & Yellow Card"<sup>44</sup>, was proposed, via provisional measure (MP 905 / 2019), signed by the President of the Republic. Among other measures, the MP provided for the creation of a specific hiring practice, focusing on young people between the ages of 18 and 29, and with reduced labor rights. It is important to point out that in Brazil the work of young people is protected by specific legislation, among them the Apprenticeship Law no 10.097/2000.

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<sup>43</sup>Source: Labor Ministry

<sup>44</sup>In reference to the Carteira de Trabalho (work permit), a document that, in Brazil, grants workers' records and information in the private sector.

Among the suppressions foreseen in the Law no are exemption from social security contributions, reduction of the wage-risk premiums and of the fees paid by the employer to the entities of the S System (Senai, Sesc, Sesi, and Senac). After being initially approved by the House of Representatives, in the context of the pandemic, the provisional measure<sup>45</sup> had its effectiveness lost without consideration by the houses of Congress. In the midst of so many legal tactics and little public debate about the social protection of labor, this scenario signals that the social right to work, guaranteed in the Federal Constitution of 1988, continues to be the target of reforms guided by the logic of the reduction of rights.

However, it is of central interest to this research to signal that, contrary to what was proposed, the Labor Reform did not generate new jobs.

### **2.2.2. Arguments and counter-arguments**

The central argument of the Labor Reform proponents was that the Brazilian legislation was outdated, and that legal rigidity would prevent the creation of new jobs. In 2017, Brazil had an unemployment rate of 12.7% (PNAD), at the time the highest since the beginning of the historical series. The discourse of flexibilization and modernization of legislation promised the creation of 2 million jobs between 2018 and 2019 to thus promote a heated economy.

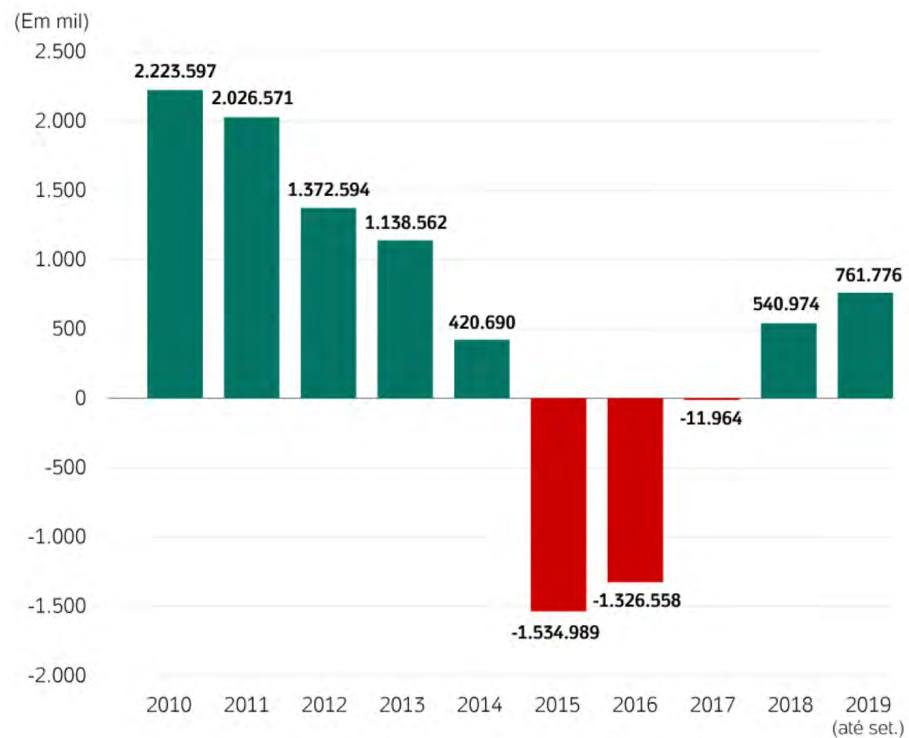
The changes in legislation, however, have not delivered what was promised: according to data from the General Register of Em-

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<sup>45</sup>Provisional measures (MPs) are a type of law drafted by the president that has the force of immediate law, before being analyzed by the Legislative Branch. They have validity, and it is up to the Legislative Branch to decide whether they will become a permanent law. MPs must be analyzed and voted on by the House of Representatives within 60 days, and if this activity is not fulfilled, other votes in the House are held up until the MP is voted on. MPs have their origin in decree-laws, a type of special rule used during dictatorial periods in Brazil. MPs have been used frequently in the last 5 years, with abusive use in anti-democratic measures.

ployed and Unemployed Persons (CAGED)<sup>46</sup>, in the period between November 2017 and September 2019, only 961 thousand jobs were created, as illustrated in the following graph:

### Job creation with CLT labor contracts



Elaborated by UOL – Source Caged (from 2017 to 2019)

The jobs created, however, did not distribute income, and this can be attributed to the new categories of labor contracts created by the reform. Even though the country has experienced little job creation, most of the jobs (64%) have been for intermittent work.

<sup>46</sup> In 2020 the Ministry of Economy made a methodological change in Caged, a survey on the Brazilian formal labor market released monthly. With the change, data from 2020 onwards can no longer be compared to the historical series. The New Caged presents, therefore, data that cannot be compared to the previous series, since they are the result of different methodologies. Moreover, it presents disparities from other research sources. Ultimately, the lack of statistics that allow comparisons and analysis of historical series hinders the accurate understanding of the formal labor market's response to the Brazilian crises and makes it impossible to create successful public policies for job creation. For the present paper we use data from the former Caged, up to 2019, capturing the subsequent effects of the Labor Reform. For future analyses, we recommend complementing sources for monitoring unemployment data in the formal labor market.

### 2.2.3. Impacts and risks for education

In general terms, in relation to the quality of employment relationship and wages of workers in education, the Labor Reform affects temporary teachers and teachers or professionals with precarious contracts. Teachers who work in private education and also those who work in social organizations (OS), a type of public-private partnership that enables the management of public services by OS, also suffer with the reform.

At the national level, in recent years, the ties between teachers in basic education have trended to precariousness, with an increase in temporary contracts and outsourced workers. In 2012, 73.5% of teachers were permanent employees, while in 2020, they were 69.8%. It is important to point out that the number of teachers with CLT (permanent) contracts doubled in the analyzed period, and the trend observed is a decrease in permanent positions and their substitution by more precarious contracts.

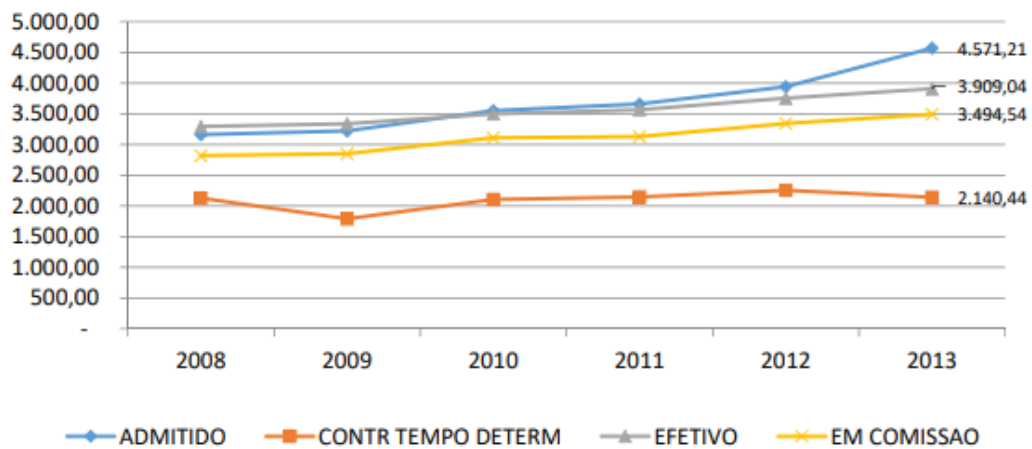
**Types of teaching contracts in basic education (2012-2020) in percentage.**

<b>Ano</b>	<b>Concursado efetivo (%)</b>	<b>Concursado temporário (%)</b>	<b>Concursado terceirizado (%)</b>	<b>Contrato CLT (%)</b>
2020	69,82	31,77	0,33	2,14
2019	69,54	32,43	0,35	2,06
2018	99,34	32,40	0,31	2,21
2017	72,04	31,30	0,25	1,00
2016	72,30	31,44	0,29	0,96
2015	72,36	31,70	0,29	0,97
2014	72,14	30,16	0,40	0,97
2013	72,96	30,16	0,26	0,98
2012	73,58	29,16	0,37	0,69

Source: Own elaboration, School Census data.

Fixed-term contracts make teachers' work more precarious. In the city of São Paulo, for example, teachers' salaries in fixed-term contracts are almost half of the salaries of permanent employees. This type of contract does not include the same rights and career prospects. In addition, teachers hired in this category are not tied to specific work schedules and are paid only for the classes they teach. The graph below helps us to better understand this scenario of disparity between the work contracts of teachers in the public service.

**Average compensation of teachers in the Municipality of São Paulo according to functional situation (figure corrected by INPC - October 2013)**



Source: Jacomini, Neto and Imbó, 2019. With payroll of São Paulo Municipal educational system, from 2008 to 2013.

Another segment possibly impacted by the Labor Reform is teaching in the private sector. Compared to the public system, teachers in private schools already receive lower salaries, as shown below:

**Average gross monthly compensation\*(average weekly workload in parentheses) of basic education teachers by education network- Brazil- 2012 to 2017**

<i>Ano</i>	<b>2021</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>
Federal	7.879,10 (39,3)	8.681,07 (39,3)	9.545,80 (39,3)	10.593,30 (39,2)	10.443,83 (39,4)	11.057,68 (39,5)
Estadual	3.199,42 (29,8)	3.291,23 (30,5)	3.382,00 (31,1)	3.390,05 (30,6)	3.243,55 (31,9)	3.199,87 (29,7)
Municipal	2.755,73 (30,4)	2.880,16 (30,6)	2.986,14 (30,6)	3.095,00 (30,4)	3.086,73 (30,4)	3.111,10 (30,3)
Privada	2.318,48 (30,1)	2.403,02 (30,2)	2.459,08 (30,2)	2.520,89 (30,1)	2.442,39 (30,2)	2.466,73 (29,9)
Pública	2.995,34 (30,2)	3.115,72 (30,7)	3.226,49 (30,9)	3.311,22 (30,6)	3.255,78 (31,1)	3.273,94 (30,2)

Source: Technical Note no 10/2020 INEP. RAIS/ME and Basic Education Census /Inep/ MEC data. \*Figures corrected by IPCA/IBGE variation, prices from 2017

The data (INEP/2017) indicates that, while the average salary in the public system was around R\$3,273.94, the private system paid, on average, R\$2,466.73, a difference of 75%.

Finally, teachers who work in social organizations are also susceptible to a precarious work relationship, with lower salaries and exhausting work hours.

For all the teaching categories that have their labor contracts regulated by the private system, the impacts are severe. Historically, in addition to offering lower salaries and more precarious working conditions, the intermittent work made possible by the new legislation can force teachers to be paid only for the classes they teach. This means that all pedagogical work, beyond the work in the class itself, may not be paid, making teaching more precarious and directly impacting the quality of education.

## **2.3 Control of public spending - EC 109/2021**

### **2.3.1. Presentation**

Only five years after the approval of EC 95/2016, a new Constitutional Amendment was approved by initiative of the Ministry of Economy, giving continuity and deepening the policy of the Spending Ceiling. EC 109 advances the project of controlling the growth of permanent mandatory expenses in the fiscal and social security budgets of the Union, states, municipalities, and the Federal District. The measure represents another limiting

mechanism for investment in public policy, restricting the state's ability to maintain and improve the quality of service provided<sup>47</sup>.

The central aspect of the amendment is the limitation of spending on public services, using two criteria to control it. In the case of the states, the Federal District and municipalities, the measure establishes that current expenses (happened during a year, includes the maintenance of equipment and the operation of public agencies) must not exceed 95% of current revenues (those that are exhausted within the annual period, include tax revenues, property, industrial and other similar revenues, as well as those from current transfers from the Union or states). For the Union this ratio is made between mandatory primary expenditure and total primary expenditure.

If the ratio is exceeded, the entity can, among other measures, prohibit the increase, adjustment, or adaptation of the compensation of public workers, as well as remove workers from their staff; create positions, jobs and new functions, as well as hire personnel, including through public tenders. With EC 109, the creation of expenses above inflation and the creation of mandatory expenses are also prohibited. The same measures can be taken by the Chief Executive when current expenses reach between 85% and 95% of current revenues. The EC 109 also does not determine a deadline or period for the adoption of the measures and also does not provide for retroactive payment of salary adjustments, for example. The reform, therefore, limits the expansion of public services, allowing only for the replacement of workers.

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<sup>47</sup> It is important to indicate some central issues that match with the approval of EC 109. In November 2019, the Brazilian government sent to congress the Mais Brasil Plan (More Brazil Plan) (<https://www.gov.br/economia/pt-br/aceso-a-informacao/acoes-e-programas/plano-mais-brasil>), a package of amendments to the Federal Constitution aimed at reforming the Brazilian state. The package was composed of three PECs: PEC 186/2019, PEC 187/2019 and PEC 188/2019. Although each one of them had a specific focus, it is possible to indicate that the set of measures aimed at reforming the state by cutting investments and making public service more precarious. Among the proposals of the Mais Brasil Plan with direct impacts on education, we highlight the revocation of the education investment floor, a measure that would annul all FUNDEB redistributive mechanisms, for example. After mobilization and resistance from civil society some attacks were barred, but part of the measures were approved and materialized in the EC 109, in continuity with the spending ceiling policy.



### 2.3.2. Arguments and counter-arguments

Under the pretext of the urgency of approving the emergency aid to face the economic crisis caused by the pandemic, the federal government approved the EC 109 without extensive public debate and in record time (just one day after it arrived in the Senate and in the first voting round). The speed with which it was approved, together with the non-existent public debate about it, put aside essential issues for the construction of an inclusive and egalitarian country project, a debate that necessarily encompasses budgetary issues and the guarantee of quality public services. Under the argument of fiscal balance, the measure makes public workers vulnerable, turning them into a variable that can be cut if deemed necessary.

The measure even inverts the constitutional logic, subordinating to fiscal balance the social rights guaranteed in Article 6 of the Constitution. By means of a quickly approved amendment, the social rights guaranteed in the constituent project of 1988 are no longer considered irreducible and universal, suffocating the public policies necessary to guarantee them.

In the scope of the original text of the amendment, even the notion of “intergenerational fiscal balance” was created (DIEESE, 2021b). The new fiscal concept was excluded from the final wording of the text, but the notion of what it presented was maintained: the idea that, for future generations, the guarantee of social rights provided for in the Federal Constitution of 1988 depends on fiscal balance. To speed up the approval process, the government also removed from the text amendments considered controversial that could cause even greater damage to essential public services, such as the proposal to end earmarking of funds for education and health, which would mean the end of funds such as the FUNDEB, and the Workers Support Fund (FAT). The government’s retreat occurred largely in response to broad social mobilization.

However, the measure fails to discuss equally relevant issues such as the amount of the public budget set aside for the payment of public debt’s interests and, once again, the debate does not address the budget from the perspective of increased revenues. The EC 109 follows the austerity agenda, regarding the cut

in public spending as the central element to overcome a serious economic crisis, directly penalizing public workers and ultimately making public service in general more precarious.

### 2.3.3. Impacts and risks for education

In general, EC 109 aims to reduce social public spending, especially through savings made at the expense of public workers, through measures such as freezing salaries, suspending public tenders, and limiting public investment. Since it is a very recent measure, it is not possible to evaluate its impacts widely, but it is possible to analyze the risks that the reform presents for education.

However, some relevant questions deserve highlighting and historical record; they are about its proceedings and possible impacts on the field of education. The Proposal of Constitutional Amendment that originated this approved measure aimed at even more aggressive constitutional changes, which would cause a total reduction of R\$ 95.7 billion in investments in public education for states and municipalities<sup>48</sup>. With this, the amount spent per student per month in 50% of the public school systems in the country would be, at most, R\$ 347 - a tremendously low amount and far below the one stipulated by CAQ.

The proposal would revoke the earmarking of Union, state, Federal District, and Municipal revenues to the maintenance and development of education, an unconstitutional measure that violates the principle of non-regression in Human Rights. This means that the original text of EC 109 would leave Brazil even more weakened on being able to guarantee the right to education.

So much so that the publication of the proposal on February 24, 2021, triggered a social reaction and took the hashtag created by the Brazilian Campaign for the Right to Education, **#Auxí-**

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<sup>48</sup> For detailed data on the impacts of PEC 186/2019 on education, see: BRAZILIAN CAMPAIGN FOR THE RIGHT TO EDUCATION; FINEDUCA. PEC 186/2019: calculation of amount losses for education in states, Federal District and municipalities with the untying of resources. 2021. Available at [https://media.campanha.org.br/acervo/documentos/PautasPoliticar\\_PEC186\\_NotaTecnica\\_Campanha\\_Fineduca\\_2021\\_03\\_01\\_Final.pdf](https://media.campanha.org.br/acervo/documentos/PautasPoliticar_PEC186_NotaTecnica_Campanha_Fineduca_2021_03_01_Final.pdf)

**lioSimDesmonteNao**, to the most commented subjects on the Internet in Brazil for two consecutive days, on February 24 and 25 2021. Such pressure from sectors connected to the defense of public education resulted in negotiations and a reduction of the impacts on the education budget. Even though EC 109 presents sensible impacts for education, the result could have been even worse.

It is important to reinforce that measures like these impose serious risks of dismantling public policies that are structural to Brazilian society. Without investment in personnel and in the public service, social public policies are harmed, which makes the Brazilian population even more vulnerable. In an area like education, which directly depends on the quality and capacity of labor, and whose biggest cost is the teachers' salary, cuts that target salaries and career plans are particularly harmful.

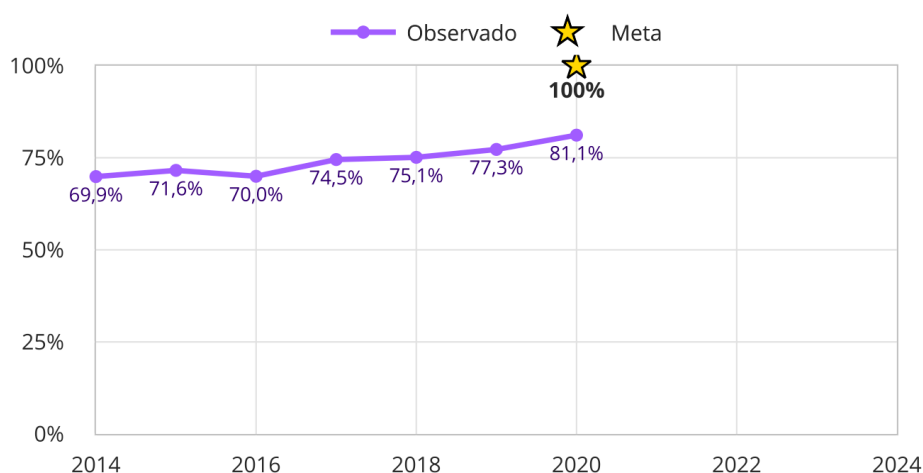
In fact, salaries and working conditions are essential for the teaching career in Brazil. PNE's goal 17, which provides for the strategies for development of teachers in the public basic education systems, in order to bring them into line with the average income of other professionals with equivalent education, has not yet been achieved. While the average salary in 2013 for teachers was R\$ 3,576.00, the average income for other professionals in Brazil was R\$ 5,227.00, which is equivalent to 68.41%<sup>49</sup>.

The monitoring of PNE in 2021, carried out by the Brazilian Campaign for the Right to Education, reveals a persistent gap between the incomes of men and women teachers, despite a slight improvement, as the following graph shows.

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<sup>49</sup>Source: RAIS, Labor Ministry, with comparative study conducted by UFPR's Educational Data Laboratory, 2013.

### Average income for public system teachers with complete higher education, compared to other professionals with the same education



Source: Brazilian Campaign for the Right to Education. Review of National Education Plan. Global Action Week for Education, 2021.

The absence of a decent salary is a determining factor in the devaluation of the teaching career, and changing this situation is essential for a more attractive career.

Another important issue is the guarantee of healthy working conditions and the protection of teachers' mental health. A survey conducted by the National Confederation of Education Workers (CNTE) in 2017 indicates that, of the 762 education professionals from the public system, from various regions of the country, 71% had already been removed from school after episodes that triggered psychological and psychiatric problems in the last five years, with stress and depression being the highest incidences<sup>50</sup>.

With direct impacts on the workers, cuts in the area can worsen teacher illness, and the lack of teachers (and particularly the lack of trained and experienced teachers), going against the goals of PNE and international guidelines.

<sup>50</sup> Detailed study at: [https://www.cnte.org.br/images/stories/2018/relatorio\\_pesquisa\\_saude\\_completo.pdf](https://www.cnte.org.br/images/stories/2018/relatorio_pesquisa_saude_completo.pdf) Acesso em 08/24/2021.

## 2.4 Administrative Reform - PEC 32/2020<sup>51</sup>

### 2.4.1. Presentation

The Proposal of Amendment to the Constitution no. 32, of 2020 (PEC 32/2020), an initiative of the Executive Power, has started proceedings and has a central objective: to alter the “provisions on public workers, public employees and administrative organization, contributing to greater efficiency, efficacy and effectiveness to the performance of the state”<sup>52</sup>. To this end, PEC 32 proposes measures that promote changes in the legal systems of public workers and contract public employees, as well as in the rules of administrative arrangement of the Brazilian state. In the first axis, the PEC presents measures that change the rules for hiring, entry and career progression of public workers. In the second one, the proposal intends to change the way the Brazilian state functions.

The proposal presents four central problems, which will be explored in this study. These are (1) the inclusion of the principle of subsidiarity in the Federal Constitution, which makes the public power complementary to the private sector; (2) disfiguration of the Unified Legal Regime, which creates several types of positions, alters career progression in the public service and creates the “typical state position”; (3) expansion of contracting temporary workers and, (4) attribution of “superpowers” to the President of the Republic, who would receive, if the proposal were approved, *carte blanche* to promote structural changes in the Brazilian state.

The PEC presents another set of measures that puts at risk the guarantee of public services provided and guaranteed by the Federal Constitution of 1988, first by the possible discontinuation and impossibility of providing basic essential services, and second by the possible drop in service quality. Therefore, the proposal represents a risk not only to public workers, but also to

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<sup>51</sup>PEC 32/2020, at the time of closing this report, was still in progress, being debated in the Brazilian legislature. To access the processing history, access: [https://www.camara.leg.br/proposicoesWeb/prop\\_pareceres\\_substitutivos\\_votos?idProposicao=2262083](https://www.camara.leg.br/proposicoesWeb/prop_pareceres_substitutivos_votos?idProposicao=2262083)

<sup>52</sup>PEC 32/2020, original text available at: [https://www.camara.leg.br/proposicoesWeb/prop\\_mostrarintegra?codteor=1928147](https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=1928147), accessed on: 06/10/2021.

the entire Brazilian society.

### **2.4.2. Arguments and counter-arguments**

The fiscal aspect is again central to the justification of the measure. One of the main points of the government argument and also of actors who defend the proposal is that the trajectory of personnel expenses would be high and accelerating.

The central justification of the PEC 32 is based on

three guidelines for the public sector: modernize, ensure greater dynamism, rationality, and efficiency; bring the public sector closer to the “reality of the country”; and ensure budgetary and financial conditions for the existence of quality services. All of them share the understanding that there is a significant waste of resources in the public sector, which leads to the need to promote adjustments (CARDOMINGO; TONETO; CARVALHO, 2020).

The text argues that there is a supposed detachment of the public service from the reality of private enterprise because public workers would have an income that does not match that of peers with similar activities and training and working in the private sector. The PEC also starts from the assumption that there is excessive spending in the financing of public services.

However, the argument does not hold. Compared to other countries, the Brazilian public service “is not an anomaly” (CARDOMINGO; TONETO; CARVALHO, 2020). The average OECD country spends, in absolute terms, more than twice - 2.2 times - on public workers compared to Brazil, when we consider the size of the population.

Rather, we verify per capita spending in labor intensive areas such as health and education that is much lower than the levels verified in other emerging countries, especially in relation to the OECD average. Even considering total per capita spending on public service, Brazil is among those with the lowest level of expenditure (CARDOMINGO; TONETO; CARVALHO, 2020).

All the technical papers analyzed for this study reinforce that the Brazilian public service is not a “drain on resources”, and that

while the necessary reforms in state careers are focused on reducing expenses as an objective in itself, ignoring heterogeneities and specificities of careers, of the federative spheres and powers of the Republic, we will leave aside the opportunity to improve the offer of public goods (CARDOMINGO; TONETO; CARVALHO, 2020).

Thus, to better understand the impacts that the measures set forth in PEC 32 impose on public workers, as well as to identify a hegemonic narrative that advocates the blame of workers, it is important to consider the size of the Brazilian public service, shedding light on its heterogeneities. Understanding this reality is central to the understanding of PEC 32 possible impacts. In the following topic we further explore this scenario.

### **2.4.3. The Brazilian public service scenario**

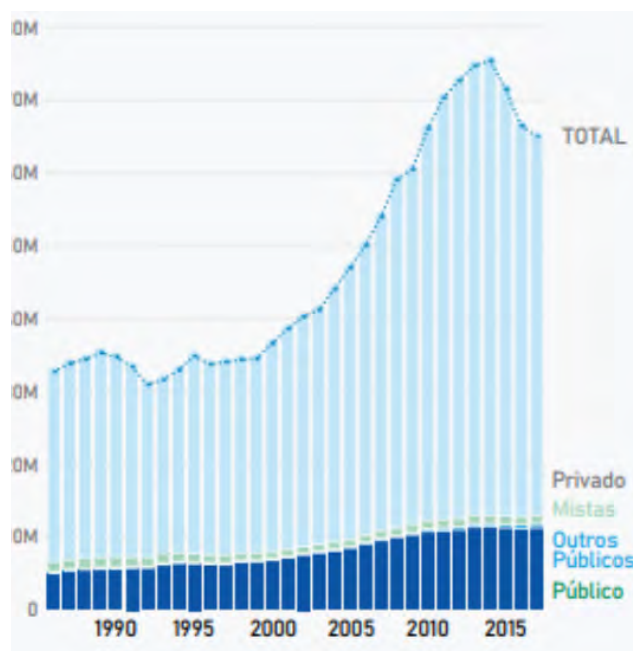
In contrast to the discourse that the Brazilian state is bloated, with overpaid, and underutilized public workers in the state bureaucracy, the growth of the public service in Brazil between 1986 and 2017 took place mainly in the municipal sphere, associated with the expansion of social assistance, education, and health services. About 60% of public workers in Brazil are from the municipal sphere, active in the delivery of basic public services to the Brazilian population.

Educators and health professionals amount to 40% of municipal employees, with salaries much lower than those of other federal levels and branches of government, including salaries observed “in the private sector for similar functions, such as elementary school teachers, doctors and nurses, professionals who work in the fields of security, Law n., etc.” (LOPEZ; CARDOSO JR, 2020). In general, the growth of public jobs has kept pace with the growth of private jobs. In 1986, 3.8% of the population held public jobs and 20.2% held private jobs. In 2017 the figures were 5.5% and 25.5%, respectively. Currently, public positions correspond to 5.6% in relation to the country’s population, well below the average of 10% for OECD countries (LOPEZ; CARDOSO JR, 2020).

The vast majority of jobs generated in Brazil are in the private sector, which reacts to the cycles of expansion and retraction of the economy more quickly, which means saying, for exam-

ple, that in 2015 the economic crisis generated the reduction of 10 million bonds. “In the case of the public sector, from 1986 to 2001 there is a certain stability in the percentage of public employees, around 4% of the total population. Between 2002 and 2012 the percentage rises gradually to 5.8% and, since then, there has been some stability” (LOPEZ; CARDOSO JR, 2020). The following graph shows that the expansion of jobs was in fact in the private sector, demystifying the fallacy of the explosion of jobs in the public sector.

**Evolution of total formal jobs in the labor market (1986-2017)**



Source: Fonacate. Administrative Reform Papers. Paper 4

Public jobs increased mainly in the municipal sphere, in the areas of primary care, health, education, and social assistance, reflecting an increase in social services provided under the 1988 Constitution. Between 1986 and 2017 public positions increased from “1.7 million to 6.5 million in the municipalities; from 2.4 million to 3.7 million in the states; and from just under 1 million to only 1.2 million at the federal level, considering civil and military servants.”

This expansion of the state’s services capacity has come about through public positions with completed higher education. Between 1986 and 2017, the number of public workers with this

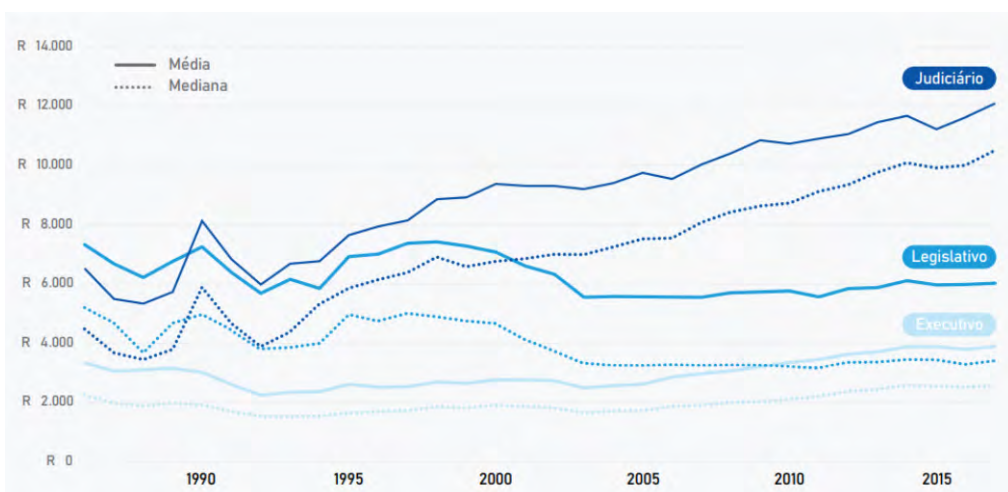


education grew from just over 9,000 to 5.3 million. Therefore, contrary to what reformists claim about inefficiency and performance, public service in Brazil has been professionalized and trained, which can be verified through the increase in the level of education of professionals.

The trend of improvement in the training of public workers is also found in the municipalities, where most of the education and health professionals are. In this sphere, there was an increase from 10% to 40% of professionals with higher education. In contrast, those with incomplete high school education or less dropped from 14% to 10% and 53% to 9% of the total, respectively.

However, this significant improvement in education has not been matched by equivalent wage appreciation. Despite the increase in higher schooling levels, the real average salary in the Municipal Executive went from R\$2,000.00 to R\$2,800.00 in the same period, with a real average increase of 1.1% per year. The biggest salary increase actually occurred in the Judiciary, with an accumulated growth of 82%. Therefore, the discourse that public workers receive much more than workers in the private sector is a fallacy. In the municipal sphere, the average pay in the Executive Power is equivalent (in the Southeast and South regions) or lower (in the other regions) than in the private sector, according to an IBGE research, as shown in the following graph:

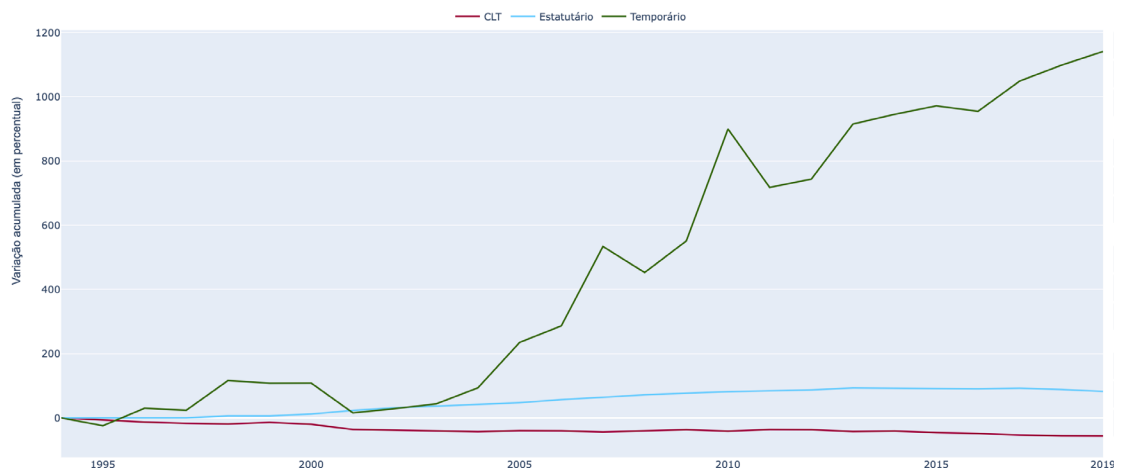
**Real Evolution of Average Compensation, by Branch of the Union (1986-2017)**



Source: Fonacate. Administrative Reform Papers. Paper 4

Another aspect that has been systematically weakened is the type of employment relationships, following the example of policies based on austerity, which often make contracts of public workers more precarious, preferring temporary contracts and contracts through the CLT regime to the detriment of statutory contracts, and especially through outsourcing. Between 2001 and 2018, there was a considerable increase in temporary contracts (which include commissioned positions, interns, and non-permanent employees), from 1.2% to 7.9%. Although the vast majority of public workers are still statutory employees, the evolution of temporary contracts shows a worrying tendency to increase the number of temporary contracts, as we can see in the following graph:

**Evolution of ties in the public sector, by type of contract (1994-2019)**



Source: Elaboration and calculation - Atlas of Brazilian State / IPEA

This trend is also evident in the municipalities, with an increase in non-permanent hires from 15.11% to 19.8% between 2008 and 2018. In this sphere, despite a certain maintenance in the percentage of statutory employees (63.5% in 2008 to 62.7% in 2018), there is a contrasting percentage growth between the categories in this period. In other words, while the statutory workers had a growth of 22%, the non-statutory workers grew by 62%. The trainee, although a small category (2.7% of the total), increased by 78.7% in 10 years.

Thus, it is possible to deduce that the increase in temporary contracts indicates the precariousness of work in the public sphere.

re through temporary contracts and internships. According to the PNAD-Contínua survey, the trend advanced in the following years. In the first quarter of 2020, the hiring of statutory employees continued to fall in relation to the total, reaching 76.7%, with 7.9% of the hirings being done through CLT, and 15.4% of workers without registration or employment relationship.

Of the entire Brazilian public service, 64% are in the municipalities, 24% are in the states, and 12% are in the federal level, again showing the greatest fragility in the municipalities (DRUCK, 2021).

This portrait of Brazilian public sector workers reveals a very different image from the one reiterated in the speeches that attack public workers. Most of them work in the municipalities, implementing social policies provided for in the Constitution of 1988 and essential to Brazilian society, such as education, health, and social assistance. It is important to reinforce that, compared to the average of the OECD countries, the Brazilian public service is not an anomaly.

Another essential element that should be considered in the analysis is the importance of the public service for Brazilian municipalities. According to data from the Annual Social Information Report (Rais), from the Ministry of Economy, in the year 2019, in 38% of Brazilian municipalities, public administration had a share of 50% or more in total formal jobs. This scenario generates a significant local economic importance, thanks to the movement of resources, especially in sectors such as trade and services, fostering the local economy (DIEESE, 2021c). Reducing salaries or the staff in the public service of these localities without any economic policy alternative can be a hindrance to sustain the local economies, especially in municipalities with less diversified economic activity.

Thus, the measures proposed by PEC 32 present serious risks to the guarantee of public services in the country, affecting Brazilian society as a whole, and representing a number of risks and impacts both for the execution of public services, for the public service itself and also for the guarantee of rights for all Brazilians. It is worth reinforcing that, in general, the PEC understands

public workers as a homogeneous and privileged group, which is not supported by objective data of reality, as we saw earlier. It is essential, therefore, from this point on, to analyze more carefully the possible impacts that PEC 32 can cause in education.

#### 2.4.4. Impacts and risks for education

If the primary goal of PEC 32 is the improvement of basic public services, a demand made even more urgent by the pandemic scenario, the argument of saving resources cannot be the only one to guide the decisions of the state. This way, the PEC looks more like a fiscal reform and not a reform that aims to improve access and quality of Brazilian public services. The risks for education are, thus, sensitive.

The first risk is related to the public service itself. PEC 32 foresees a set of measures that affect both future as well as current public workers. To better understand the proposed changes, the analysis is centered on two axes: a) impacts on education workers and b) impacts on the structure of public service.

##### A) Impacts on education workers

Even though the risks analyzed here can be extended to other areas of state activity, the analysis focuses on education workers. The first impact that the PEC foresees is the **loss of job security**<sup>53</sup>, in the public workforce, which is now questioned. As a constitutional rule, job security is the greatest guarantee for society that public workers will be able to do their jobs in an impersonal way, without worrying about any kind of reprisal, free from party politics influences.

It is important to point out that stability is not unrestricted. Currently, article 41 of the Federal Constitution already foresees the loss of the position for the stable employee in specific situations, such as a final judicial sentence (when there is no longer any possibility of appeal), an administrative process in which they are assured extensive defense, and due to periodic performance evaluation, provided that extensive defense is also assured.

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<sup>53</sup>For detailed information about the impacts of PEC 32 on public workers, see DIEESE's Technical Note no 247, available at <https://www.dieese.org.br/notatecnica/2020/nota-TEc247reformaAdministrativa.html> Access on 07/21/2021.

The change in this constitutional guarantee can put the public worker at risk, in addition to enabling moral harassment and persecution practices within the public service.

Without stability, there is an increase in job turnover in the public service, which leads to a drop in productivity due to the loss of experience and capacity accumulated by the experienced employees. This change also facilitates political favoritism and persecution, obstructing the independent exercise of duties when a given government is in power. Therefore, the loss of stability can entail

discontinuation in the provision of public service, loss of institutional/technical memory, difficulty in long-term planning, disruption of the flow of information, and, not least relevant, stimulus to political patronage, that is, the misuse of political power for private electoral purposes and not for public interest purposes (DIEESE, 2021c).

Moreover, without stability, the constitutional principles of academic freedom (art. 206 of the Federal Constitution) and the students' freedom to learn and debate ideas are at significant risk. Without the guarantee of pedagogical pluralism, the teaching and learning processes are in the limelight, weakening critical and emancipating pedagogical practices.

Still on the **careers and protection of public workers**, PEC 32 bars already established rights, such as vacations in a period longer than thirty days for a one year period, a measure that can directly impact teachers; bonus leave and paid leave due to time in service; career progression due to time in service and also the incorporation of compensation for commissioned or appointed to leadership and advisory positions to the effective function, among other measures, which weakens the working conditions and career prospects for public workers.

Also in this axis, PEC 32 proposes significant alterations to **public workers contracts**, institutionalizing, in this way, precarious employment relationships, which previously composed the in-

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<sup>54</sup>FDIEESE's Technical Note no 250 bring details in this comparative study. For more information, access at: <https://www.dieese.org.br/notatecnica/2021/notaTec250reformaAdministrativa.html>

formal segment of the private labor market<sup>54</sup>. If, currently, induction into public service is through public tenders (as foresaw in the Brazilian Federal Constitution), by institutionalizing new employment relationships with the public administration, PEC 32 has a direct relationship with Law no 13,467/2017, the Labor Reform, analyzed above. Both measures make rights more precarious and weaken the social protection of workers. It is important to reiterate here that, as shown by the data gathered in previous sections, although most workers are linked to public service, the growth, in recent decades, of precarious labor bonds with lower wages and labor protection is sensitive. The measures proposed by PEC 32, thus, deepen the dismantling and weakening of labor initiated by the Labor Reform in the Temer government.

For the record, PEC 32 foresees the creation of five different types of contracts with the public administration: I) probationary contract; II) fixed-term contract; III) indefinite-term contract; IV) typical State position, and, finally, V - leadership and advisory position. The category “typical State position”, which, although not detailed in PEC 32, appears as the only category in which stability can be achieved, guaranteeing workers greater protection and career prospects. However, by not categorizing in detail what a “typical State position” would be, the issue has gained centrality in debating the measure.

The follow-up of the legislative agenda at the moment this study was finished (08/29/2021) and specialized analyses tell us that the expectation is that this type of position may be attributed only to exclusive State activities. That is, activities that cannot be performed by the private sector. With this rationale, only the areas of inspection and public security would enter this categorization. “That is, it is quite likely that the government does not intend to classify health, education, science and technology workers in this category”<sup>55</sup>. In other words, this measure means the institutionalization of employment relationships that ensure lesser protection and guarantee of workers’ rights.

From the point of view of the replacement of public workers,

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<sup>55</sup> Observatory of the Brazilian Legislature. What to expect from the administrative reform? [https://queestadoqueremos.org/wp-content/uploads/2021/06/2021-06\\_Boletim04\\_Ref\\_adm.pdf](https://queestadoqueremos.org/wp-content/uploads/2021/06/2021-06_Boletim04_Ref_adm.pdf)

the effects of these changes are significant: such measures can make public tenders less attractive, which would entail the attraction of less qualified workers<sup>56</sup>. Besides this, these changes can lead to the phenomenon of job turnover in the public service, a possible discontinuation in the execution of public services and an increase in expenses with the training of new public workers, once the door is opened to hiring without access through public competition and, possibly, through indications of political patronage. In other words, the proposed measures contaminate the public service with problems and challenges typical of the private sector, especially high job turnover.

It is worth mentioning that these changes also have implications for the **pension system**. With the weakening of employment relationships, the social security tax revenue may be reduced, increasing the social security deficit, and making the payment of retirements and pensions unfeasible. Another indirect impact of the measure is on the **union movement**, following the same logic of the weakening of unions promoted by the Labor Reform, previously analyzed. As a matter of fact, the wide possibility of hiring public workers for a fixed term, depending on the public administration decision, can involve the replacement of striking workers, for example, weakening the union arrangement of the working class.

Theoretically, the PEC excludes active workers from such measures. However, this supposed guarantee may not be maintained. First, because it would generate asymmetries between new and old employees, which may force changes in the legislation and submit working employees to the new rules. Secondly, the changes will affect the lives of all public workers and may even force them to lose their jobs. Finally, this set of measures generates deep inequalities between public workers and the bonds generated in the form of public employees (non-statutory regime). In addition, the legal text foresees that if the Law no that guarantees current workers a set of labor benefits and protection is revoked, the new legal rules would automatically apply.

PEC 32 is a robust and structural proposal for the precariousness

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<sup>56</sup>For more information see DIEESE's Technical Note no 250: <https://www.dieese.org.br/notatecnica/2021/notaTec250reformaAdministrativa.html>

- or destruction - of the public service, since it directly affects the public workers in loss of stability, protection and guarantee of rights, career progression, hiring procedures, social security, and union systems. It is, therefore, a reform that attacks several fronts and deconstructs the public service, in general. This set of measures presents significant risks for education workers, especially for teachers. Since they make up a significant part of Brazilian public servants, teachers will suffer the greatest impact.

However, beyond the direct and indirect changes for the workers, PEC 32 also proposes some changes in the very structure of public service, with critical effects for the area of education. They are cited in the following item.

### **B) Impacts on public service structure**

A central issue of PEC 32 is the changes in the **composition of public service**. While the current rule provides that appointed positions are to be performed exclusively by permanent public workers, the proposal establishes a change in replacing them with leadership and advisory positions (DIEESE, 2020a). This decision would be up to the Chief Executive (Federal, State or Municipal) and, ultimately, makes strategic positions within the public service practically inaccessible to career civil servants. In addition, these new leadership and advisory positions point to a possible preeminence of political appointees to fill them.

This may mean that strategic positions in education, for example, may be occupied by non-transparent criteria or simply because of political alignment with a given public administration. Given the capillarity of education institutions in basic education in the country, the risk is even greater for the sector.

Moreover, under the argument of making public management more flexible and speeding up public processes, the PEC provides that the President of the Republic can, among other actions, extinguish through a decree the positions of minister of state, as well as create, merge, transform or extinguish ministries and agencies directly subordinated to the President of the Republic. Can also extinguish, transform, and merge public administration entities (autarchic – as in agencies – and foundational).



Thus, the following entities could be extinguished, transformed or merged: Federal Universities and Institutes of education, institutes such as IBAMA and INCRA, inspection and control agencies, such as the Regulatory Agencies (ANATEL, ANEEL and ANVISA, for example) and other entities such as the Central Bank of Brazil, the Securities and Exchange Commission (CVM), the Administrative Council for Economic Defense (CADE), the Office of the Comptroller General (CGU), among others<sup>57</sup>.

Therefore, the President of the Republic “**superpowers**” can directly affect public higher education institutions, since it could be able to transform and extinguish foundations and agencies by decree. It is worth remembering that today about 24 institutions are under intervention by President Jair Bolsonaro, who “did not accept the results of internal consultations of the community and appointed, as rectors, people not elected by the university community” (OLIVEIRA et al, 2021).

An equally relevant issue is the possibility of **expanding privatization and subleasing the public service**. PEC 32 authorizes federative entities to sign contracts with private organizations for the “execution of public services”, which can lead to outsourcing and expansion of privatization. By authorizing the Union, States, Federal District and Municipalities to create instruments of cooperation with public and private agencies and entities for the execution of public services, including the sharing of physical structure and human resources, with or without financial counterpart, PEC 32 can lead to the subleasing of the public to the private system. It can implement the principle of subsidiarity under which the public becomes complementary to the private (OLIVEIRA et al, 2021), and also encourage the spread of privatization of public services.

This change clearly entails the hypotheses of expansion of public-private partnership (PPP) in education, clearing the way for privatist sectors active in education, eventually trying to restore the failed attempt to approve vouchers in FUNDEB.

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<sup>57</sup>For a detailed analysis, see DIEESE’s Technical Note no 247, available at: <https://www.dieese.org.br/notatecnica/2020/notaTEc247reformaAdministrativa.html>

Finally, this set of changes, in general, can endanger the advances in the fight against corruption in Brazil, linked to the structural issues that the PEC presents: loss of stability, which would intimidate public workers to report cases of corruption, the end of the limitations on the occupation of commissioned and appointed positions, and also the new alternatives for management contracts.

From the two previous axes of analysis, it is possible to understand the risks that PEC 32 imposes on education. Whether in the deepening of the precariousness of the teaching work, whether in the restriction of academic freedom, in the rigged system for appointing strategic positions in education, in the expansion of privatization and even in a drastic extinction of higher education institutions, education is at risk.

**To broaden this debate is, therefore, fundamental and it is necessary that all of society mobilizes around this agenda, which belongs to everyone. It is worth remembering that all Brazilian citizens are the target of public education policies, even those who are not direct users of public educational services. Public universities, for example, are responsible for more than 95% of the country's scientific production, producing research in the most diverse sectors.**

Moreover, Technical Note 69/2021, by the Budget, Inspection and Control Consultancy of the Federal Senate, is decisive on this issue: "The first fiscal impact that we foresee with the approval of PEC 32/2020 is the increase of corruption in public administration. Even those who make use of private educational services (whether in basic education or higher education), are also affected and benefited by public services and policies, since these services are also regulated and overseen by the public power. Also, there is a great possibility that their teaching staff has been trained in public institutions<sup>58</sup>.

It is essential to mention that PEC 32 also has impacts on the

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<sup>58</sup> For a deeper understanding of the impacts of PEC 32 for all of Brazilian society, see DIEESE's Technical Note n.254, available at: <https://www.dieese.org.br/notatecnica/2021/notaTec254ReformaAdm.html>

militarization of education, a theme that will be explored in the third paper of this study.

The penultimate analysis in this study is about tax reform. We consider for this analysis two PECs in progress: PEC 45/2019 and PEC 110/2019.

## **2.5 Tax reform: PEC 45/2019 and PEC 110/2019**

### **2.5.1. Introduction**

Tax reform has been on the Brazilian political agenda for many years. The debates are intense: if, on one hand, the pandemic has guided the need for increased funding, on the other, alternatives to reform a regressive system, which taxes more those who have less, are not yet widely placed in the public debate.

In the first part of this study, we presented an overview of Brazilian social inequalities. It is important to resume this discussion. According to data from IBGE (2020), Brazil has a Gini index of 0.539, placing the country among the ten most unequal countries in the world. Brazil is the only Latin American country on the list.

Even though Brazilian inequalities are abysmal, data from OXFAM Brazil show us a consensus around possible solutions: 84% of Brazilians agree with raising taxes on the richest people to finance social policies in Brazil, and 56% agree with raising taxes for everyone in the country, with the same objective: investment in public policies. The data is part of the study “We and Inequalities”, from 2021<sup>59</sup>.

The perception of the interviewees is echoed in the OECD’s comparative data on taxation. While the average of taxes on assets and income in the OECD countries is 39.6%, in Brazil the portion is 22.7%. On the other hand, consumption taxes account for 32.4% in the OECD and 49.7% in Brazil. Thus, here the poorest pay more taxes. The debates around tax reform, therefore, consider raising taxes on income and wealth with an equivalent

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<sup>59</sup> Survey details can be accessed here: <https://www.oxfam.org.br/um-retrato-das-desigualdades-brasileiras/pesquisa-nos-e-as-desigualdades/pesquisa-nos-e-as-desigualdades-2021/>

reduction in consumption taxes to comply with the constitutional rule of taxation according to economic capacity.

However, the measures currently being considered in Congress do not, for the most part, pass through this broad and critical debate: there are two proposals of amendments to the Constitution that deal with this issue and that call the most attention in the National Congress. PEC 45 and PEC 110, both from 2019, propose a significant change in consumption taxation, with the unification of several tax rates into one, with the creation of Tax on Goods and Services (IBS). These two measures have prompted more effort on our analysis and present risks and impacts in the area of education.

PEC 110 originated in the Federal Senate, with the support of representatives from all political parties with seats in the house. PEC 45, on the other hand, originated in the Federal House of Representatives, authored by Congressman Baleia Rossi/MDB-SP<sup>60</sup>.

### 2.5.2. Arguments and counter-arguments

Both measures propose the extinction of taxes, consolidating the tax bases in two new taxes: a tax on goods and services, along the lines of the value-added taxes imposed in most developed countries; and a specific tax on some goods and services, similar to excise taxes<sup>61</sup>.

The justification for both proposals is based on the idea of simplifying the Brazilian tax system, a measure that, associated with the unification of taxes and improved revenue collection, would reduce the tax impact on the poorest. Another relevant point

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<sup>60</sup> Although not within the scope of this study, it is important to mention that state reform proposals are formulated and disputed by social actors. In relation to PEC 45, for example, it references a study produced by the Centro de Cidadania Fiscal (CCiF), which qualifies itself as an “independent think tank” and has as partners like Itaú, Ambev, Braskem, Coca Cola do Brasil, Huawei do Brasil, Natura Cosméticos S.A, Souza Cruz S.A, Vale S.A and Votorantim S.A. Information about CCiF can be found here: <https://ccif.com.br/parceiros/>. Accessed on 08/28/2021. About the study references, see CNTE. Report on Tax Reform. Brasília, 2019. Available at: [https://www.cnte.org.br/images/stories/2019/2019\\_11\\_01\\_reforma\\_tributaria\\_pec\\_paralela.pdf](https://www.cnte.org.br/images/stories/2019/2019_11_01_reforma_tributaria_pec_paralela.pdf), with access on 08/21/2021.

<sup>61</sup> Excise taxes are a type of special tax levied on special services or products, such as alcohol, tobacco, and fuel, for example.

expressed in the two measures is the association between tax reform and economic growth, as well as increased national competitiveness, lower cost in hiring labor, job creation and improvement of the business environment.

However, there are important issues regarding the resources earmarked for public funds foreseen in the two proposals. Because of that, there may be significant impacts for the financing of public policies as a whole and for education in particular.

### **2.5.3. Impacts and risks for education**

Although the justifications of the two proposals indicate otherwise, both PEC 110 and PEC 45 do not promote tax justice, as analyzed by the National Confederation of Education Workers (CNTE, 2019). With the projected changes, Brazilian taxes, in general, would remain regressive and with high incidence on consumption.

The tax rearrangement proposed by the two PECs is complex and a more in-depth analysis is beyond the scope of this study, however, it is important to note that both PEC 110 and PEC 45 create the Tax on Goods and Services (IBS), with characteristics of value-added taxes<sup>62</sup>. It is important to mention the creation of this tax and to point out that its calculation basis is complex, so that we can then understand possible budget drops and disconnections for the social areas.

In relation to earmarking resources to education there are important concerns to be considered. Article 212 of PEC 110 maintains revenues earmarking, but it is still necessary to advance in the studies and calculations provided for by the measure. CNTE's analysis (2019) indicates that the earmarked revenue is maintained in the proposal, but it is still necessary to advance in the calculations to understand if the new proposed percentage of the Union (7.79% of the IBS) corresponds to the current 18% earmarked revenue.

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<sup>62</sup>The Value Added Tax (VAT) is under debate in the Brazilian congress, aiming to replace and unify the taxes charged to the consumer into a single tax. The idea behind the implementation of this tax is to improve transparency in how products and services are taxed, and to facilitate the entire taxation process.

An important point foreseen in the measure is the extinction of Salary-Education<sup>63</sup>, (social contribution intended for funding actions of basic public education), being substituted by the transfer of part of the earmarked revenues to complement the financing of basic education. It would also be necessary to calculate in more depth the impact of the end of Salary-Education and its substitution by an additional source of earmarked revenues for basic education.

At this point, it is also fundamental to resume the previous analyses, especially considering the impacts of the labor reform, which tend to have an increasing impact on formal employment. To resume this perspective is paramount, since the pool of Salary-Education taxpayers comes from companies linked to Social Security and it is calculated based on a 2.5% tax rate on the total compensation paid to their employees. With less and less formalized labor relations, this portion of tax revenue tends to decrease.

The text of PEC 45, on the other hand, also foresees the maintenance of the percentages of constitutional earmarks in areas such as health, education, and other public policies, but also allows the nominal figures to be made more flexible through singular aliquot parts, in order to benefit a specific area to the detriment of another. This means that the aliquot parts of each public policy that make up the IBS proposal is what will define the nominal figure to be invested annually in each area, which can harm the arrangement of the sector's public policies. The analysis of CNTE (2019) understands that PEC 45 works on the logic of the reduction of state services and the precariousness of the careers of public workers. It is a measure, therefore, that brings risks to education.

Finally, in the tax restructuring proposed by both measures, there is an important impact on Brazilian private higher education. The tax on private education, for example, would go from the current 3.65% to 12%. According to organizations of the field,

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<sup>63</sup>The Salary-Education is a social contribution intended to finance programs, projects and actions aimed at basic public education, as provided in art. 212 of the Federal Constitution of 1988. It is important to point out that the Salary-Education is aimed at specific purposes, such as public education, school transportation, and learning supplies programs, for example.

this would generate a process of preserving elitism on private higher education in Brazil, since it would make tuition fees more expensive and access unfeasible for practically 90% of the public served, coming from families with per capita income of up to three minimum wages. In Brazil, private higher education institutions are responsible for 75% of enrollments and the measure could impact PROUNI<sup>64</sup>.

As they are still in process, and because they involve complex tax calculations, it is still necessary to advance in the analysis and projections that both measures can trigger in the financing of education. It is important to restate that both the universalization of access to education at all levels and the improvement of Brazilian social indicators depend on greater investments in education. Thus, it is essential that the guarantee of the constitutional budget earmarking be contemplated in a tax reform that is intended to be fair and that seeks to overcome Brazil's historic social inequalities.

## **2.6 Exemption from compliance with constitutional spending floor - PEC 13/2020**

### **2.6.1. Introduction**

As of May 2021, the Federal Senate started the PEC 13/2021 proceedings, which adds art. 115 to the Transitory Constitutional Dispositions Act, to determine that the States, the Federal District and the Municipalities, as well as their public agents, cannot be held responsible for non-compliance, in the fiscal year of 2020, with the provisions of the caput of art. 212 of the Federal Constitution, which determines that “the Union shall apply, annually, never less than eighteen percent, and the States, the Federal District and the Municipalities twenty-five percent, at least, of the revenue resulting from taxes, including the one from transfers, in the maintenance and development of education”. The change is authored by a number of senators from the centrist parties and linked to the federal government.

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<sup>64</sup>The University for All Program (Prouni) was created in 2004 by the Ministry of Education (MEC), which offers scholarships to low-income Brazilian students. The scholarships cover from 50% to 100% of tuition fees at private colleges. The increase in tuition fees could, in theory, make the program unviable.

### 2.6.2. Arguments and counter-arguments

The justification for PEC 13, which has arguments used by mayors and governors around the country - especially the municipalities -, argues that:

The economic crisis triggered by the measures to face the Covid-19 pandemic has strongly affected the federated entities budgets, which are faced with the need to take exceptional measures to meet their various constitutional and legal obligations. Among other data that reveal the dimension of the crisis, twenty states registered a drop of R\$ 16.4 billion in tax revenue in the first six months of 2020, compared to the same period of 2019. Most of the Municipalities also register a loss of resources with the economic regression caused by the pandemic. While facing a significant drop in their revenues, the subnational entities need to direct a greater volume of their own resources on prevention measures against the new coronavirus, as well as for the treatment of people who have contracted the disease. Besides this, in one way or another, these entities have also had to adopt measures to support economic activities in their territories, in a great effort to mitigate the drastic social effects of the productive activities slowdown. **At the same time, there has been a reduction in some educational expenses, due to the suspension of classes that occurred in practically all public school systems.** The case of school transportation is the most evident. Since children and young people enrolled in primary and secondary schools are no longer attending classes, there has been an effective reduction in the maintenance expenses of the vehicles used for this activity. In any case, a survey carried out by the National Confederation of Municipalities (CNM), entitled "Educational Challenges in the 2020 Pandemic", with 3,988 municipal managers - 71.6% of the total - shows the commitment of the municipalities to ensure the right to education: 97.5% of them have conceived some kind of non-presential pedagogical initiative in their school systems, such as the distribution of printed pedagogical material to the students (98.2% of the municipal systems) and the development of teaching activities by digital means (81.1% of the municipal systems). Although 82.1% of the municipalities consulted believe that it will not be possible to resume face-to-face classes in 2020, 70.4% of them already had plans for a return to face-to-face teaching prepared or in the process of preparing them. **Thus, the municipalities are being led to invest significant sums of their own resources, largely not considered educational in nature, in the preparation of health and safety measures in schools.** Moreover, other



actions are developed by the municipalities to reduce the impact of the pandemic on the students' learning path, also without the possibility of computing all the relevant expenses under the education heading. Thus, according to another CNM survey, conducted in June this year, 85% of the 1,195 municipal managers interviewed had distributed food to the students' families during the suspension of classes, in 54% of the cases also using their own resources. In this respect, we must consider that, according to a calculation made by CNM, the federal investment of the National School Meals Program (PNAE) does not reach 10% of the average cost that the city governments effectively take responsibility for with the feeding of students in their school systems. Due to this situation, it is not surprising that, still according to the survey "Educational Challenges in the 2020 pandemic", 11.9% of the municipalities have informed that they face difficulties to follow the minimum constitutional index of 25% of their tax revenues in actions of Maintenance and Development of Education (MDE). In this context, in attention to the request made by the National Confederation of Municipalities (CNM), we present this amendment to the constitutional text to determine that, in the year 2020, the States, Municipalities and the Federal District, as well as their public agents, cannot be held accountable for non-compliance with the minimum destination of tax revenues for MDE expenses, as stated in art. 212 of our Major Law no. We emphasize that the measure is transitory in nature. Its validity is directed only to the year 2020. With the progressive resumption of economic activities, the possibility of accountability for non-compliance with the constitutional requirement of resources for education will come back to be applied. (Emphasis added)<sup>65</sup>

About this, it turns out that several data do not correspond to reality. The Brazilian Campaign for the Right to Education, on August 24, 2021, published a Letter to the Society<sup>66</sup> against the approval - when the PEC started proceeding more strongly in the Senate -, supporting the orientation of the Legislative Consulting of the Federal Senate, which analyzed the effects of the PEC and published a list of six reasons for its rejection, which was

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<sup>65</sup>The full PEC text can be accessed at: <https://legis.senado.leg.br/sdleg-getter/documento?dm=8973213&ts=1630109675907&disposition=inline>

<sup>66</sup>Access at: <https://campanha.org.br/noticias/2021/08/24/carta-a-sociedade-brasileira-6-razoes-pela-rejeicao-da-pec-132021/>

reproduced in the Letter of the Brazilian Campaign, with adaptations:

- 1)** The non-compliance with the spending floor in education is not a generalized problem. It reflects a specific and occasional situation of only 6.5% of the Brazilian municipalities and only one state of the Federation;
- 2)** The approval of this proposal can create a very serious precedent that will discredit the institution of the investment floor in education, creating a moral hazard, in which public agents feel discouraged to fulfill their obligations, believing precisely in the issue of future rule that will exempt them from these obligations. It is worth saying: the approval of a PEC giving retroactive forgiveness is a stimulus for municipal managers to stop worrying about constitutional requirements in the future and to spend less effort to meet the constitutional minimum on education.
- 3)** There was no general drop in tax revenue in 2020. Even though local taxes were negatively impacted by the pandemic, there was a considerable increase in funds transferred from the Union. A study by the Independent Fiscal Institution of the Federal Senate (IFI), which analyzed the financial situation of the states, showed that in no less than 23 of the 27 states there was an increase in tax revenue in 2020.
- 4)** It is true that there was a greater demand for spending on health and social assistance. However, these expenditures were largely financed with resources transferred by the Union. It is noteworthy that the largest portion of these resources was not linked to any specific expense. More precisely, the LCP n. 173, of 2020, directed R\$ 60 billion to states and municipalities, of which only R\$ 10 billion (that is, 20% of the total) should be destined to health and social assistance. In the case of the municipalities, the percentage is even lower, since only R\$ 3 billion (i.e., less than 15%) was destined to health and social assistance of the R\$ 23 billion transferred. It is worth remembering that even these allocations were not required at the margin, that is, there was no obligation to invest an extra R\$ 3 billion in health and social assistance. The municipality could already be applying figures of this magnitude in previous years and would

only rearrange the way of accounting for the sources of funds, without lacking funds for education;

**5)** The suspension of classes brought, in fact, the reduction of some specific expenses, such as school transportation. More teachers could have been hired, making classes with fewer students [adapted to remote teaching]. Similarly, schools could have invested in acquiring tablet computers and providing broadband internet to their students. Alternatively, they could have taken advantage of the suspension of in-person classes and renovated facilities, improved laboratories, expanded libraries, etc. Finally, it should not be forgotten that the largest part of spending on education, which is the payment of personnel, was not affected by the pandemic. For the vast majority of municipalities, spending on education is unaffordable because of the high share of personnel costs in the expenses;

**6)** It is not correct to state that there was an increase in expenditures that cannot be computed as spending with MDE (maintenance and development of education). Sanitary measures, such as the distribution of hand sanitizer in schools, can easily be classified as expenditures on maintenance or medium activities (cleaning and conservation), and are, therefore, included in the list of expenditures on MDE provided for in art. 70 of the LDB. In the case of school meals, these are, in fact, expenses that cannot be computed as education expenses (art. 71 of the LDB). But these expenses already existed before the pandemic, that is, even if some municipalities have maintained their school feeding programs, even during the pandemic and without physical classes, there is no reason to believe that these expenses have increased.

### **2.6.3. Impacts and risks for education**

The approval of this proposal can create a very serious precedent that will discredit the institution of the investment floor in education, creating a moral hazard, in which public agents feel discouraged to fulfill their obligations, believing precisely in the issue of future norms that will exempt them from these obligations. It is worth saying: the approval of a PEC giving retroacti-

ve pardon is a stimulus for municipal public managers to stop worrying about constitutional requirements in the future, and to spend less effort to meet the constitutional minimum on education.

The third and next part of this study brings together ongoing actions and recommendations, considering the urgency of overcoming an economic policy guided by the austerity agenda that has significant impacts on the viability of social public policies.

### **3. CONCLUDING REMARKS**

The present study of the state reforms implemented in Brazil post 2016 considers three major analysis axes: labor, tax, and administrative reforms, as well as the measures that establish a ceiling on public spending or alter constitutional budget earmarking. All of them present multiple layers, such as changes and reduction of the state's role, precariousness in labor relations, and the dismantling of public services universally guaranteed to all Brazilians.

The time frame, in addition, is not random. In several passages of the text and in the contextualization of this work, the data and historical series presented prove that the impeachment of President Dilma Rousseff in 2016 marked the interruption of social advances achieved and made possible by public policies structured and implemented in the country since the beginning of this century. This is an important fact to be reinforced, since the measures implemented in the country over the past five years did not win at the ballot box, that is, they are not the result of broad popular debate. Their representatives did not win majoritarian elections.

In fact, when analyzed in a timeline, it is possible to identify a type of continuity between the measures. They complement each other, restricting rights that, at the cost of much mobilization and popular pressure, were guaranteed in the 1988 Federal Constitution. The EC 95 set the tone for the changes that would come after the institutional breakdown of 2016, implementing a spending ceiling that has no parallel anywhere else in the world. Soon after, the labor reform removed rights and social protection to work, enabled the notion of intermittent work, among other measures.

Still in this timeline, it is important to note that 2018 was a year marked by intense political dispute, which culminated with the election of current President Jair Messias Bolsonaro. Among so many relevant elements, such as protests and the absence of electoral debates with the then elected candidate, the Brazilian presidential election was known for the massive spreading of fake news, causing an intense period in the political and public

life of the country.

After its election, the Bolsonaro government continued the state reform measures, guided by the old-fashioned Washington Consensus. It is true that the context of the pandemic weakened the notion of fiscal austerity. Public spending, which until then was considered a problem, became a solution, due to the imposition of reality (ROSSI, 2020). Although in the context of the health emergency, measures were taken (even if unsatisfactory), the austerity discourse was soon recomposed, based on a narrative that “the bill of the pandemic must be paid” (ROSSI, 2020).

In Brazil, austerity has become a kind of political mantra, a basis for discourse that controls the economic debate and public investment. So much so that, in economist Pedro Rossi’s provocation, Brazil is a hostage of austerity (ROSSI, 2020), a logic that follows an argument with a moral background and that points out that eventual excesses must be faced with sacrifices. In the Brazilian case, the rights guaranteed in the Federal Constitution are considered the “excess” and blamed for the economic crisis. The solution, in the hegemonic discourse, would be to make cuts and limit the budget, in addition to making social public policies unfeasible.

It is in this context that, after 2018, the Bolsonaro Government presents new reform proposals: the first of them establishes new cuts in the spending cap (EC 109), being followed by the tax reform proposals, which is not a helpful, fair or sustainable reform, and by the Administrative Reform, a proposal that dismantles the Brazilian state. Before the closing of this study, PEC 13/2021 began its proceedings in the Senate, representing another attack on the constitutional floor of investment in education. The measure represents a serious moral hazard that can discourage mayors and governors to make less effort in complying with what is determined by the Federal Constitution.

It is essential to indicate that the analyzed reforms do not correct the historical and structuring Brazilian social inequalities, do not promote economic growth, jobs generation, or income distribution. And, in relation to public service, do not remedy potential distortions, but rather pave the way for, among other at-

tacks, the reduction of salaries and of the workday, as well as the precariousness of the work conditions, affecting, in the end, the guarantee of services to the population, problems which becomes even more extreme in a pandemic context.

The social indicators gathered allow us to understand that Brazil is going through a period of serious economic crisis and, despite the reforms promoted in recent years, there has been a failure in the purpose of promoting economic growth and generating jobs. Rather, Rossi (2020) reminds us that there are countless examples that prove that, on the front end, the impacts of austerity policies are diverse and severe, as in the guaranteeing of human rights and in the confrontation of race and gender inequalities, which structure social relations in Brazil, for example. Proven measures without ballast and adherence to reality, fiscal austerity is not, however, irrational. “It is a class policy and a response by governments to the demands of the financial market and economic elites at the expense of the social rights of the population” (ROSSI, 2020, p. 15).

The set of measures analyzed thus presents severe impacts for Brazilian society, whether in the precariousness and even interruption of public services, or in the weakening of social protection. In education, the guarantee of the right to education, labor rights, and the working conditions for Brazilian teachers are at risk, presenting dangers to pedagogical practice and even to academic freedom. The National Education Plan (PNE) and the implementation of CAQ also suffer impacts, making it impossible to guarantee quality education for Brazilians.

The study of selected measures allows us to state that they cannot be understood in an isolated and disjointed way. They represent an attack on Brazilian social rights. Going back to the Presentation Letter that opens this paper, just as Darcy Ribeiro asserted that the crisis in Brazilian education is not a crisis, it is a project, the state reform measures analyzed represent a project to dismantle the Brazilian state, with significant impacts on Brazilian education.

Facing a pandemic, the worsening of the Brazilian social, political, and economic scenario, and a legacy of more than half

a million deaths due to Covid-19, overcoming the serious and urgent national challenges still seems to be a distant reality for Brazil.

To continue with the debate, we invite readers to read the two subsequent papers of this analysis: the second paper presents a more in-depth overview of the impacts of these measures considering race and gender, and the third presents an overview of the risks of such reforms for the militarization of education.



## 4. ONGOING ACTIONS AND RECOMMENDATIONS

In Brazil, thanks to a broad social mobilization, the social rights of health, education, environment, culture, and social security, among many others, are guaranteed in the Federal Constitution of 1988. This process, which began during the military dictatorship and reached its peak in the 1980s, during the Redemocratization Movement, guaranteed the Brazilian people the inclusion of significant achievements in the country's highest Law n., many of which have yet to be implemented. Furthermore, arguments based on the idea that "the social demands of democracy would not find room in the public budget" constantly question the Brazilian redemocratization pact, materialized in the 1988 Federal Constitution. Thus, so many successive amendments to the Constitution also represent, symbolically, a process of erasure and invisibilization of this history.

Thus, it is possible to state that, today, all these conquests are at risk. In Brazil, civil society, unions, and parliamentary fronts have mobilized to broadly debate the risks that the proposals analyzed here present to society as a whole, and also to encourage strong engagement in the defense of public and universal rights and services.

In addition to the creation of quality materials and information, we highlight some of the actions underway in the country:

- Courses and training actions aimed at unions and public workers (women and men);
- Making of support material and primers to promote social mobilization actions;
- Campaigns and other communication strategies;
- Digital campaigns, carried out through social media;
- Political advocacy actions carried out with parliamentarians and other decision makers;
- Strategic litigation actions carried out with the Judiciary.

In addition to the resistance and articulation of actions to battle the measures that put at risk the guarantee of the Brazilian people's rights, it is also vital to dispute, together with civil society, a new understanding to question the discourse that perversely

defends the reduction of the State, that takes public investment as “regression”, that disqualifies the policies and the public service in general, attacking the public workers. The consequences of this narrative generate even more inequalities and foster privatization as a response, in addition to concentrating income and wealth, “generating an economy for the few” (ROSSI; DWECK; OLIVEIRA, 2018, p. 362)

In order to inspire to collaborative actions underway or being articulated, we recommend:

- Defense of social spending as a tool for social development and the overall improvement of people’s lives;
- Guarantee and full compliance with the budgetary allocations for education policies, which are constantly attacked in proposals for constitutional amendments;
- Fulfillment of the National Education Plan (PNE 2014-2024). In seven years of its effectiveness, only 5 of the 20 goals have been partially met. Less than 15% of the provisions of the goals of the National Education Plan will be fulfilled at the pace it has been progressing until the 2024 deadline. In an assessment made by the Brazilian Campaign for the Right to Education, three years before the end of the main national education legislation, the estimate is that: of the 41 goal provisions of the PNE measured, only 6 should be fulfilled within their respective time limits;
- Regulation and implementation of the CAQ. Although the approval of the New Fundeb is an important milestone for Brazilian public education, it is still insufficient for the full implementation of the Cost of Quality Education per Student (CAQ). It is essential, therefore, that the CAQ be regulated;
- Guarantee of resources for safely reopening schools. Considering that we are still in the context of the Covid-19 pandemic and having on the horizon the post-pandemic scenario, it is essential that adequate funding is secured to ensure the availability of all necessary inputs for the reopening of schools with sanitary safety, training of education professionals and other essential requirements - for this, we have to consider the repeal

- of the EC 95 (Spending Ceiling);
- The offer of safe environments for school meals, with food and nutritional safety, respecting the need to meet needs of nutritional care of students in vulnerable situations;
- And finally, the defense of an economic policy that ensures rights and promotes life, not death.

## How to engage

The Brazilian Campaign for the Right to Education and the organizations that supported the making of this study welcome your participation and engagement. Here are some ways to closely follow the debate and take part in the decisions about which public system we want:

- On the Brazilian Campaign for the Right to Education's website and social social media you can find technical notes, studies and various references on Brazilian public education, as well as on the financing and educational policy of the country. Be sure to check out this work: <https://campanha.org.br/>
- The Direitos Valem Mais Coalition was born with the goal of promoting public debate about the meanings, impacts, and alternatives to the economic policy of austerity. On the Coalition's website and social media you can find quality material on the subject: <https://direitosvalemmais.org.br/>
- To know and follow the work of Dhesca Brasil Platform is essential for accessing a big picture of rights violations in Brazil and the actions to confront them: <https://www.plataformadh.org.br/>
- To deepen the repertoire and advance the debates started by this notebook, the book "Post-Pandemic Economy", organized by Esther Dweck, Pedro Rossi and Ana Luiza Matos de Oliveira, released in 2020 by Autonomia Literária publishing house in partnership with the Friedrich Ebert Stiftung Foundation (FES/Brazil), is a good reference. It is available for free download at: <https://pedrorossi.org/economia-pos-pandemia-desmontando-os-mitos-da-austeridade-fiscal-e-construindo-um-novo-paradigma-economico-no-brasil/>

In addition to following the specialized debate and getting informed about the disputes that are at stake today in Brazil, it is also possible to carry out practical actions, such as:

### **CONVERSATION CIRCLES AND EXPANDED DEBATES**

Now that you know more about the reforms, organize discussions, and promote debates about the theme. The engagement of all Brazilians is fundamental.

### **OPEN LESSONS**

If you are a student, you can promote open classes, inviting teachers and specialists to debate the subjects detailed here. The engagement of the school community is necessary to guarantee the right to education.

### **PARTICIPATION AND ENGAGEMENT IN SOCIAL MEDIA**

At a click, you can access a great number of quality content produced by organizations, activists, and opinion makers who work against the austerity agenda and in defense of education. Support, share, and disseminate these initiatives. By encouraging these actions, you collaborate so that they can reach more people.

## **FOLLOW UP AND DEMAND SUPPORT FROM THE MEMBERS OF CONGRESS FOR MEASURES THAT GUARANTEE LIFE AND PROMOTE RIGHTS**

It is very important that the legislative process be followed. That is why we invite you to also follow the actions of the people's representatives closely.

It is necessary to guarantee that the Brazilian people can fit into the public budget. And for this the engagement of each and every one of us is essential.

## 5. APPENDIX

The table below systematizes the measures studied here, chronologically, bringing together the main impacts on education.

<b>Reformas de Estado -2016 a 2021</b>					
Year	Measue	Authorship	Impacts	Processing	Effects on education
2016	EC 95/2016 (Spending Ceiling)	Executive Power	Creates a new fiscal regime, freezing federal public spending for 20 years. Restricts financing of public investments and social policies. EC 95 (Spending Ceiling) is the only fiscal measure of this type in the world with such extensive duration.	Approved in 2016	It suffocates and causes impacts on higher education and all Brazilian basic education. It reduces investments in education, limiting federal government investments in the area, which puts PNE at risk. It impacts PNAE and PDDE, in addition to suffocating EJA, especially when illiteracy has increased in the country in recent years, demanding more investments.
2017	Law N. 13.467/2017 (Labor Reform)	Executive Power	Changes labor and union rights. It creates intermittent work and makes rights more flexible, in addition to weakening union organization.	Approved in 2017	For all teachers whose employment contracts are managed by the private system, the impacts are severe. In addition to lower wages and more precarious working conditions, the intermittent work made possible by the new legislation can cause teachers to be paid only for the classes taught, making teaching precarious and directly impacting the quality of education.
2019	EC 109/2019 Public Spending Control	Executive Power (presented by the Minister of Economy to the Senate).	Known as the Emergency PEC, the measure triggers when public spending exceeds 95%. It freezes wages and determines compensatory measures for emergency situations.	Approved in March/ 2021.	It reduces public social spending, especially through savings made at the expense of and at the public workers, through measures such as wage freeze, suspension of public tenders and limitation of public investments.

2019	PEC N. 110/2019 (Tax Reform)	Origin in the Federal Senate. It had support of all senators with seat in the house.	It alters the national tax system, but it does not advance towards a solidary, fair, and environmentally responsible tax agenda.	In progress	The earmarking of revenues is maintained in the proposal, but it is still necessary to deepen the calculations to understand if the new percentage of the Union proposed (7.79% of IBS) corresponds to the current 18% bound. It impacts private higher education and PROUNI.
2019	PEC N. 45/2019 (Tax Reform)	Origin in the Chamber of Deputies, authored by dep. Baleia Rossi/MDB.	It changes the national tax system, but does not advance towards a solidary, fair and environmentally responsible tax agenda.	In progress	It adds to the maintenance of percentages of constitutional earmarking, but also allows for more flexible nominal figures through singular rates, in order to benefit a specific area to the detriment of another, which can harm the arrangement of public policies. The logic followed is the reduction of state services and the precariousness of the career of public workers. It extinguishes the Salary-Education. It impacts private higher education and PROUNI.
2020	PEC N. 32/2020 - (Administrative Reform)	Executive Power (Ministry of Economy)	Changes provisions on public workers, public employees, and the arrangement of the Brazilian State.	In progress	It puts an end to stability in the public workforce, putting at risk the constitutional principles of academic freedom (art 206 of the 1988 Federal Constitution) and the freedom of students to learn and broadly debate ideas. Without the guarantee of pedagogical pluralism, the teaching-learning process remains in the spotlight, weakening critical and emancipatory pedagogical practices. It prohibits labor rights already enshrined, weakens working conditions and career prospects on the part of public workers. Impacts on the system for hiring public workers, with impacts on the social security system and on union arrangements of public workers. It attributes "superpowers" to the President of the Republic, while it can directly affect public higher education institutions, being able to transform and extinguish public foundations and public autarchies by decree. Enables the expansion of privatization and subletting of the public service.

2021	PEC 13/2021	Several parties, mostly supporters of the federal government.	Makes states, the Federal District and municipalities not responsible for complying with the minimum investment in education.	In progress	It exempts public agents from compliance with the constitutional minimum investment, putting education funding at risk.
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