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**EL IMPACTO DE LA REVOLUCIÓN
TECNOLÓGICA EN EL DERECHO**



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A **Revista Internacional CONSINTER de Direito** é uma publicação de cariz periódico do **CONSINTER – Conselho Internacional de Estudos Contemporâneos em Pós-Graduação** que tem por objetivo constituir-se num espaço exigente para a divulgação da produção científica de qualidade, inovadora e com profundidade, características que consideramos essenciais para o bom desenvolvimento da ciência jurídica no âmbito internacional.

Outra característica dos trabalhos selecionados para a **Revista Internacional CONSINTER de Direito** é a multiplicidade de pontos de vista e temas através dos quais o Direito é analisado. Uma revista que se pretende internacional tem o dever de abrir horizontes para temas, abordagens e enfoques os mais diversos e, através deste espaço, colaborar com um melhor diálogo académico.

Resultado de um trabalho criterioso de seleção, este volume que agora se apresenta destina-se a todos aqueles que pretendem pensar o Direito, ir além da sua aplicação quotidiana, mas sem deixar de lado o aspecto prático, tão característico das ciências.

Capítulo 02

DIREITO PÚBLICO

CONDITIONAL INCOME TRANSFER PROGRAM AS A MEANS TO DEVELOPMENT IN BRAZIL: AN INTERSECTION WITH AMARTYA SEN'S CONCEPTS

PROGRAMA DE TRANSFERÊNCIA DE RENDA CONDICIONAL COMO MEIO DE DESENVOLVIMENTO NO BRASIL: UMA INTERSECÇÃO COM OS CONCEITOS DE AMARTYA SEN

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Abstract

The paper aims to examine the ability of income transfer programs in promoting development. More specifically, it utilizes the conception of development defended by Amartya Sen, to confirm or not the hypothesis that the Brazilian approach with the structuring of the Bolsa Familia Program serves the purpose of promoting the economic and social development of the country. For this purpose, the methodology used will be deductive, based on bibliographic research and official data. The article begins by analyzing how income distribution policies operate in the expansion of real freedoms and, more specifically the Brazilian reality with the Bolsa Familia Program, a public policy of direct income transfer, aimed at families in situations of poverty and extreme poverty throughout Brazil, which seeks to guarantee these families the right to food and access to education and health. It then exposes Sen's conception of what is development, which goes beyond narrower views that limits it to GNP growth or industrialization, encompassing this perspective in a broader concept of development as a process of expanding the real freedoms that people enjoy. In the end, the paper makes an intersection of the Bolsa Familia Programs with Sen's concept of development, presenting as a final result the conclusion that the program proved to be a relevant tool in

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removing causes of deprivation of freedom and, therefore, is a move in the right direction of the development process.

Keywords: Development; Public Policies; Bolsa Familia Program; Amartya Sen; Freedom.

Resumo

O artigo tem como objetivo examinar a capacidade dos programas de transferência de renda em promover o desenvolvimento. Mais especificamente, utiliza a concepção de desenvolvimento defendida por Amartya Sen, para confirmar ou não a hipótese de que a abordagem brasileira com a estruturação do Programa Bolsa Família atende ao propósito de promover o desenvolvimento econômico e social do país. Para tanto, a metodologia utilizada será a dedutiva, lastrada na pesquisa bibliográfica e dados oficiais. O artigo começa analisando como as políticas de distribuição de renda atuam na ampliação das liberdades reais e, mais especificamente a realidade brasileira com o Programa Bolsa Família, uma política pública de transferência direta de renda, voltada para famílias em situação de pobreza e extrema pobreza em todo o Brasil, que busca garantir a essas famílias o direito à alimentação e o acesso à educação e saúde. Em seguida, expõe a concepção de Sen do que é desenvolvimento, que vai além de visões mais estreitas que o limitam ao crescimento do PIB ou à industrialização, englobando essa perspectiva em um conceito mais amplo de desenvolvimento como um processo de expansão das liberdades reais de que as pessoas desfrutam. No final, o artigo faz uma interseção do Programa Bolsa Família com o conceito de desenvolvimento de Sen, apresentando como resultado final a conclusão de que o programa provou ser uma ferramenta relevante na remoção das causas da privação de liberdade e, portanto, é um passo na direção certa do processo de desenvolvimento.

Palavras-chave: Desenvolvimento; Políticas públicas; Programa Bolsa Família; Amartya Sen; Liberdade.

Summary: 1. Introduction; 2. The Bolsa Familia Program (BFP); 3. Amartya Sen's Development as Freedom; 4. The Efficiency of BFP in the Brazilian Development Process; 5. Final Remarks; References.

1. INTRODUCTION

The purpose of this article is to examine the ability of income transfer programs in promoting development. More specifically, it utilizes the conception of development defended by Amartya Sen, to confirm or not the hypothesis that the Brazilian approach with the structuring of the Bolsa Familia Program (BFP) serves the purpose of promoting the economic and social development of the country.

The methodology used will be deductive, based mainly by the document analysis of Amartya Sen's books regarding development and the document screening from official reports regarding the Bolsa Familia Program.

The relevance of this paper's approach arises from the controversy surrounding income distribution programs as a means to development. The pursue of development seems to be a universal principle for every nation, but what constitutes development is a complex question that for a long time has been answered in a simplistic and reductionist way, as there was little effort to distinguish economic development from economic growth.

Even today, discussions about development are linked to the economic growth of a nation, following a narrow view that development can be identified solely as the growth of gross national product or with the rise of personal incomes. According to this perspective, the countries that are considered to be developed would be those that have a strong economy and relevant income accumulation⁴.

Economic growth is, however, a purely quantitative issue, which concerns the increase of the national product in a given period, due to the increase in the efficiency of the productive system, which alone is not enough to guarantee the development of a country⁵.

In this scenario, Amartya Sen presents a broader concept of development, as a process of expanding the real freedoms that people enjoy which depends on several determinants such as the protection of civil, political, and human rights and on the removal of major sources of unfreedom, such as poverty, poor economic opportunities, systematic social deprivation, neglect of public facilities⁶.

Inside the Brazilian reality, these forms of unfreedom are easily seen among deeply disadvantaged people. In 2002, 33 million Brazilians were living in poverty and 22 million living in extreme poverty, which motivated the creation of several income distribution programs⁷.

In an attempt to unify and expand existing programs, Brazilian Federal Law number 10,836/2004 was enacted, responsible for instituting the so-called Bolsa Família Program (BFP), which aims to promote the direct transfer of income to help individuals who are in a vulnerable economic situation, under some educational and health conditions.

It is a public policy, evidently based on perspectives such as human rights, economic inclusion, fundamental economic rights, among other aspects, but, as it will be argued, the central motto of the program is the expansion of individual freedoms and the pursuit of equality of opportunity, both concepts that were extensively examined by Amartya Sen, especially in the works “Development as freedom” and “Inequality re-examined”⁸.

In this sense, this paper makes an intersection of the BFP and its more recent results with Sen’s concept of development and equality of opportunity, to determine if the program is an efficient tool in Brazil’s process of development and if it can be

⁴ SEN, Amartya, *Development as freedom*, New York, Knoph, 2000, p. 4.

⁵ HACHEM, Daniel Wunder, “A noção constitucional de desenvolvimento para além do viés econômico – reflexos sobre algumas tendências do Direito Público brasileiro”, *A&C – Revista de Direito Administrativo & Constitucional*, v. 13, n. 53, abr. 2013, p. 151.

⁶ SEN, Amartya, *Development as freedom*, New York, Knoph, 2000, p. 4.

⁷ WEISSHEIMER, Marco Aurélio, *Bolsa Família: Avanços, limites e Possibilidades do Programa que está Transformando a Vida de Milhões de Famílias no Brasil*, São Paulo, Editora Fundação Perseu Abramo, 2010, p. 22.

⁸ SCHMIDT, Albano Francisco, GONÇALVES, Oksandro Osdival, *O Programa Bolsa Família e a acomodação de seus beneficiários na cidade de Joinville – SC: uma análise econômica dos (des)incentivos ao trabalho*, Curitiba, 2016, Dissertação (Mestrado em Direito) – Pontifícia Universidade Católica do Paraná, pp. 37-38.

seen as a means to development. As it will be seen, the research indicates that the program is a relevant tool in the Brazilian process of development, nonetheless encountering barriers that prevent it from being the most efficient tool it could be.

2 THE BOLSA FAMILIA PROGRAM (BFP)

The Constitution of Brazil determines that national development is a fundamental objective of the country and, for the country to move towards achieving this objective, the constitutional text establishes several factors that must be considered, among them the reduction of social inequalities.

The concept of development brought by the Constitution is therefore not limited to economic growth, in which sense is in accordance with Amartya Sen's perspective of development. While economic growth is a purely quantitative issue, which concerns the increase of the national product in a given period, due to the increase in the efficiency of the productive system, the constitutional notion of development despite presupposing economic growth, is not limited to the accumulation of wealth and GDP growth⁹.

Thus, at the constitutional level, development goes beyond mere GDP growth, which cannot be considered as an end in itself, but rather as a means for development, which can be influenced by the actions of the State through public policies, more specifically to the objective of this paper, income transfer policies¹⁰.

It was in the post-World War II period that jurists first began to defend that the full realization of the principle of human dignity could depend on a minimum of social security through the guarantee of material resources that would allow individuals to live properly¹¹.

Germany was a pioneer in recognizing the State's duty to guarantee material conditions to the needy, through the recognition by the German Federal Administrative Court of the subjective right of a citizen, in a precarious situation, to receive material resources from the State, capable of guaranteeing a dignified life under the financial aspect¹².

In the Brazilian reality, considering the scenario in which Brazil is one of the main global economies in terms of GDP, at the same time that the country is marked

⁹ HACHEM, Daniel Wunder, "A noção constitucional de desenvolvimento para além do viés econômico – reflexos sobre algumas tendências do Direito Público brasileiro", *A&C – Revista de Direito Administrativo & Constitucional*, v. 13, n. 53, abr. 2013, p. 151.

¹⁰ KALIL, Gilberto Alexandre de Abreu, GONÇALVES, Oksandro Osdival, "A primeira década do prouni: estudo sobre a eficiência a partir da análise econômica do direito", *Revista Opinião Jurídica*, Fortaleza, v. 16, jan. 2018, pp. 109-110.

¹¹ HACHEM, Daniel Wunder, "Mínimo existencial e direitos fundamentais econômicos e sociais: distinções e pontos de contato à luz da doutrina e jurisprudência brasileiras", *Direito público no Mercosul: intervenção estatal, direitos fundamentais e sustentabilidade*, Belo Horizonte, Fórum, 2013, p. 209.

¹² *Ibidem*, p. 209.

by the irregular distribution of income and the low effectiveness of fundamental rights, income distribution policies were adopted in order to reverse this situation¹³.

Income distribution became part of the Brazilian reality in the seventies when it was providing monetary assistance to the elderly and people with disabilities who did not have enough income to guarantee their livelihood. It was, however, a program with a limited target population, but which, with the 1988 Constitution of the Republic and the enactment of the Organic Law on Social Assistance (LOAS), was substantially expanded¹⁴.

At the end of the nineties and beginning of the 2000s, several assistance programs were launched which, in 2003, were unified in the Bolsa Familia Program (BFP), which became the main income distribution program in the country, with the objective of contributing to overcoming poverty, improving the living conditions of the population and, consequently, serving as a social factor in promoting development in the country¹⁵.

The promotion of social assistance to all those in need is one of Brazil's great objectives as a country and is not limited to a specific government. Articles 203 and 204 of the Brazilian Constitution provide that social assistance will be provided to those who need it, and among its objectives are the protection of the family, motherhood, childhood, adolescence, and old age¹⁶.

The central point of assistance in the scope of the Brazilian Constitution is precisely that assistance should only be provided to those who need it¹⁷, so that the program targets families with monthly income per person of up to R\$ 89.00 (eighty-nine reais) and with monthly income per person from R\$ 89.01 to R\$ 178.00, considered, respectively, extremely poor and poor, and the latter group is only entitled to the benefit if they have children or adolescents from 0 to 17 years¹⁸.

The program was created with the objective of (i) promoting access to the public services network, in particular, health, education, and social assistance; (ii) fighting hunger and promoting food and nutritional security; (iii) encourage the sustained emancipation of families living in poverty and extreme poverty; (iv)

¹³ KALIL, Gilberto Alexandre de Abreu, GONÇALVES, Oksandro Osdival, "A primeira década do prouni: estudo sobre a eficiência a partir da análise econômica do direito", *Revista Opinião Jurídica*, Fortaleza, v. 16, jan. 2018, p. 110.

¹⁴ ROCHA, Sonia, "O programa Bolsa Família Evolução e efeitos sobre a pobreza", *Economia e sociedade*, v. 20, abr. 2011, p. 116.

¹⁵ *Ibidem*, pp. 119-120.

¹⁶ SCHMIDT, Albano Francisco, GONÇALVES, Oksandro Osdival, "O Programa Bolsa Família e a acomodação de seus beneficiários na cidade de Joinville – SC, uma análise econômica dos (des)incentivos ao trabalho", Curitiba, 2016, Dissertação (Mestrado em Direito) – Pontifícia Universidade Católica do Paraná, p. 33.

¹⁷ *Ibidem*, p. 34.

¹⁸ BRAZIL, Ministry of Citizenship, *Ministério da Cidadania já iniciou pagamento do Bolsa Família de março*, 2020, Available in: <https://www.gov.br/pt-br/noticias/assistencia-social/2020/03/ministerio-da-cidadania-ja-iniciou-pagamento-do-bolsa-familia-de-marco>, Accessed in: 17 dez. 2020.

combating poverty; and (v) to promote intersectionality, complementarity, and synergy of public authorities' social actions.

The Bolsa Família Program was instituted not only with the intention of guaranteeing a simple physical survival, by guaranteeing the minimum existential in its physiological aspect, but other fundamental rights as well, and the development of the citizens' personality, through the guarantee of an existential sociocultural minimum, allowing the insertion of the rights holder in social life and overcoming the condition of poverty and extreme poverty¹⁹.

It is in this context that the PBF operates as a program for the distribution of conditioned income so that the benefited families must comply with the requirements provided for in Law n. 10,836/2004 to qualify for the benefit. The requirements are divided into health monitoring requirements, including prenatal care, and the nutritional status of all family members and the requirement for enrollment in elementary school, and the 85% attendance of all school children.

As noted, the public policy objective of the PBF is not limited to its distributive aspect, but also has a clear focus on the formation of human capital and the breaking of the cycle of poverty, expanding the perspectives of the benefited children²⁰.

The PBF was conceived in 2003 and, three years later, reached its coverage target, becoming the main income distribution program in Brazil. When the program was created, its coverage was 3.6 million families benefit, depending on an annual budget of R\$ 4.3 billion for its operation²¹.

According to the last statement of expenses with the program made available by the Brazilian Ministry of Citizenship, for the month of January 2020, the program has a total of 13,228,015 beneficiary families, depending on a budget of R \$ 2,526,570,558.00 monthly for income distribution. Considering that 3.97 is the average number of inhabitants per household in Brazil, an average of 52.5 million people are currently benefiting from the program²².

In terms of results, regarding the conditions imposed by the programs in the scope of health, the results show that of the total families benefiting from the program that should undergo medical monitoring, it was found that 77.16% did. In

¹⁹ HACHEM, Daniel Wunder, “Mínimo existencial e direitos fundamentais econômicos e sociais: distinções e pontos de contato à luz da doutrina e jurisprudência brasileiras”, *Direito público no Mercosul: intervenção estatal, direitos fundamentais e sustentabilidade*, Belo Horizonte, Fórum, 2013, p. 211.

²⁰ SCHMIDT, Albano Francisco, GONÇALVES, Oksandro Osdival, “O Programa Bolsa Família e a acomodação de seus beneficiários na cidade de Joinville – SC: uma análise econômica dos (des)incentivos ao trabalho”, Curitiba, 2016, Dissertação (Mestrado em Direito) – Pontifícia Universidade Católica do Paraná, p. 17.

²¹ ROCHA, Sonia, “O programa Bolsa Família Evolução e efeitos sobre a pobreza, Revista Economia e Sociedade”, *Economia e sociedade*, v. 20, abr. 2011, p. 113

²² BRAZIL, Ministry of Citizenship, Ações e Programas, Bolsa Família, Números, Pagamentos, 2020, Available in: <https://www.gov.br/cidadania/pt-br/acoes-e-programas/bolsa-familia/numeros/pagamentos-1>, Accessed in: 10 dez. 2020.

the case of vaccination of children and prenatal care for pregnant women, the percentage rises, respectively, to 98.85% and 99.56% of the total²³.

As for the education conditions, the official data show that 94.30% of the students monitored fulfilled the educational and attendance conditions required by the Program²⁴.

Regarding the fulfillment of the main objective of the program, which is to overcome the condition of poverty and extreme poverty, the Ministry of Citizenship reported that, since the creation of the program, more than 3.1 million families have voluntarily left the program, through overcoming the condition of poverty and extreme poverty²⁵.

In terms of the Brazilian Constitutional text, the PBF exists in a scenario in which Brazil has a constitutional objective of promoting development, but to understand if the PBF can be considered an efficient means of development, the paper will go on to analyze the Amartya Sen's concept of development as freedom to, later one, make intersections with the program.

3. AMARTYA SEN'S DEVELOPMENT AS FREEDOM

The topic of economic development has been the subject of study by many economists over the years and the concept of economic development itself has always been the subject of academic discussion, but there was a tendency from most economists to limit its definition to the growth of per capita income²⁶.

As highlighted by Sen, a general attitude to the process of development, that can be found both in professional economic analysis and in public discussion, is that development is a fierce process that relies on toughness and discipline and, to achieve development, concerns such as providing safety nets for the poor, social services and civil rights should be ignored at first, and supported later on, when the development process has borne enough fruit²⁷.

In this sense, the classic conception adopted was that only the growth of the economy was sufficient to determine whether a state is developed or whether it is in

²³ BRAZIL, Ministry of Citizenship, Ações e Programas, Bolsa Família, Números, Saúde, Acompanhamento da condicionalidade de Saúde do Bolsa Família – 1º semestre de 2018, Available in: <https://www.gov.br/cidadania/pt-br/acoes-e-programas/bolsa-familia/numeros/pagamentos-1>, Accessed in: 10 dez. 2020.

²⁴ BRAZIL, Ministry of Citizenship, Ações e Programas, Bolsa Família, Números, Educação, Acompanhamento da condicionalidade de Educação do Bolsa Família – Abril e maio de 2019, Available in: <https://www.gov.br/cidadania/pt-br/acoes-e-programas/bolsa-familia/numeros/educacao>, Accessed in: 10 dez. 2020.

²⁵ BRAZIL, Ministry of Citizenship, Secretaria Especial do Desenvolvimento Social, *Mais de 3,1 milhões de famílias saíram voluntariamente do programa*, Available in: <http://mds.gov.br/area-de-imprensa/noticias/2015/abril/mais-de-3-1-milhoes-de-familias-sairam-voluntariamente-do-programa>, Accessed in: 10 dez. 2020.

²⁶ KANG, Thomas H, "Justice and development in Amartya Sen's thought", *Revista Economia Política*, v. 31, set. 2011, pp. 358-360.

²⁷ SEN, Amartya, *Development as freedom*, New York, Knoph, 2000, p. 35.

the process of development. This idea is contrary to Amartya Sen's arguments that the lack of social opportunities creates a barrier to economic development itself²⁸.

The definition of development for Amartya Sen stands out for its multidimensionality of the concept of development, which goes beyond the more classic definition that links development only to the economic sphere.

Sen argues that development is a process of expanding the real freedoms that people enjoy and, therefore, when talking about development we should focus on human freedoms. Analyzing development thru freedom demands that we analyze other determinants in which freedom is dependent, such as social and economic arrangements like facilities for education and health, as well as political and civil rights as the liberty to participate in public discussion and scrutiny²⁹.

We should take into consideration that development depends on the removal of major sources of unfreedom, such as poverty, tyranny, poor economic opportunities, systemic social deprivation, neglect of public facilities, and intolerance and overactivity of repressive states. Economic poverty, for example, robs people of the freedom to satisfy hunger, achieve nutrition, treat illnesses, enjoy clean water and sanitary facilities. Denial of political and civil liberties denies people the freedom to participate in the life of the community.

Effective development, therefore, implies eliminating different forms of deprivation of freedom, so resuming economic development to economic growth is an inadequate measure, as it ignores the issues related to the quality of life of the population and may even allow fundamental rights violations³⁰.

Growth of GNP, industrialization, the rise of personal income, technological advances, social modernization are means to expanding freedoms enjoyed by members of the society, but not the cause for development itself. The usefulness of wealth lies in the substantive freedoms it helps us to achieve³¹.

The freedom-centered perspective defended by Sen has a generic similarity to the common concern with "quality of life", which concentrates on the way human life goes and not only on the resources or income a person command³².

There's not an end to development, since it is a process of expanding freedoms. In this approach, expansion of freedom is seen as both the primary end (constitutive role) and the principal means of development (instrumental role), meaning it's a cycle and not a uniform process. In this cycle, both economic facilities and social opportunities can be means to development³³.

²⁸ SEN, Amartya, *Development as freedom*, New York, Knoph, 2000, p. 43.

²⁹ *Ibidem*, p. 3.

³⁰ HACHEM, Daniel Wunder, "A noção constitucional de desenvolvimento para além do viés econômico – reflexos sobre algumas tendências do Direito Público brasileiro", *A&C – Revista de Direito Administrativo & Constitucional*, v. 13, n. 53, abr. 2013, p. 151.

³¹ SEN, Amartya, *Development as freedom*, New York, Knoph, 2000, p. 14.

³² *Ibidem*, pp. 24-25.

³³ SEN, Amartya, *Development as freedom*, New York, Knoph, 2000, pp. 36-38.

Sen adopts a view that development must be understood, concomitantly, with economic growth and income measurement, the quality of life, and the freedom of the individual to do what he wants. For the author, only economic growth does not transform the economic and social structures of the State and people's quality of life is a determinant factor of influence within the development process³⁴.

The author argues that the central thing for human beings is not income, but the ability to realize their potential as individuals and to achieve the things or conditions they value, which is why even though income is relevant, it is simply a way to achieve the valued things and conditions. Therefore, economic development cannot be taken into account isolated from human development.

4. THE EFFICIENCY OF BFP IN THE BRAZILIAN DEVELOPMENT PROCESS

The Bolsa Familia Program is clearly a policy that aims to enhance people's well-being and human development, but this well-being and the effectiveness of the policy cannot be evaluated thru a utilitarian approach, which would be restrictive and reductive, but should be evaluated in terms of freedoms and capabilities, that is, of the concrete possibilities for people to live life as they have good reasons for wanting to live³⁵.

A utilitarian analysis of the Bolsa Familia program would be reductive, as defended by Amartya Sen, because it would take into consideration only its consequences (consequentialism), according to the production of individual utilities (welfarism), that would be assessed quantitatively (sum ranking), and would leave everything else out of its ponderations³⁶.

The consequentialist doctrine would exam the Bolsa Familia Program solely in terms of its effects in increasing or decreasing utilities, but the existence of the BFP has importance in itself, despite the effects that are or may be produced. Having the possibility to seek the BFP if needed and having the notion that if one is ever in the situation of poverty there would be an aid program is already a form of freedom, which has value in itself, despite ever being used.

The welfarism doctrine would evaluate the effectiveness of the BFP taking into account the well-being produced, understood exclusively in terms of individual utilities, such as the individual increase of income or individual satisfaction³⁷, but the BFP is not a policy focused exclusively on improving the individual condition of each person, but, among other objectives, to break the cycle of poverty, improve the

³⁴ SEN, Amartya, "Development: Which Way Now?", *The Economic Journal*, v. 93, n. 372, 1983, p. 746.

³⁵ FOLLONI, André, "Liberdade como capacidade em Amartya Sen desde sua crítica ao utilitarismo", *A&C – Revista de Direito Administrativo & Constitucional*, v. 20, n. 80, abr. 2020, p. 104.

³⁶ *Ibidem*, p. 107.

³⁷ FOLLONI, André, "Liberdade como capacidade em Amartya Sen desde sua crítica ao utilitarismo", *A&C – Revista de Direito Administrativo & Constitucional*, v. 20, n. 80, abr. 2020, p. 108.

living conditions of families in terms of generations, and ensure a less unequal society.

For this reason, Amartya Sen understands that utilitarianism, as a quantitative welfarist consequentialism approach, is an inadequate concept of efficiency. To analyze properly the efficiency of the program he suggests an approach that takes into consideration not only the well-being aspect but the agency aspect as well³⁸.

This approach consists in the idea that people can be seen both from a well-being aspect, which consists of analyzing how their well-being is affected by actions and conditions, and from an agency aspect, which takes into consideration an individual's possibility of understanding and valuing reality, making decisions and taking actions³⁹.

The various conditions or actions that people can achieve, thereby fulfilling their objectives, which can be their well-being, are called by Sen as functionings and the ability to transform assets, things, resources, or rights in functionings varies according to each individual⁴⁰.

People can have functionings in use or at their disposal and the set of these functionings that are available, whether a person uses it or not, forms a person's capability set and the assessment of a person's well-being must relate to their set of capabilities as a whole. The greater the number of capabilities a person has, the greater their opportunity to choose how they will govern their life and, therefore, the greater their well-being freedom and their agency freedom⁴¹.

That's how the effectiveness of the BFP as a means to development should be analyzed, in terms of whether the program creates a scenario in which people have the conditions, opportunities, and possibilities to evaluate, decide and get the results related to what they have good reason to want, that is, it must be assessed in terms of freedom⁴².

In this sense, it is necessary to understand that, even though the BFP is an income distribution program, its central motto is the expansion of individual freedoms and the search for equality. This idea agrees with Amartya Sen's theory that to evaluate equality it is necessary to determine equality of what is being taken into consideration

According to Sen, to defend or criticize equality, first of all, it is necessary to define the equality of what features are being addressed, such as equality of incomes, wealth, opportunities, achievements, freedoms, rights. The first point that needs to be assessed in the discussion of what kind of equality is being pursued is the fact that people are not equal, do not have equal needs, nor have equal

³⁸ Ibidem, pp. 110-111.

³⁹ Ibidem, pp. 110-111.

⁴⁰ Ibidem, p. 114.

⁴¹ Ibidem, pp. 115-117.

⁴² FOLLONI, André, "Liberdade como capacidade em Amartya Sen desde sua crítica ao utilitarismo", *A&C – Revista de Direito Administrativo & Constitucional*, v. 20, n. 80, abr. 2020, p. 119.

opportunities, nor will they have the same level of freedoms and rights guaranteed with the same amount of income⁴³.

This realization about differences is what justifies the existence of a social program of income distribution, subsidized by all Brazilians, whether they need it or not⁴⁴.

Note that when determining conditions that must be met for the beneficiary to be entitled to the benefits of the BFP, such limitations are by nature limitations of freedom, but at the same time they allow the elimination of several sources of unfreedom, such as the lack of health and education, therefore enhancing freedom.

With that being said, in more specific terms of expansions of freedom, it can be argued that the program is somewhat successful in this area since its operations go beyond mere income distribution and tries to eliminate the causes of deprivation of liberty that can be considered responsible for maintaining a cycle of poverty that crosses generations in Brazil.

In terms of inequality, however, the program is successful in some points but presents problems in others. The fact that is directed to combat some causes of deprivation of liberty, in itself, can be considered as a factor capable of reducing inequalities of opportunity present in society. Up to a limit.

The program fails to take into account the multiplicity of inequalities among the people who are beneficiaries of the program, not promoting unequal treatment for those who are unequal, to the extent of their inequality, which, as it can be argued, is how equality of opportunity can be promoted.

Humans diverge from each other because of natural and social environments and external characteristics, but also because of personal characteristics. Sen argues that personal characteristics are fundamental to assess inequality because due to it, equality in one term can aggravate the inequality in other aspects. For example, with an equal income, a person with disabilities and a person without disabilities, tend to have different well-being, but it could be argued that if the disabled person had a higher income, the difference in the well-being could be lower⁴⁵.

The difficulty with promoting a scenario of equality of opportunity within the programs' beneficiaries can be easily noticed in the analysis of a practical case involving two beneficiaries of the program. In field research, Schmidt and Gonçalves found the situation of two beneficiaries receiving practically the same amount of the program, one of whom was a 50-year-old woman with two children, who had never attended school and the other a 20-year-old woman with no children, a technical course student. The most that the first woman was able to do with the amount was to purchase food, while the second was able to use the amount to join a

⁴³ SEN, Amartya, *Inequality reexamined*, Oxford, Oxford University Press, 1992, p. 1.

⁴⁴ SCHMIDT, Albano Francisco, GONÇALVES, Oksandro Osdival, "O Programa Bolsa Família e a acomodação de seus beneficiários na cidade de Joinville – SC: uma análise econômica dos (des)incentivos ao trabalho", *Op. Cit.*, p. 17.

⁴⁵ SEN, Amartya, *Inequality reexamined*, Oxford, Oxford University Press, p. 20.

direct retail cosmetics company, transforming her contribution into a business that today earns her more than a minimum salary per month⁴⁶.

The equality of income, in this case, had a different result in terms of converting this income into well-being and achievements, due to the woman's diversities, and therefore caused or was unable to fix inequality in a different space, such as inequality of well-being or freedom⁴⁷.

Perhaps if the program considered their diversities, a different amount for the benefit could be determined for the two women, which would enable them to extract from this different amount of money, a more approximate amount of well-being or opportunities.

Despite any situation that could improve, it is clear that the problems dealt with by the program are secondary and should be addressed only after the country reaches a good level of development. Although, as we have seen, the program proved to be an efficient means for the development

5. FINAL REMARKS

This document has made an intersection of the Bolsa Familia Program with the conception of development defended by Amartya Sen, intending to examine if the Bolsa Familia, as the main income distribution program in Brazil, serves the purpose of promoting the economic and social development of the country.

The definition of development defended by Amartya Sen was used for this purpose, due to the multidimensionality of his concept of development, which is that development is a process of expanding the real freedoms that people enjoy and, therefore, when talking about development we should focus on human freedoms and other determinants in which freedom is dependent, such as social and economic arrangements like facilities for education and health.

Sen's approach is that development depends on the removal of major sources of unfreedom, which include poverty, poor economic opportunities, systemic social deprivation, and neglect of public facilities. In this sense, as a public policy that involves the direct transfer of income, under conditions of health and education, aimed at people living in poverty and extreme poverty, intending to overcome hunger and discontinue the poverty cycle, the objectives of the Bolsa Familia Program are in line with the promotion of development.

The premise of Bolsa Familia program is directly associated with the idea of increasing the real possibilities of leading a dignified life for all Brazilian citizens, not being limited to a mere transfer of a certain amount of money, from taxpayers to the State and from the State to the needy.

⁴⁶ SCHMIDT, Albano Francisco, GONÇALVES, Oksandro Osdival, "O Programa Bolsa Família e a acomodação de seus beneficiários na cidade de Joinville – SC: uma análise econômica dos (des)incentivos ao trabalho", *Op. Cit.*, p. 38.

⁴⁷ SEN, Amartya, *Inequality reexamined*, Oxford, Oxford University Press, p. 27.

Despite critics surrounding income distribution programs as a means to development, who consider the program's measures to be superfluous issues that should be ignored at first, and supported later on, when the development process has borne enough fruit, it is noticeable that, in reality, tackling this issue is a way of promoting development and not a situation to be handled after development is achieved.

The program proved to be a relevant tool in removing causes of deprivation of liberty and, therefore, is a move in the right direction of creating a scenario in which people have the conditions, opportunities, and possibilities to evaluate, decide and get the results related to what they have good reason to want.

The program encounters barriers, however, that prevent it from being the most efficient tool it could be. In its objective of promoting a scenario of equal opportunities among its beneficiaries, the program fails to take into account the multiplicity of inequalities among the people who are beneficiaries of the program.

In this sense, the adoption of a different treatment for the beneficiaries, taking into consideration their differences, could be an effective measure in the sense of increasing the efficiency of the program and transforming it into an even more relevant tool in the development process.

An alternative that presents itself to address this issue differently would be, for example, to take into account the geographical, gender, and age differences when establishing the value of the benefit, so that the beneficiaries can extract the same well-being and opportunities of that value.

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