Editorial

Social Security as Public Policy in the Social Order of the Brazilian Constitution

Fábio Lucas de Albuquerque Lima
E-mail: fabio.lima@idp.edu.br
ORCID: 0009-0000-2881-3853

Title VIII of Brazil's 1988 Constitution established a Social Order founded on the primacy of labor and directed toward social welfare and justice. Article 194 organized Social Security as an integrated set of measures undertaken by public authorities and society to guarantee rights relating to health care, social insurance, and social assistance (Brazil, 1988).

By bringing social insurance and social assistance together within a single system, the framers expressly adopted a Beveridgean model (Marques, Pierdoná, and Francisco, 2022, p. 166), while retaining the contributory features inherited from Bismarckian social insurance.

Nearly four decades later, this arrangement remains in force. The questions it raises today primarily concern the conditions for its effective implementation, including financing, governance, safeguarding resources, and judicial oversight of social rights.

The gap between the constitutional design of 1988 and its implementation has long been recognized. Marques, Pierdoná, and Francisco identified it in the limited attention lawmakers

Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 2, 2026, pp:1-5.
ISSN 2966-330X DOI: https://doi.org/10.70444/2966-330X.v3.n2.0001

paid to financing, even after the Constitution diversified the system's sources of contributions and established a separate Social Security budget (2022, p. 172).

This issue, published on a rolling basis from July to December 2026, brings together four articles that examine these conditions from different perspectives. They map the case law of Brazil's Federal Supreme Court from 1988 to 2025, explore the theoretical foundations of pension fund governance, reconstruct the institutional history of efforts to combat social insurance fraud, and analyze the financing of Brazil's General Social Insurance Scheme (Regime Geral de Previdência Social, RGPS) in light of Spanish reforms and the contrasting experiences of Chile and Mexico.

The article by Marcelo Fernando Borsio, Sebastião Faustino de Paula, and Julio Edstron Secundino Santos offers the broadest analysis of the issue. The authors characterize Social Security as a "shield of dignity" and trace the Federal Supreme Court's interpretive approach across three periods. In the first, from 1988 to 2008, the authors argue that the Court helped give effect to social rights. A landmark case was ADPF 45, in which the Court stated that an appeal to resource scarcity cannot justify failing to fulfill basic constitutional duties. In the second period, from 2008 to 2018, the authors identify a process of judicial rationalization that combined advances with limits grounded in actuarial considerations. In RE 567.985, the Court partially departed from the one-quarter-of-the-minimum-wage threshold for the Continuous Cash Benefit (Benefício de Prestação Continuada, BPC). In RE 661.256, it rejected desaposentação, the practice of relinquishing an existing retirement benefit to claim a recalculated one based on subsequent contributions. In the third period, from 2018 to 2025, the authors describe a jurisprudence of crisis. The Court protected the core of the right to health during the pandemic, showed deference to fiscal considerations in cases concerning Constitutional Amendment No. 103/2019, and in 2024 reversed its position on recalculating

benefits to account for contributions made over a beneficiary's entire working life (revisão da vida toda). The article adds an economic dimension to its legal analysis by drawing on an ANFIP survey showing that RGPS benefit payments exceed transfers from the Municipal Participation Fund in 4,103 Brazilian municipalities (Borsio, Paula, and Santos, 2026).

Turning to governance, Fellipe Pacheco de Oliveira, José Luiz Costa Taborda Rauen, and Rogerio Allon Duenhas examine the governance of closed supplementary pension entities through two theoretical frameworks. The first is the agency theory developed by Jensen and Meckling. The second is the theory of representation developed by Hanna Pitkin and contemporary scholars such as Jane Mansbridge, Michael Saward, and Nadia Urbinati. RASS previously published an article by Aluizo Lucena applying agency theory to the work of Brazil's Office of the Attorney General (Advocacia-Geral da União) (Lucena, 2024). Agency theory explains why fund managers need fiduciary controls, incentives, and audits. Representation theory explains why boards with equal representation, such as those required by Complementary Law No. 108/2001, lend legitimacy to decisions. The authors revisit the controversy over Complementary Bill No. 268/2016, which sought to reduce the share of elected board members in favor of independent members. They also discuss evidence of weaker performance among U.S. public pension funds with politicized boards. They conclude that the two theories are complementary. An approach grounded solely in agency theory risks alienating plan participants, while one grounded solely in representation risks undermining the performance on which those participants' expectations depend (Oliveira, Rauen, and Duenhas, 2026). The article speaks directly to Article 194, sole paragraph, item VII, of the Constitution, which requires democratic and decentralized management of Social Security. It also stresses that public participation, a point likewise emphasized by Borsio, Paula, and Santos, yields effective oversight only when representatives have access to information and possess the requisite technical expertise.

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ISSN 2966-330X DOI: https://doi.org/10.70444/2966-330X.v3.n2.0001

System integrity is the focus of the article by Jailton Azevedo Câncio, Daiane Londero, and Felipe Rhenius Nitzke, which reconstructs the establishment and consolidation of Brazil's Social Insurance Task Force between 1990 and 2011. The authors begin with the Jorgina de Freitas case, a scheme involving fraudulent claims for work-related accident benefits that cost the equivalent of US$500 million. With no legal cooperation agreement in force, the case required civil actions to be filed in the United States. Following the issuance of Ministry Ordinance No. 3.700/2000, the Strategic Research Office began working with the Federal Public Prosecutor's Office and the Federal Police to cross-reference records from the National Register of Social Information (CNIS), the Annual Social Information Report (RAIS), and benefit award databases. The authors report approximately 46 data-matching operations and more than 25 million records analyzed over three years, as well as the adoption of the CRISP-DM methodology and the subsequent establishment of the Risk Management Office (Câncio, Londero, and Nitzke, 2026). As a firsthand institutional account supported by internal documents, the article has particular value as a source and invites readers to consider how the authors' participation shaped their account. Its relevance extends beyond the historical record. The establishment in 2025 of a Joint Parliamentary Committee of Inquiry into the National Social Insurance Institute (INSS) gives renewed force to the article's observation that system integrity is essential to its sustainability and credibility.

The article by Lavínia de Souza e Megda and Fábio Lucas de Albuquerque Lima approaches the tension between protection and scarcity examined by Borsio, Paula, and Santos from a different angle. It asks whether population aging, informal employment, and changes in work associated with the digital economy make the RGPS financially unsustainable, and what the experiences of Chile, Mexico, and Spain can contribute to this debate. The authors argue that the age structure of the population alone cannot determine the sustainability of a pay-as-

you-go scheme, because its effects depend on employment, income, and productivity (Megda and Albuquerque Lima, 2026).

Read together, the four articles identify three dimensions of Social Security as public policy. The first is financing, understood as the allocation of costs across generations, between capital and labor, and between the contributory scheme and the general budget. The second is governance, through which the public participation mandated by the Constitution informs technically sound and politically legitimate decisions. The third is integrity, which protects shared resources from misappropriation by criminal organizations and preserves the trust of insured persons. That trust also matters for financing, since Savaris and Souza identify distrust of social insurance systems as a factor driving contribution evasion (2019, p. 926). Judicial oversight cuts across all three dimensions. As the evolution of the Supreme Court's case law discussed in this issue shows, the Court has at times extended the reach of social rights and at others circumscribed it.

Several questions remain open and invite further submissions. These include fiscal simulations of measures to increase Social Security revenues in Brazil, empirical studies of how social insurance and social assistance councils operate, assessments of artificial intelligence systems for fraud detection, analyses of social insurance coverage for digital platform workers, and research on older adults' access to digital social insurance services. Platform work warrants particular attention because, as Gomes Prado (2025, p. 7) observes, social insurance revenue remains concentrated in payroll contributions and formal employment. RASS will continue to welcome submissions on these and other Social Security topics in Portuguese, Spanish, French, Italian, and English.

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ISSN 2966-330X DOI: https://doi.org/10.70444/2966-330X.v3.n2.0001

I thank the authors, the reviewers who devoted their time to double-blind peer review, and the staff of ANPPREV's Celso Barroso Leite Center for Legal Studies (CEJUD), whose work made this issue possible.

I hope you enjoy reading this issue.

Puerto Iguazú, Argentina, 13 November 2026.

Fábio Lucas de Albuquerque Lima

Editor-Chefe da Revista ANPPREV de Seguridade Social

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Revista ANPPREV de Seguridade Social – RASS – v. 3, n. 2, 2026, pp:1-5.
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