

Judicial Decisions as Catalysts for Public Policy: Institutional Pathways to Social Rights Enforcement

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Abstract

This article aims to analyze the role of judicial decisions in the enforcement of social rights, investigating to what extent the pronouncements of the judicial branch can function as triggers, which are known in public policy theory as *inputs*, relevant to the formulation and implementation of public policies. Based on a legal-political approach, the study starts from the recognition of social rights as constitutional norms of full effectiveness, in a context in which, although the discussion about enforceability has been overcome, numerous challenges arise in the field of enforcement, as the lasting and collective realization of these rights depends on the implementation of public policies. In this current context, based on paradigmatic cases from Brazilian and international courts, we examine how the judicial branch, when determining the realization of positive benefits by the State, directly influences the institutional and budgetary dynamics of the Public Administration in what is called the cycle of formulation of public policies. The aim is to demonstrate that such decisions can represent a democratic mechanism for correcting state omissions and achieving the fundamental objectives of the Republic, and, finally, a critical reflection is proposed on the limits and possibilities of this judicial engagement, above all, the challenges in inter-institutional coordination.

Keywords

Social Rights, Judicial Decisions, Public Policies, Enforcement of Rights

1. Introduction

The 1988 Federal Constitution enshrined social rights as essential components of

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citizenship and human dignity. Despite being formally recognized, their concrete implementation faces structural challenges, especially in the face of persistent state omissions. This article seeks to analyze the extent to which judicial decisions can function as catalysts in the stages of formulation, implementation, and evaluation of public policies—that is, as institutional triggers capable of influencing the policy cycle of social rights in its various aspects. A legal-political approach is adopted, based on constitutional principles, public policy theory, and case law analysis. The aim is to critically examine the role of the judicial branch in the enforcement of social rights, discussing both its transformative potential and the institutional limits of such action, highlighting its evolution and paradigmatic cases.

In this scenario, the present study is divided into five main parts. The first two address the conceptual and legal contours of social rights, tracing their historical, constitutional, and international evolution, with the aim of clarifying their normative character and the basis for their enforceability. The third part examines the concept of public policy from a legal and political theory perspective, underscoring its indissoluble connection to the concrete realization of social rights, especially in a democratic state governed by the rule of law. Then, in the fourth, the role of the judicial branch as an influential vector in the public policy cycle is analyzed, highlighting how judicial decisions, when framed as institutionalized demands (inputs), can function as catalysts for structural changes in public administration. Finally, the final section of this article examines landmark national and international cases that illustrate the judiciary's initiative-taking role, particularly in inducing and monitoring public policies directed toward the fulfillment of fundamental rights. The proposed analysis starts from the hypothesis that judicial engagement—when it goes beyond the traditional repressive role and engages with the institutional mechanisms of policy formulation and control—can reinforce the constitutional objectives of social justice, without necessarily compromising the principles of the separation of powers. In this sense, the study seeks to contribute to the contemporary debate on the limits and possibilities of constitutional jurisdiction in the enforcement of social rights, considering the democratic and institutional challenges in Brazil.

2. The Legal Framework and Evolution of Social Rights in Brazil

Social rights, along with civil and political rights, constitute a set of prerogatives essential to ensuring a dignified life and full human development. For [Dallari \(1998: p. 7\)](#), they are fundamental because, without them, individuals cannot fully participate in society. Due to their intrinsic dynamics, rigid or merely formal definitions are insufficient: their content must promote human dignity and reflect ethical values consistent with the historical moment ([Ramos, 2002: p. 13](#)).

The modern roots of these rights trace back to natural law theorists such as Hobbes and Locke, who placed reason as the foundation of law, breaking away from theological bases ([Vieira, 2002: p. 19](#)). This new paradigm inspired movements such as the U.S. Declaration of Independence ([United States, 1776a](#)) and the French Revolu-

tion (France, 1789), whose rights declarations (United States, 1776b) affirmed limits to state power and enshrined individual liberties (Vieira, 2002: p. 19). Although initially focused on civil and political rights, these charters already foreshadowed the interdependence of all dimensions of human rights—civil, political, economic, social, and cultural—as affirmed in the Vienna Declaration and Programme of Action (UN, 1993): all human rights are universal, indivisible, interdependent and interrelated. Thus, the classical generational theory of human rights is highly questioned today, as it presents a false perception of succession, where one generation is surpassed or replaced by another (Ramos, 2024: p. 108). For this reason, the present study adopts a perspective of progressive, complementary, and interdependent realization of human rights through various manifestations.

The systematic codification of social rights gained momentum with the Weimar Constitution (Germany, 1919; Comparato, 2004: pp. 188-189), though earlier antecedents already indicated the state's duty of support: the Elizabethan Poor Laws (England, 1601) mandated assistance to the poor (Bastos, 2018: p. 136); the Cádiz Constitution (Spain, 1812) established public education and aid to the needy (Bercovici, 2022: p. 97); and the Encyclical Rerum Novarum (Leão XIII, 1891) defended dignified work and state intervention on behalf of the proletariat. The Factory Acts (United Kingdom, 1833) and German workers' law of the same year limited working hours and prohibited night labor for minors, consolidating a protective bias in social rights (Mattos, 2019: p.10). The Mexican Constitution (Mexico, 1917), a pioneer in granting fundamental status to labor rights, and the 1918 Russian Declaration (Russian, 1918) further advanced this perspective (Comparato, 2004: p. 184).

At the international level, the UN Charter (1945) and the Universal Declaration of Human Rights (UN, 1948) did not detail social rights—a gap later addressed by the International Covenant on Economic, Social and Cultural Rights (UN, 1966). Regionally, the American Convention on Human Rights (Organization of American States, 1969) was limited to civil and political rights (Piovesan, 2006: p. 248), with the Protocol of San Salvador (Organization of American States, 1988) later clarifying rights to work, social security, health, education, and the environment. These instruments would decisively influence the 1988 Brazilian Federal Constitution and Constitutional Amendment n°. 26/2000 (Brazil, 2000), which expanded the list of social rights in Article 6 (Piovesan, 2024: p. 101).

In Brazil, the 1934 Constitution incorporated social rights under the title of economic and social order, signaling a commitment to social justice (Brazil, 1934; Bercovici, 2022: p. 92). However, until the late 20th century, the practical effectiveness of these rights depended on non-constitutional regulation and coordinated state actions. From the 1980s onward, with the strengthening of international mechanisms (UN and OAS monitoring commissions) and the judicial branch's growing protagonism in human rights matters, judicial control over state omissions became a prominent issue.

Silva (2009: pp. 286-287) defines social rights as positive state obligations aimed at equalizing unequal situations, linking them to the principle of equality. This col-

lective and complex nature—particularly in the fields of health and education—reveals that their full realization requires coordinated public policies, rather than isolated state acts. Judicial enforcement of social rights thus emerges as an atypical enforcement mechanism: citizens resort to the judicial branch to demand unfulfilled rights, backed by institutional stability and the Constitution itself. Paradoxically, such judicial activism exposes social problems and pressures the State to devise structural solutions, functioning as a trigger (input) for public policies.

According to Barroso (2025: p. 371), social rights impose upon the State the duty to provide services and ensure minimum social conditions for the population, aiming at material equality. For this reason, even though the legal-constitutional recognition of social rights gained greater visibility in the 20th century, especially with the Weimar Constitution, the idea that the State must proactively promote social justice and protect human dignity had already been reflected in earlier documents, practices, and movements that influenced their formal adoption in Brazil.

Once the initial phases of philosophical grounding and legal prescription of human rights were overcome—consolidated by their incorporation into international treaties and national constitutions—the 21st century has faced a new challenge: the effective implementation of these rights in practice. The focus has shifted from mere normative proclamation to the actual verification of state compliance (Oliveira, 2010: p. 23).

In this context, institutional mechanisms responsible for promoting, overseeing, and ensuring the observance of human rights—as provided in international treaties under the United Nations and the Organization of American States—have gained prominence. Alongside monitoring commissions, judicial courts have become central actors in the interpretation and supervision of human rights, particularly within the Inter-American system through the Inter-American Commission on Human Rights (IACHR) and the Inter-American Court of Human Rights (IACtHR).

Domestically, recognizing the judicial branch’s authority—even in a repressive role—to scrutinize state conduct considering constitutional and international commitments to social rights, has fostered a judicial role aimed at these goals, often producing effects that go beyond the conventional boundaries of legal battles.

Among the various criticisms directed at liberal democracies, one of the most pressing concerns is their inability to effectively address social inequalities, owing to the limited institutional mechanisms available for enforcing fundamental rights and guarantees (Smanio, 2009: p. 335). Within this context, judicial engagement has emerged as an atypical or alternative avenue of redress, whereby segments of the population resort to state-based bureaucratic instruments—particularly judicial avenues—to secure the implementation of rights that are constitutionally recognized but remain unfulfilled in practice.

Nowadays, merely rhetorical arguments or claims of financial impossibility—under the so-called “reserve of the possible”—no longer serve as a generic shield for state omissions, under the risk of violating fundamental rights, since the State’s response must align with and be confronted by human dignity (Branco & Mendes,

2024: p. 734).

Conversely, trust in the institutional structure of the State has enabled Judiciary to act in areas previously considered beyond its scope. This apparent paradox is due to the judicial branch's institutional stability, which contrasts with the more volatile nature of the Executive. This scenario, combined with the framework of the Brazilian Federal Constitution, fosters an interrelation between judicial decisions and the enforcement of social rights—both in terms of access (judicial activism) and in terms of what is effectively decided and implemented in practice—with judicial decisions functioning as a driving force in the public policy cycle.

Despite such progress, the realization of social rights continues to be challenged by political, economic, and institutional barriers. Theoretical resistance questions the judicial branch's legitimacy in determining budgetary priorities and formulating public policies, which have traditionally been the domain of the Executive and Legislative branches.

Considering the outlined above, the present work proceeds to examine the historical and normative development of social rights; the legal concept of public policy as an instrument for their realization; and the role of the judicial branch as a driver in the public policy cycle, concluding with paradigmatic cases that illustrate how and to what extent this role is fulfilled.

3. The Legal Nature of Social Rights and the 1988 Federal Constitution

Judicial enforcement of social rights in Brazil found fertile ground in the 1988 Federal Constitution, which significantly expanded the catalogue of fundamental rights, including the rights to health, education, housing, and food. However, the mere legal recognition of these rights did not ensure their immediate or universal implementation, prompting the judicial branch to progressively become a central forum for asserting and securing such claims. This development, nevertheless, constitutes a complex phenomenon that requires a careful examination of its theoretical underpinnings, the criticisms it has attracted, and the normative parameters that may inform its institutional legitimacy.

A crucial point in this discussion is the legal nature of social rights. For decades, the prevailing notion held that these were merely programmatic norms, dependent on legislative regulation. Barroso (2025: p. 137) refers to Ruy Barbosa, who, as early as the beginning of the 20th century, distinguished between self-executing and non-self-executing norms. Later, Teixeira (1991: p. 317) proposed classifying constitutional norms into those with full effectiveness—capable of producing effects immediately—and those of limited effectiveness, which require legislative supplementation. Silva (1998: p. 89) expanded this classification into three categories (full, contained, and limited effectiveness), based on the degree of applicability and the need for ordinary legislation.

Barroso (2025: p. 137) explains that fully effective norms possess “sufficient normativity for immediate incidence,” while norms of limited effectiveness lack

full regulatory effect until further legislation is enacted, although they may still produce some immediate consequences, such as revoking incompatible rules. This view evolved into the recognition that fundamental rights—including social rights—are directly applicable, overcoming the notion of mere programmatic guidelines and reaffirming the Constitution as “a living, effective body capable of generating effects” (Barroso, 2025: p. 141). Canotilho (2001: p. 11), in discussing what he calls the directive constitution, asserts that social rights belong to a set of norms that define the State’s duties and impose obligations upon the legislator. Along this line, Sarlet (2010: p. 287) emphasizes that social rights—especially those comprising the existential minimum—are “legal norms endowed with effectiveness,” whose enforceability flows directly from the Constitution.

The idea that all constitutional norms are applicable—some to a greater, others to a lesser degree—but that those instituting fundamental rights and guarantees have immediate effects gained traction after numerous scholarly works reaffirmed the need to view the Federal Constitution as a living and effective legal document. This marked a shift away from viewing the Constitution merely as a political manifesto, affirming instead its binding normative force and justiciable character (Barroso, 2025: p. 141). In the same vein, Sarlet (2019: p. 311) concludes that “the 1988 Constitution elevated social rights to a new level, breaking with the paradigm of discretion and affirming their normative force.”

The Constitution is not a set of isolated rules, a declaration of intentions, or merely a guide; it is, in fact, the legal backbone of the rule of law and should be treated as such. In this regard, even though traditional doctrines (Silva, 1998) viewed them as *programmatic*, social rights were designed to have immediate, direct, and binding effectiveness in various respects. They impose duties not only on legislators (shaping future legislation) but also constrain the discretionary actions of both the Administration and the judicial branch.

Currently, although the doctrinal framework of Silva (1998: p. 89) still resonates for educational purposes, it is widely accepted that constitutional norms establishing fundamental rights and guarantees—including social rights—have enforceability that is not limited to guiding legislative or administrative conduct but applies concretely.

Thus, in overcoming the paradigm of non-justiciability, such rights are no longer seen as mere programmatic principles, but as legal norms with immediate effectiveness, whose enforcement stems directly from the Constitution, especially when concerning the existential minimum (Sarlet, 2010: p. 287).

It is no coincidence that Article 1 of the Constitution establishes citizenship, human dignity, and the social values of labor as fundamental principles of the Republic, and that Article 3 commits the State to the pursuit of equality. Hence, duties involving social provision are listed as fundamental objectives of the Republic.

However, all of this would be meaningless if it were not judicially enforceable by citizens. This is why the doctrine of effectiveness was consolidated, as Barroso (2025: p. 140) notes, as “an effective mechanism to confront normative insincerity

and to overcome the political supremacy exercised outside and above the Constitution,” reflecting the historical context leading up to and surrounding the 1988 Constituent Assembly. Without such confrontation, the constitutional text would amount to nothing more than an empty promise.

The concept of effectiveness is, in a way, extrinsic to the existence of the legal norm itself. It refers to its actual application and observance, driving the concrete realization of the social function of a given right (Silva, 1998: pp. 13-14)—that is, the materialization of the “ought-to-be” into social reality.

The pursuit of constitutional effectiveness has followed a long path. In Brazil, due to the influence of the French constitutional tradition, which emphasized the organic structure of the Constitution and its political institutions, the dogmatic, normative, and axiological dimensions of the Constitution—as well as its role as a charter of rights and a tool for its own defense—were historically neglected. However, from the 1980s onwards, Brazilian constitutional debate began to shift away from political science-centered analysis, moving closer to procedural law, resulting in a significant jurisprudential reorientation. By the late 1990s and into the 21st century, Brazilian constitutional law developed a more consolidated identity and resumed its dialogue with moral and political philosophy, paving the way for this shift (Barroso, 2025: p. 142).

Based on the doctrine of effectiveness, one may affirm that all constitutional norms possess a legal nature and contain mandatory imperatives. When such norms establish subjective rights—whether political, individual, social, or diffuse—their enforceability is, as a rule, immediate and direct, and may be asserted against the State or private actors using the procedural instruments set forth in the Constitution and non-constitutional legislation. Consequently, the judicial branch assumes an active and essential role in the practical implementation of constitutional principles (Barroso, 2025: p. 143).

Given the current list of social rights enshrined in the 1988 Constitution—rights that are neither exhaustive nor closed—there exists a broad spectrum of enforceability by citizens, and, as a result, much still needs to be done in terms of actual implementation. Some of these rights, such as labor protection, whether individual or collective, are extensively regulated in the constitutional text.

Due to this normative density, contemporary doctrine has moved beyond the debate over whether social rights possess full effectiveness or immediate applicability, now acknowledging that the norms defining social rights have sufficient force to generate direct obligations for public authorities.

The precedents of the Brazilian Supreme Court (STF) support this view, recognizing the enforceability of social rights and admitting judicial review of public policies.¹ Judicial intervention in the enforcement of social rights—including both the object and the method of judicial relief—must, however, be guided by

¹In this sense, the decisions handed down by the STF in ADPF 45, which will be analyzed below, and in RE 592.581 (Theme 376 of general repercussion), in which it was concluded that “the Judiciary may determine, in exceptional cases, the implementation of public policies necessary for the realization of fundamental social rights” (Brazil, Federal Supreme Court, 2009).

the principles of proportionality and the reserve of the possible, which serve as interpretative standards for balancing budgetary constraints with the need to enforce rights. This is because the 1988 Constitution establishes a legal model that not only proclaims but demands the realization of social rights as a condition for the legitimacy of the democratic rule of law.

From this premise, the justiciability of these rights—understood as the possibility of demanding their fulfillment before the judicial branch—has progressively consolidated, gaining practical strength and evolving over time in accordance with social claims and transformations, within an effectiveness framework in which public policies serve as the instruments for concrete realization.

4. Linking Public Policy and Social Rights Implementation

The increasing resort to legal remedies for the enforcement of social entitlements reflects citizens' pursuit of recognition for essential state-provided services, particularly in sectors such as health, education, housing, and social assistance. The constitutional effectiveness of these rights, often resulting from active civic engagement, is frequently driven by political mobilization through the strategic exercise of the right to sue.

These social rights, however, possess certain peculiarities that affect how they are accessed and enjoyed by citizens. For instance, while an individual may legally request the provision of a specific medicine from the state due to financial inability to acquire it, the granting of this apparently simple item interferes with multiple layers of state bureaucracy. It raises several budgetary and administrative challenges, such as whether there is a budgetary provision for its acquisition; who is responsible for purchasing it, how, and at what cost; and what the impact on other services will be. The exercise of social rights, therefore, fundamentally involves planning and their implementation by public policy, according to the Constitution itself, as seen in areas like health and education.²

For this reason, a judicial decision granting such a request, even if it does not interfere directly with the structure or planning of the policy involved, reveals critical issues by exposing the difficulty the state has in implementing it. Even without offering concrete solutions, such decisions indicate the presence of a social problem. This is due to the fact that social rights typically demand affirmative obligations on the part of the State to secure equitable access to other fundamental entitlements, particularly the right to human dignity.

Between the 1960s and 1980s, in liberal democracies influenced by legal positivism, public policies sought to develop more efficient and responsive proposals to social claims, based on the belief that scientific methods alone would resolve public issues in an “objective and neutral” manner (Schmidt, 2018: p. 120). In this context, Easton's theory gained traction (Easton, 1968), wherein public policies were seen as direct responses to political issues, reflecting the active and interventionist role of the welfare state in the economic and social spheres of developed cap-

²According to articles 196 and 214. Brazil Federal Constitution (Brazil, 1988).

italist countries (Schmidt, 2018: p. 120).

According to Bucci (2006: p. 39), public policies are state action programs—encompassing electoral, budgetary, planning, administrative, and judicial processes—intended to coordinate public and private resources to achieve socially relevant and politically defined goals. From this perspective, in a democratic welfare state, such policies are inseparable from the enforcement of social rights.

Dworkin (2002: p. 36) distinguishes “policies” from legal norms by stating that the former defines objectives of economic, political, or social improvement, which require ongoing administrative activity to be achieved, as they are rarely fulfilled by a single act. While Dworkin’s distinction is significant, this study adopts Bucci’s approach (Bucci 2006: p. 39), as it better aligns with the proposal at hand: it preserves the normative and binding character of public policies while viewing them beyond mere formal legislative provisions.

For this reason, when analyzing the public policy development, we adopt Bucci’s framework, which goes beyond conceptualization to include characterizing elements of public policies: the purpose of government conduct (Bucci, 2021: p. 13); the existence of specific goals capable of achieving that purpose; the availability and allocation of adequate means to pursue them; and the description of processes for implementation.

Accordingly, this study conceptualizes public policies as structured programs of action aimed at fulfilling fundamental rights enshrined in the Federal Constitution and in international human rights treaties. These policies are implemented through predetermined, planned, and coordinated governmental measures designed to ensure the effective, uniform, and stable enforcement of social rights.

From this perspective, public policy is revealed as a sequence of events, distinct from a mere government policy or the speech of the current administration. Based on Easton (1968), Schmidt (2018: p. 131) identifies the public policy cycle composed of the following stages: problem identification, agenda-setting, formulation, implementation, and evaluation. Based on these assumptions, we can systematically assess the extent to which the judicial branch integrates into this cycle.

In the formulation stage, one of the alternatives is chosen to address a political problem. In this phase, the judicial branch can intervene from the outset, given the inseparability of social rights and public policies (Schmidt, 2018: p. 133). While the Legislative branch translates constitutional mandates into laws—such as the Organic Health Law (Brazil, 1990)—and the Executive defines policy direction, the judicial branch, through its decisions, guides both branches regarding the effectiveness and enjoyment of fundamental rights under the Constitution.

Implementation corresponds to the execution of the formulated plans. It is subject to ongoing adjustments and heavily dependent on an adequate budget (Schmidt, 2018: p. 133). In this stage, the judicial branch may again intervene by evaluating whether the object of the public policy meets the intended constitutional right, correcting practical shortcomings or failures. In the evaluation phase, the aim is to assess the successes and failures of the implementation process to generate feed-

back, which will determine whether the policy continues, changes direction, or is discontinued (Howlett & Ramesh, 2013: pp. 207-209). Among the instruments of feedback—such as courts of accounts, audit offices, and monitoring agencies—the judicial branch stands out as an influential actor, especially when, as Bucci (2021: p. 58) notes, it inserts itself “directly into government actions” as a vector of ideal institutionalization.

It becomes evident, therefore, that the judiciary qualifies as a politically salient institutional actor. According to Bucci’s typology (Bucci, 2021: p. 58), it integrates itself directly into governmental functions, assuming a central role within an ideal institutional framework by participating in multiple phases of the public policy cycle through its adjudicative interventions.

5. Judicial Decisions as Inputs for Public Policies

In this article, a judicial decision qualifies as an input when it triggers measurable institutional or normative change within the policy cycle, such as influencing the prioritization of public issues, redirecting budgetary allocations, mandating compliance plans, or establishing institutional duties that alter the status quo. This definition is drawn from Easton’s systems theory (Easton, 1965) and adapted to reflect normative triggers grounded, essentially, in constitutional law.

It is possible, therefore, to affirm that judicial decisions, by imposing certain conduct on the Executive Branch and even the obligation to legislate on a given topic on the Legislative, can be understood as relevant inputs in the public policy cycle, especially when they generate structural effects or induce institutional transformations. Although courts do not directly formulate public policies, their rulings place pressure on the political system, influencing priorities, the redistribution of resources, and the evaluation of government actions (Wu, Ramesh, Howlett, & Fritzen, 2014: p. 120).

In Easton’s theory (Easton, 1965: p. 32), inputs are demands and supports from society that feed the political system and guide the creation and execution of policies. Judicial decisions institutionalize these demands, strengthening them as triggers for state responses (outputs). Based on the principle of the existential minimum, it is understood that it is the duty of the administrative authority to implement policies that guarantee social rights, while the legislature regulates them, always respecting their essential core (Lenza, 2009: p. 765). The Judiciary, in turn, assumes the role of guarantor.

The Federal Constitution granted the Supreme Court (STF) broad powers of constitutional review, which were later strengthened through amendments.³ However, the expansion of the Court’s influence resulted from a gradual process, noticeable in the final decades of the 20th century and the early 21st century. This process was supported by several factors: increased access to justice (through legal aid), recognition of diffuse and collective interests, and the overcoming of procedural barriers.

³About this, see powers reserved to the Supreme Court in article 102 of the Federal Constitution (Brazil, 1988).

ers that previously limited access to judicial protection. This movement, known in doctrine as the “waves of renewal”, was described by [Cappelletti and Garth \(1988: p. 8\)](#), highlighting the role of the Public Defender’s Offices, the Public Prosecutor’s Office, and civil society organizations, and was bolstered by the adoption of the Public Civil Action Law (Law no. 7.347, [Brazil, 1985](#)).

Moreover, contemporary legal doctrine supports the notion that administrative acts of any nature—general or individual, binding or discretionary, unilateral or bilateral—are subject to judicial scrutiny, especially under the principles of legality, the Federal Constitution, and administrative morality⁴ ([Di Pietro, 2025: p. 224](#)). This development has further contributed to the expansion of judicial oversight.

Judicial scrutiny has even extended to budgetary norms, which were traditionally considered difficult to challenge judicially due to their technical and discretionary nature. Courts have increasingly held that administrative goals may diverge from constitutional mandates and from the minimum requirements imposed by state public policies.

In practical terms, judicial enforcement of social rights has been most prominent in the fields of health and education. A notable case arose in the city of São Paulo, where a shortage of daycare vacancies reached 127,400 children in 2013 ([Smosinski, 2013](#)). Initially, individual judicial rulings secured enrollment for over 12,000 children, based solely on lawsuits filed by the Public Defender’s Office ([Souza, 2013](#)). Over time, the growing volume of litigation—combined with insufficient infrastructure—resulted in the emergence of a parallel enrollment queue that disproportionately favored those with access to the judiciary.

In 2017, following a series of collective legal actions in which the municipality was held liable for failing to provide approximately 150,000 new placements, a structural agreement was reached. This agreement established a formal action plan with defined targets, deadlines, and regional implementation priorities aimed at realizing the right to early childhood education ([TJSP, 2017](#)). With ongoing oversight by the Public Prosecutor’s Office, the Public Defender’s Office, and other institutional actors, the city recorded 91,343 enrollments and significant improvements in daycare infrastructure ([TJSP, 2020](#)).

Although the issue of daycare accessibility in São Paulo remains unresolved, it is evident that the institutional expertise developed through both individual and collective litigation produced tangible effects on the city’s population. The ruling issued by the Special Chamber of the São Paulo State Court of Justice stands as a notable example of how judicial engagement can catalyze policy implementation.

Ideally, a balance must be struck between the normative limits of judicial engagement and the discretion inherent in the political sphere ([Duarte, 2006: pp. 267-278](#)). While the judicial branch must not remain passive in the face of illegality, it must also be attentive to the broader consequences of its rulings on public planning and resource allocation—a critical lesson emerging from the daycare litigation process.

⁴This statement is supported by articles 5, LXXIII, and 37 of the Federal Constitution ([Brazil, 1988](#)).

While the regressive effects of judicial enforcement of social rights are indeed evident—as illustrated by the daycare case—there are institutional safeguards intended to mitigate such consequences, particularly in relation to marginalized populations who lack effective access to the judiciary. Enhancing the institutional capacity and autonomy of bodies such as the Public Defender’s Office and the Public Prosecutor’s Office is essential to promoting equitable access to justice.

In parallel, the implementation of procedural frameworks that support collective litigation serves to broaden the reach of judicial protection. Moreover, procedural innovations adopted by the courts—particularly the adjudication of repetitive claims—seek to harmonize legal interpretations, reduce inconsistencies in case law, and promote greater uniformity and predictability in rights enforcement.

According to [Oliveira, Silva, and Marchetti \(2018: p. 666\)](#), this case shows how Judiciary, when collaborating with other actors, can shape public policy agendas and significantly influence their implementation. This institutional pressure capacity goes beyond the right to education, extending to the entire spectrum of social rights.

Even though this article primarily focuses on the normative and institutional analysis of judicial engagement as an input within the public policy cycle, it is also relevant to consider the empirical data that have been generated concerning the outcomes of such interventions. Empirical research has increasingly assessed the long-term effects of judicial involvement in public policy.

In the field of health, [Ferraz \(2011: p. 41\)](#) observed that individual litigation may disproportionately benefit more privileged claimants, although it can also expose systemic deficiencies in policy implementation. In a later study, [Ferraz \(2019: p. 9\)](#) cautions against a reductive view of judicial enforcement, noting that many claims cannot be attributed solely to State inaction and that the complexity of real-world litigation requires nuanced analysis.

The following sections explore how this complexity manifests in practice and outline institutional alternatives to mitigate potential adverse consequences, whether stemming from excessive judicial involvement or from the unintended effects of court decisions themselves.

6. Impacts of Judicial Engagement on the Public Policy Cycle: Landmark Cases

To illustrate the judicial branch’s role as a catalyst in the formulation of public policies, we highlight decisions that imposed state obligations and redirected resources toward social rights. These rulings produced visible impacts not only on administrative and budgetary dynamics but also on the implementation of monitoring and control mechanisms.

One of the most significant precedents in the judicial enforcement of public policies in Brazil—and a turning point in the interpretive approach adopted by the Federal Supreme Court (STF)—was the Claim of Noncompliance with a Fundamental Precept (ADPF) No. 45 ([Brazil, Federal Supreme Court, 2004](#)). This case

sought to establish a violation of a constitutional fundamental precept resulting from a presidential veto of a provision included in a draft federal budget law regarding the financing of public health services. In this case, Justice Celso de Mello, acting as rapporteur, acknowledged that the ADPF was an appropriate instrument for ensuring the implementation of constitutional health policies and rejected the notion that the judicial branch must remain passive in the face of omissions regarding second-generation rights, signaling that even budgetary acts could be judicially reviewed.

In this line, the STF affirmed that the judicial branch must not abstain from ensuring the effectiveness of social, economic, and cultural rights, under penalty of jeopardizing the integrity of the constitutional order. Although the ruling was issued in a monocratic decision and the action eventually lost its object, it remains paradigmatic as it revealed a new understanding of the judicial branch's role in the realization of social rights (Brazil, Federal Supreme Court, 2004), validating its action in other areas as an influential actor in the public policy cycle.

This capacity is particularly evident in the formulation and induction stages, where the direct influence of judicial decisions on government actions becomes apparent, especially when such decisions impose obligations that derive directly from constitutional provisions. Even though the judicial branch does not hold formal authority to formulate public policies, it performs as a relevant actor within the system, exerting pressure on other branches and facilitating the implementation of fundamental rights.

Several judicial decisions in Brazil have stood out as catalysts for public policies, serving as turning points in cases of state omission or inefficiency, and promoting the enforcement of fundamental rights. These precedents demonstrate that the judicial branch may go beyond its traditional role as an arbiter of legality and become an active agent in the public policy cycle, particularly when it compels the formulation, reformulation, or implementation of concrete measures by the Executive branch.

More recently, in the case of the Request for Suspension for Preliminary Injunction No. 1.696 SP (Brazil, Federal Supreme Court, 2024c), the Supreme Court ordered the maintenance and expansion of the use of body cameras by the cops in the São Paulo State Military Police, requiring a technical plan with goals, a timeline, and monitoring mechanisms. The lawsuit initiated by the São Paulo State Public Defender's Office, in collaboration with other civil society organizations, stemmed from the government's decision to discontinue the policy, known as Olho Vivo Program,⁵ despite clear evidence of its effectiveness in reducing police lethality (São Paulo State Public Defender's Office, 2024).

In this context, the Getulio Vargas Foundation (Monteiro, Fagundes, Guerra, & Piquet, 2022) conducted an empirical study to assess the impact of this technol-

⁵Since 2020, the São Paulo State Military Police (PMESP) began intensifying measures aimed at decreasing deaths resulting from police confrontations, notably through the launch of the *Olho vivo Program*, which introduced the enforcement use of Body-Worn Cameras (BWCs) by the cops.

ogy on the use of police force. The analysis focused on the first three territorial battalions in the São Paulo Metropolitan Region to receive BWCs—in June 2021, February 2022, and April 2022—and covered the period from January 2019 (pre-intervention phase) to July 2022 (the last month with complete available data). Two main sources of data were used: police incident records from the Civil Police, provided by the São Paulo State Public Security Department (SSP-SP), and the correspondence between São Paulo's Militar Police companies and police precincts (Monteiro, Fagundes, Guerra, & Piquet, 2022: p. 11).

The results (Monteiro, Fagundes, Guerra, & Piquet, 2022: p. 21) indicate a statistically significant reduction in the average use of police force, particularly in Deaths Resulting from Police Intervention (MDIP), with a 57% decrease in areas patrolled by units equipped with BWCs compared to those without them. Furthermore, no reduction in policing effort was observed—on the contrary, there was an increase in reports of illegal possession of weapons and drugs. The data (Monteiro, Fagundes, Guerra, & Piquet, 2022: p. 6) also showed a notable rise in recorded incidents of domestic violence and lower-level offenses, suggesting heightened supervision and accountability among frontline officers. These findings reinforce the effectiveness of the Olho Vivo Program as a public policy aimed at enhancing transparency, institutional oversight, and the overall quality of police conduct, thereby helping to rebuild public trust in law enforcement institutions.

In its ruling (Brazil, Federal Supreme Court, 2024c), the Federal Supreme Court mandated the development of a technical plan with specific timelines, targets, and monitoring mechanisms, characterizing a structural judicial involvement aimed at safeguarding the right to life and public security. In compliance with this ruling, the response involved more than a mere policy reorganization; it fostered genuine dialogue between the State of São Paulo, the Public Defender's Office, and civil society organizations to establish a shared framework for resuming a public security plan that aligned with state priorities while respecting fundamental rights. As a result, in May 2025, the Federal Supreme Court ratified an agreement establishing guidelines for the prioritized implementation of BWCs in battalions with the highest rates of police lethality. The agreement also mandated the use of body cameras in large-scale operations and interventions in vulnerable communities, with remote and automatic activation managed by the Military Police Operations Center. The policy aims to ensure continuous video recording of specific police interventions, thus enhancing mechanisms for transparency and institutional oversight of force usage. Additionally, the number of devices is set to increase from 10,025 to 15,000, and the agreement incorporates technological safeguards that prevent manual deactivation of recordings and prioritize camera distribution based on lethality risk assessments (Brazil, Federal Supreme Court, 2024c).

The agreement also includes the creation of indicators for evaluating and monitoring the public policy, with the participation of São Paulo's Public Defender's Office and the Public Prosecutor's Office, as well as provisions to improve the Military Police's disciplinary and training systems. This case illustrates how judicial

engagement—through the ratification of institutional commitments—can serve as a legitimate input for the formulation and enhancement of public policies, contributing to the development of state responses that are more consistent with the constitutional principle of legality and the protection of fundamental rights. This judicial involvement not only prevented a policy rollback, given the proven effectiveness of the previous program in reducing police lethality, but also reoriented governmental planning, encouraging dialogue and cooperation, and exerting direct influence on the public agenda.

The evolution from traditional litigation to institutional settlement demonstrates how judicial engagement—as a mediator of institutional commitments—can serve as a legitimate input for the formulation and improvement of public policies, contributing to the construction of state responses that are more aligned with the constitutional principles of legality, morality, and the protection of fundamental rights.

Equally noteworthy is the evolution of judicial practice in lawsuits demanding the provision of medications and treatments through the Unified Health System (SUS). As these cases grew in volume, they contributed to the development of a jurisprudential framework aimed at promoting uniformity, predictability, and rationality in the State's obligations regarding the right to health. This is justified because, between 2008 and 2017, data obtained by INSPER within the scope of the National Council of Justice ([National Council of Justice, 2019](#): p. 15) estimate that health-related lawsuits reached 498,715 cases in first instance courts alone. It was also found that there was an increase of approximately 130% in the number of annual health-related claims filed in state courts from 2008 to 2017, a growth that surpassed the overall increase in legal claims during the same period.

In this regard, the Supreme Court recently decided Theme 1234 ([National Council of Justice, 2019](#)), consolidating case law on the provision of medicines by SUS and establishing a national platform for tracking demands, responsibilities, and monitoring. The decision was accompanied by the issuance of Binding Precedents 60 and 61 and the cancellation of the IAC 14 by the Superior Court of Justice (STJ). It defined cost-sharing parameters and federal responsibilities, illustrating how judicial inputs can be technically and uniformly structured. According to the binding thesis, the STF validated an agreement developed by a commission composed of representatives from all three levels of government, intended to improve the management and oversight of medication requests within SUS. The agreement provides for the creation of a national platform to consolidate information on medication demands, case follow-up, and division of responsibilities, while also establishing jurisdictional rules for claims involving medications that are not on standardized lists or lack regulatory approval ([Brazil, Federal Supreme Court, 2024b](#)).

In this context, the Court's decision established governance guidelines for public health, transcending the specific case and reaffirming the STF's role as a policy-making actor, going beyond mere legality review and asserting itself—alongside

other actors—in shaping ideal access plans for public health, requiring the Administration to make necessary adjustments to ensure efficiency and effectiveness in public service delivery.

Another landmark case was the Claim of Noncompliance with a Fundamental Precept (ADPF) no. 347 (Brazil, Federal Supreme Court, 2019), in which the STF recognized the unconstitutional situation in the Brazilian prison system and ordered the federal government, in coordination with the Department of Monitoring and Oversight of the Prison System (DMF/CNJ), to present a plan to address the severe structural violations. The ruling went beyond identifying administrative flaws, requiring coordinated structural measures among government entities and effective monitoring mechanisms. The Court's premise was that the judicial branch could operate as a governance actor, articulating among institutions and imposing obligations on the State to ensure the dignity of the incarcerated population.

It is important to emphasize that the decision referred to followed a series of other rulings issued within the same constitutional claim, ultimately culminating in the approval of the Pena Justa Plan (Fair Sentencing Plan). This plan was devised to address the state of emergency within Brazil's prison system, as previously recognized in a 2023 decision. In summary, the Supreme Federal Court (STF) identified systematic violations of human rights, including inadequate infrastructure, poor hygiene and food conditions, insufficient healthcare services, chronic overcrowding, deficiencies in case management of incarcerated individuals, and reports of torture and mistreatment.

A key factor preventing the recent decision from being merely declaratory or from imposing an unfeasible obligation in the short term was the reliance on institutional assessments regarding the prison crisis. In this regard, an empirical study conducted by the National Council of Justice (National Council of Justice, 2021: p. 5) demonstrated that five years after the initial stage of the ADPF 347 ruling in 2015—in which the Court expressly recognized the systemic failure of the prison system—there had been no substantive improvement; in some respects, the situation had worsened. The data indicated a 9.3% increase in the incarcerated population between 2016 and 2020, coupled with a net reduction of approximately 100 prison beds during the same period (National Council of Justice, 2021: p. 6).

The studies further concluded that, despite the adoption of multiple measures following the judgment in ADPF 347, these initiatives remained insufficient to effect a substantial transformation of the prison system. The findings underscored the necessity not only of targeted remedial actions, but also of coordinated and integrated cooperation among key institutional actors to formulate comprehensive strategies. Such strategies must be both interinstitutional and intergovernmental in scope, and led by a national authority vested with the capacity to coordinate, implement, and monitor the Supreme Court's structural mandates (National Council of Justice, 2021: p. 57). Subsequent rulings—most notably those ordering the formulation and ratification of the Plano Pena Justa—have reaffirmed this trajectory, indicating that

the development of sustainable solutions requires institutional dialogue, pluralistic engagement, structural planning, continuous oversight, and a robust evidentiary basis to guide implementation and, where necessary, recalibration.⁶

Despite the increasing number of judicial pronouncements that signal the judicial branch's initiative-taking role, the STF has consistently maintained that it should not overstep or displace the functions of public administration. In this respect, Justice Luis Roberto Barroso, in the decision to approve a structural proceeding within ADPF 347 (Brazil, Federal Supreme Court, 2024a: p. 4), emphasized that the judicial branch should refrain from issuing isolated orders, instead opting to propose goals and objectives, allowing the administrative authority to formulate and implement the action plan within the scope of their legal duties.

Judicial decisions may also function as institutional demands through international mechanisms. In the case of Brazil—which recognizes the jurisdiction of the Inter-American Court of Human Rights—international precedents have played a critical role in redefining public policies. In the *Damião Ximenes Lopes v. Brazil* case (IACtHR, 2006), Brazil was condemned for failures in the mental health care provided to a patient at a SUS-affiliated institution. The ruling emphasized the State's duty to regulate, supervise, and ensure quality standards, including both public and private institutions, and imposed obligations such as the restructuring of the care network for persons with disabilities, promoting decentralized services, and preventive care strategies.

This decision had a normative and inductive impact on Brazil's public health system, leading to significant reforms in the mental health policy, such as the creation of decentralized and regionalized care centers that prioritize freedom over institutionalization—demonstrating how judicial decisions, whether national or international, can operate as inputs in the public policy cycle, driving institutional reforms and influencing the governmental agenda (Oliveira, 2010: pp. 201-202).

7. Final Considerations

The role of the judicial branch in the enforcement of social rights proves to be an important mechanism of democratic correction, especially in the face of unjustified omissions by the Executive and Legislative branches. Far from representing a rupture with the principle of separation of powers, this intervention can reinforce substantial democracy by ensuring the protection of the existential minimum and human dignity, particularly for vulnerable groups. From this perspective, the judicial branch assumes an active role in promoting the fundamental objectives of the Republic, such as eradicating poverty, reducing inequality, and promoting the well-being of all.

⁶There are no published studies yet regarding the implementation of the Plano Pena Justa, as the deadline for meeting its more than 300 targets has been set for 2027. However, the National Council of Justice (CNJ) is conducting ongoing monitoring of the plan and maintains a centralized repository of relevant information, including all foundational documents, the organizational structure, and the interinstitutional agreements established thus far. Retrived from: National Council of Justice (n.d.). Plano Pena Justa. Retrieved from <https://www.cnj.jus.br/sistema-carcerario/plano-pena-justa/>.

Like any innovative and, to some extent, atypical initiative, judicial involvement is not immune to criticism. RAMOS (2009), when commenting on decisions by the Supreme Court (STF) regarding omissions in relation to constitutional precepts,^{7,8} warns of the risks of usurpation of legislative authority. These criticisms, therefore, go beyond mere disagreement with the substantive content of decisions and delve into questions of institutional legitimacy—in other words, whether the judicial branch is the appropriate forum to decide on matters that traditionally, by reason of democratic legitimacy, should be the responsibility of Parliament. At the Executive level, some of the most sensitive consequences of judicial enforcement of rights include interference in public planning, impacts on administrative costs, and the alteration of the natural flow of the public policy formulation cycle.

If, on the one hand, judicial engagement holds democratizing potential, on the other, it presents significant challenges. It is essential to acknowledge the limits of constitutional jurisdiction, especially given the technical complexity of public policies, limited resources, and the need for inter-institutional coordination. Judicial voluntarism, when not mediated by dialogue with other branches, can result in decisions disconnected from administrative feasibility, ultimately compromising the effectiveness of other public policies.

A proper assessment of the budgetary feasibility and proportionality of structural remedies ordered by the judicial branch requires overcoming the traditional model of judicial enforcement prevailing in Brazil. Although courts already employ relevant mechanisms—such as direct consultation of budgetary data and the involvement of technical experts—there remains a pressing need to refine the way judicial obligations are imposed, particularly regarding deadlines and methods of compliance. It is essential that such determinations align with the fiscal and operational constraints of public administration, which calls for the incorporation of more suitable parameters for evaluating outcomes, based on technical, realistic criteria developed in dialogue with the agencies responsible for implementing public policies.

However, as the cases analyzed in this article have shown, judicial engagement in the public policy cycle, if it is guided by objective and transparent criteria, does not in itself violate the separation of powers, nor is it less legitimate than that of other public actors. More than isolated decisions, the promotion of structural solutions, involving institutional agreements and long-term commitments among responsible actors, appears to be the ideal path.

Thus, the analyzed cases demonstrate that judicial engagement in the public policy cycle, when carried out within the limits of institutional reasonability, acts as a catalyst for the enforcement of social rights, especially in situations of state omission or arbitrary denial of rights.

⁷According to Injunction Orders no. 670, 708 and 712 aiming at the exercise of the right to strike (Brazil, Federal Supreme Court, 2007a; Brazil, Federal Supreme Court 2007b; Brazil, Federal Supreme Court 2007c).

⁸See Binding Summary No. 13 (Brazil, Federal Supreme Court, 2008).

If it is guided by the principles of proportionality, reasonableness, budgetary feasibility, and federal coordination, this type of judicial involvement is not only legitimate, but necessary. A sine qua non condition for this to occur is the creation and maintenance of mechanisms and instruments of cooperation and dialogue between branches of government, ensuring that judicial decisions effectively fulfill their role in the realization of social justice. To prevent judicial overreach, several safeguards should be institutionalized. These include mandatory consultations with policy experts, institutional dialogue with Executive actors, and reliance on advisory bodies such as the CNJ. The use of structural injunctions should be paired with flexible implementation schedules and periodic review mechanisms, thus allowing courts to stimulate compliance without substituting policy design.

The Judiciary's engagement with technically complex areas—such as health budgets or policing strategies—has prompted the institutionalization of auxiliary mechanisms aimed at supporting judicial decisions. Courts increasingly rely on expert evidence, technical chambers, and coordination with oversight agencies. The establishment of national databases for health-related litigation, for instance, exemplifies how technical complexity can be managed through institutional cooperation rather than an ad hoc judicial intervention.

In this sense, whether in the form of institutionalized demands (inputs), in the exercise of legality control over administrative acts, or in monitoring and evaluation phases, it is certain that judicial decisions—particularly in the Brazilian context—function as catalysts, accelerating the processes inherent to the public policy cycle and enhancing the effective realization of fundamental rights.

Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

References

- Barroso, L. R. (2025). *Curso de Direito Constitucional Contemporâneo* (13th ed.). Grupo GEN. <https://integrada.minhabiblioteca.com.br/books/9788553626861>
- Bastos, D. S. (2018). O direito à subsistência em xeque: Um olhar sobre a Lei dos Pobres e o Ato de Emenda de 1834. *História Econômica & História de Empresas*, 21, 135-173. <https://doi.org/10.29182/hehe.v21i1.546>
- Bercovici, G. (2022). *Constituição Econômica e Desenvolvimento* (2nd ed.). Grupo Almedina. <https://integrada.minhabiblioteca.com.br/books/9786556275123>
- Branco, P. G. G., & Mendes, G. (2024). *Curso de Direito Constitucional—Série IDP* (19th ed.). Grupo GEN. <https://integrada.minhabiblioteca.com.br/books/9786553629417>
- Brazil (1934). *Constitution of the Federative Republic of Brazil of 1934 [Constituição da República dos Estados Unidos do Brasil de 1934]*. https://www.planalto.gov.br/ccivil_03/constituicao/constituicao34.htm
- Brazil (1985). *Law No. 7.347 of July 24, 1985. Regulates Public Civil Actions for Liability for Damages Caused to the Environment, Consumers, and Other Collective Interests*. https://www.planalto.gov.br/ccivil_03/leis/17347orig.htm
- Brazil (1988). *Constitution of the Federative Republic of Brazil of 1988*. https://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm

- Brazil (1990). *Law No. 8.080 of September 19, 1990 (Organic Health Law). Establishes Conditions for the Promotion, Protection and Recovery of Health, and the Organization and Functioning of the Unified Health System (SUS)*.
https://www.planalto.gov.br/ccivil_03/leis/18080.htm
- Brazil (2000). *Constitutional Amendment No. 26 of February 14, 2000 [Emenda Constitucional nº 26, de 14 de fevereiro de 2000]*.
https://www.planalto.gov.br/ccivil_03/constituicao/emendas/emc/emc26.htm
- Brazil, Federal Supreme Court (2004). *Claim of Noncompliance with a Fundamental Precept (ADPF) No. 45/DF, Rapporteur: Justice Celso de Mello. Diário da Justiça, Brasília*.
<https://portal.stf.jus.br/processos/detalhe.asp?incidente=262073>
- Brazil, Federal Supreme Court (2007a). *Injunction Orders in Direct Actions of Unconstitutionality Nos. 670, Rapporteur: Justice Gilmar Mendes. Federal Supreme Court*.
<https://portal.stf.jus.br/processos/detalhe.asp?incidente=2018921>
- Brazil, Federal Supreme Court (2007b). *Injunction Orders in Direct Actions of Unconstitutionality Nos. 708, Rapporteur: Justice Gilmar Mendes. Federal Supreme Court*.
<https://portal.stf.jus.br/processos/detalhe.asp?incidente=2232963>
- Brazil, Federal Supreme Court (2007c). *Injunction Orders in Direct Actions of Unconstitutionality Nos. 712, Rapporteur: Justice Gilmar Mendes. Federal Supreme Court*.
<https://portal.stf.jus.br/processos/detalhe.asp?incidente=2244628>
- Brazil, Federal Supreme Court (2008). *Binding Precedent No. 13 (Súmula Vinculante No. 13): Prohibition of Nepotism in Public Administration. Federal Supreme Court*.
<https://jurisprudencia.stf.jus.br/pages/search/seq-sumula761/false>
- Brazil, Federal Supreme Court (2009). *Extraordinary Appeal (RE) No. 592.581/RS—Theme 376 of General Repercussion, Rapporteur: Justice Gilmar Mendes. Federal Supreme Court*.
<https://redir.stf.jus.br/paginadorpub/paginador.jsp?docTP=TP&docID=6043870>
- Brazil, Federal Supreme Court (2019). *Claim of Noncompliance with a Fundamental Precept (ADPF) No. 347/DF, Rapporteur: Justice Marco Aurélio; Subsequent Decision by Justice Luís Roberto Barroso. Federal Supreme Court*.
<https://portal.stf.jus.br/processos/detalhe.asp?incidente=4783560>
- Brazil, Federal Supreme Court (2024a). *Claim of Noncompliance with a Fundamental Precept (ADPF) No. 347/DF—Structural Measures Decision, Rapporteur: Justice Luís Roberto Barroso. Federal Supreme Court*.
- Brazil, Federal Supreme Court (2024b). *Request for Suspension of Preliminary Injunction (SL) No. 1.696/SP, Rapporteur: Justice Luís Roberto Barroso. Federal Supreme Court*.
<https://portal.stf.jus.br/processos/detalhe.asp?incidente=4783560>
- Brazil, Federal Supreme Court (2024c). *Extraordinary Appeal (RE) No. 1.366.243/SP—Theme 1234 of General Repercussion, Rapporteur: Justice Luís Roberto Barroso. Federal Supreme Court*.
https://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/ano/RE1.366.243_tema1234_infosociedade_LCFSP.pdf
- Bucci, M. P. D. (2006). O conceito de política pública em direito. In M. P. D. Bucci (Ed.), *Políticas públicas: Reflexões sobre o conceito jurídico* (pp. 1-49). Saraiva.
- Bucci, M. P. D. (2021). *Fundamentos para uma teoria das políticas públicas* (2nd ed.). Saraiva.
- Canotilho, J. J. G. (2001). *Constituição dirigente e vinculação do legislador*. Coimbra Editora.
- Cappelletti, M., & Garth, B. (1988). *Acesso à justiça* (E. G. Northfleet, Trans.). Sergio Antonio Fabris Editor.
- Comparato, F. K. (2004). *A afirmação histórica dos direitos humanos* (3rd ed.). Saraiva.
- Dallari, D. de A. (1998). *Direitos humanos e cidadania*. Moderna.

- Di Pietro, M. S. Z. (2025). *Direito administrativo* (38th ed.). Forense.
<https://integrada.minhabiblioteca.com.br/reader/books/9788530995935/>
- Duarte, C. S. (2006). Direito público subjetivo e políticas educacionais. In M. P. D. Bucci (Ed.), *Políticas públicas: Reflexões sobre o conceito jurídico* (pp. 267-278). Saraiva.
- Dworkin, R. (2002). *Levando os direitos a sério* (N. Boeira, Trans.). Martins Fontes.
- Easton, D. (1965). *A Framework for Political Analysis*. Prentice-Hall.
- Easton, D. (1968). *A Systems Analysis of Political Life*. University of Chicago Press.
- England (1601). *An Act for the Relief of the Poor (43 Eliz. I c. 2)*.
- Ferraz, O. L. M. (2011). The Right to Health in the Courts of Brazil: Worsening Health Inequities? *Health and Human Rights*, 11, 33-45.
- Ferraz, O. L. M. (2019). Para equacionar a judicialização da saúde no Brasil. *Revista Direito GV*, 15, e1934. <https://doi.org/10.1590/2317-6172201934>
- France (1789). *Declaration of the Rights of Man and of the Citizen*.
https://avalon.law.yale.edu/18th_century/rightsof.asp
- Germany (1919). *Weimar Constitution (Constitution of the German Reich of 11 August 1919)*.
- Howlett, M., & Ramesh, M. (2003). *Studying Public Policy: Policy Cycles and Policy Sub-systems* (2nd ed.). Oxford University Press. <https://doi.org/10.1525/curh.1919.11P1.1.86>
- Inter-American Court of Human Rights IACtHR (2006). *Case of Damião Ximenes Lopes v. Brazil: Judgment of July 4, 2006 (Merits, Reparations and Costs)*.
https://www.corteidh.or.cr/docs/casos/articulos/seriec_149_ing.pdf
- Leão XIII. *Rerum Novarum*. Vaticano, 1891.
- Lenza, P. (2009). *Direito constitucional esquematizado* (Vol. 8). Saraiva.
- Mattos, U. (2019). *Higiene e Segurança do Trabalho* (2nd ed.). Grupo GEN.
<https://integrada.minhabiblioteca.com.br/books/9788595150959>
- Mexico (1917). *Constitución Política de los Estados Unidos Mexicanos [Political Constitution of the United Mexican States]*. Promulgated on February 5, 1917.
- Monteiro, J., Fagundes, E., Guerra, J., & Piquet, L. (2022, outubro). *Relatório de pesquisa: Avaliação do impacto do uso de câmeras corporais pela Polícia Militar do Estado de São Paulo*. Fundação Getúlio Vargas, Centro de Ciência Aplicada à Segurança Pública.
<https://hdl.handle.net/10438/32874>
- National Council of Justice (2019). *Analytical and Propositional Report. Justiça Pesquisa: Judicialization of Health in Brazil—Profile of Claims, Causes, and Proposed Solutions*. Insper Institute of Education and Research. Instituto de Ensino e Pesquisa Insper.
<https://static.poder360.com.br/2019/03/relatorio-judicializacao-saude-Insper-CNJ.pdf>
- National Council of Justice (2021). *The Brazilian Prison System outside the Constitution—Five Years Later: Assessment and Projections Based on the Judgment of ADPF 347*. Department of Monitoring and Oversight of the Prison System and the System for the Enforcement of Socio-Educational Measures (DMF/CNJ).
<https://hdl.handle.net/10438/32874>
- National Council of Justice (n.d.). *Fair Sentence Plan*.
<https://www.cnj.jus.br/sistema-carcerario/plano-pena-justa/>
- Oliveira, S. L. G. d. (2010). *A corte interamericana de direitos humanos e a formulação de políticas públicas*. <https://tede.unisantos.br/handle/tede/72>
- Oliveira, V. E. d., Silva, M. P. d., & Marchetti, V. (2018). Judiciário e políticas públicas: O caso das vagas em creches na cidade de São Paulo. *Educação & Sociedade*, 39, 652-670.

<https://doi.org/10.1590/es0101-73302018176112>

- Organization of American States (1969). *American Convention on Human Rights (Pact of San José, Costa Rica)*.
https://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights.htm
- Organization of American States (1988). *Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights ("Protocol of San Salvador")*.
<https://www.oas.org/en/sare/social-inclusion/protocol-ssv/docs/protocol-san-salvador-en.pdf>
- Piovesan, F. (2006). *Caderno de Direito Constitucional: Direitos humanos e o direito constitucional internacional*. Escola da Magistratura do Tribunal Regional Federal da 4ª Região.
https://www.trf4.jus.br/trf4/upload/arquivos/emagis_atividades/ccp5_flavia_piovesan.pdf
- Piovesan, F. (2024). *Direitos humanos e o direito constitucional internacional* (22nd ed.). Saraiva Jur. <https://integrada.minhabiblioteca.com.br/reader/books/9788553622771/>
- Ramos, A. D. C. (2024). *Teoria Geral dos Direitos Humanos* (8th ed.). Grupo GEN. <https://integrada.minhabiblioteca.com.br/books/9786553628762>
- Ramos, A. de C. (2002). *Processo internacional de direitos humanos: Análise dos sistemas de apuração de violação de direitos humanos e implementação das decisões no Brasil*. Renovar.
- Ramos, E. da S. (2009, August 1). *O ativismo judicial é ruim independente do resultado [Interview by G. Milício]*. Consultor Jurídico.
<http://www.conjur.com.br/2009-ago-01/entrevista-elival-silva-ramos-procurador-estado-sao-paulo>
- Russian Soviet Federative Socialist Republic (1918). *1918 Russian Constitution [First Soviet Constitution]*.
<https://ia800808.us.archive.org/3/items/1918SovietConstitution/1918%20Soviet%20Constitution.pdf>
- São Paulo State Public Defender's Office (2024). *Núcleo Especializado de Cidadania e Direitos Humanos* (p. 8). Boletim Informativo, 01 de abril a 30 de junho de 2024.
- Sarlet, I. W. (2010). *A eficácia dos direitos fundamentais* (10th ed.). Livraria do Advogado.
- Sarlet, I. W. (2019). *A eficácia dos direitos fundamentais: Uma teoria geral dos direitos fundamentais na perspectiva constitucional* (14th ed., rev., atual. e ampl.). Livraria do Advogado.
- Schmidt, J. P. (2018). Para estudar políticas públicas: Aspectos conceituais, metodológicos e abordagens teóricas. *Revista do Direito*, 3, 119-149.
<https://doi.org/10.17058/rdunisc.v3i56.12688>
- Silva, J. A. da. (1998). *Aplicabilidade das normas constitucionais* (3rd ed.). Malheiros.
- Silva, J. A. da. (2009). *Curso de direito constitucional positivo* (32nd ed., rev. e atual.). Malheiros Editores.
- Smanio, G. P. (2009). A conceituação da cidadania brasileira e a Constituição Federal de 1988. In A. de Moraes (Ed.), *Os 20 anos da Constituição da República Federativa do Brasil* (Vol. 1, pp. 333-346). Atlas.
- Smosinski, S. (2013, August 20). *Déficit de vagas em creches de São Paulo chega a 127,4 mil crianças*. UOL.
<https://educacao.uol.com.br/noticias/2013/08/20/deficit-de-creches-de-sao-paulo-passa-de-150-mil-vagas-aponta-estudo.htm>

- Souza, M. (2013, August 29). *Em SP, 12 mil conseguiram vaga em creche por ordem judicial em 2013*. UOL.
<https://educacao.uol.com.br/noticias/2013/08/29/em-sp-12-mil-vagas-em-creches-foram-preenchidas-por-ordem-judicial.htm>
- Spain (1812). *Constitution of Cádiz (La Constitución de Cádiz de 1812)*.
- Teixeira, J. H. M. (1991). *Curso de direito constitucional*. Forense Universitária.
- Tribunal de Justiça do Estado de São Paulo (TJSP) (2017, September 14). *Justiça homologa acordo sobre vagas em creches na cidade de São Paulo*. TJSP.
<https://www.tjsp.jus.br/Noticias/Noticia?codigoNoticia=48767&pagina=1>
- Tribunal de Justiça do Estado de São Paulo (TJSP) (2020, March 24). *Coordenadoria da Infância do TJSP acompanha acordo sobre vagas em creche na Capital paulista*.
<https://www.tjsp.jus.br/Noticias/Noticia?codigoNoticia=64635>
- United Kingdom (1833). *Factory Act (3 & 4 Will. IV c. 103)*.
- United Nations UN (1945). *Charter of the United Nations*.
<https://www.un.org/en/about-us/un-charter>
- United Nations UN (1948). *Universal Declaration of Human Rights*.
<https://www.un.org/en/about-us/universal-declaration-of-human-rights>
- United Nations UN (1966). *International Covenant on Economic, Social and Cultural Rights*.
<https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>
- United Nations UN (1993). *Vienna Declaration and Programme of Action*.
<https://www.ohchr.org/en/resources/educators/human-rights-education-training/vienna-declaration-and-programme-action>
- United States (1776a). *Declaration of Independence*.
<https://www.archives.gov/founding-docs/declaration-transcript>
- United States (1776b). *Virginia Declaration of Rights*.
https://www.archives.gov/exhibits/charters/virginia_declaration_of_rights.html
- Vieira, O. V. (2002). A gramática dos direitos humanos. *Boletim Científico da ESMPU*, 1, 13-33.
- Wu, X., Ramesh, M., Howlett, M., & Fritzen, S. (2014). *Guia de políticas públicas: Gerenciando processos* (R. A. de Souza, Trans.). ENAP.