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#### ABSTRACT

The Family Grant has become one of the major programs for reducing hunger in Brazil; for a significant number of poor families, the benefits of this Program are the only possible source of income. From the human rights perspective, however, this Program still presents a series of obstacles, which are reviewed in this essay.

#### KEYWORDS

Social policies – Eradication of hunger – Eradication of poverty – Family Grant

### **SOCIAL PROGRAMS FROM A HUMAN RIGHTS PERSPECTIVE: THE CASE OF THE LULA ADMINISTRATION'S FAMILY GRANT IN BRAZIL**

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*“Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.[...]”*

*(Article 25 of the Universal Declaration of Human Rights, 1948).*

#### **Introduction**

The debate on public policies and human rights is relatively new in the field of human rights as well as within the academic sphere, especially in the social sciences. During the last century, greater relevance was awarded to theories with an empirical focus on the behavior of the political and social actors, and state-run action was thus seen as little relevant. With the dismantling of the Soviet system, the ensuing replacement of the Communist institutions, and the organization of new economic blocs (e.g. the European Union), institutions as such came to acquire greater importance in the social sciences.<sup>1</sup> According to Bucci,<sup>2</sup> the need for studies on public policies is becoming manifest as one attempts to make social rights acquire a concrete reality. In the field of economic, social, and cultural rights, the voluntary guidelines approved in 2004 by the FAO (Food and Agriculture Organization of the United

Nations)<sup>3</sup> specified the role of institutions in achieving the human right to adequate food: “States [...] should assess the mandate and performance of relevant public institutions, and, where necessary, should establish, reform or improve appropriate institutions and organizational structures and thus contribute to the progressive realization of the right to adequate food within the framework of national food security.”<sup>4</sup> These same guidelines also define certain criteria for the functioning of such institutions, and, especially, citizen participation: “States should ensure that relevant institutions provide for the full and transparent participation of the private sector and of civil society, in particular representatives of groups most affected by food insecurity.”<sup>5</sup>

In this context, the Family Grant Income Transfer Program has become one of the major tools for overcoming hunger and ensuring the human right to food in Brazil. This is a proposal which is being widely praised by social scientists and by several communications media throughout the world. In a recent article published in *The Economist* (September 15, 2005), the Family Grant Program is presented as a new form of confronting an ancient problem, viz. hunger. The magazine stresses the point that the Family Grant has been the best means of assisting the poor, as compared to previously-existing programs. Other studies conducted in Brazil point out that the Program represents a significant support in ensuring a minimum level of food supply to a large number of poor Brazilian families.<sup>6</sup> According to Silva, Yasbek & Giovanni,<sup>7</sup> the Family Grant has a fundamental significance for its beneficiaries, since for many poor families in Brazil, this is their only source of income. As to the issue of the quality of the Program and the number of people benefiting from it (over 8.5 million families up to January 2006), the Program represents a step forward as compared to preceding proposals. Nevertheless, from the viewpoint of human rights, this Program still presents a number of difficulties, which will be discussed in this paper.

## **Public policies for social protection in Brazil**

The major feature of the public policies for social protection in Brazil is the incompatibility between the structural adjustments of the economy to the new international economic order, the social investments of the State and the guarantee of social rights. In this order, neo-liberal thinking does indeed conceive of the need to provide assistance to the poor, but it also faces enormous difficulties in acknowledging public policies as a human right. As a consequence, the principle of social protection policies is more consistent with a humanitarian and philanthropic outlook. “This logic, which has subordinated social policies to economic adjustments and to the rules of the market, has engendered a depoliticized, privatized and re-philanthropicalized profile for Brazilian social policy.”<sup>8</sup> This is why, according to Magalhães,<sup>9</sup> state interventions in eradicating hunger and poverty in Brazil are typified by their hesitations, precariousness, and intermittence, whereby they do not in fact ensure the basic social rights of the poor population. The Bismarckian model introduced in Brazil, based on individual contributions, was never fully institutionalized, and is currently undergoing a crisis due to the large degree of informality in the country’s economy. For Souza,<sup>10</sup> one of the consequences of this sort of policy is that the benefits of public social protection policies are sometimes limited to the elite, instead of being generalized to the more underprivileged layers of society. On other occasions, the Brazilian social policies are typified by a high degree of selectivity, focusing on extreme but limited situations, geared to the needs of the poorest among the poor, and appealing more to humanitarian and/or solidarity-oriented actions of the society at large than to the provision of social policies by the State. Furthermore, in the opinion of Yasbek,<sup>11</sup> the appeal to solidarity and to its ethical and humanized components stresses the displacement of social protection actions to the private sphere,<sup>12</sup> and results in a questioning of already-guaranteed rights. As a result, social policies in Brazil lack a clear reference to rights, especially because the Brazilian social protection system is lacking in institutional mechanisms

for the administrative accountability of rights. In fact, there is a great discrepancy between the rights ensured in the Constitution and/or in several international conventions ratified by the Brazilian state and the actual access to social policies as a human right.

### ***Programs for eradicating poverty and hunger at the local level***

The implementation of programs for eradicating poverty and hunger at the local level by means of income-transfer programs are originally based on a proposal formulated by Senator Eduardo Suplicy (Workers Party), presented in 1991, which sought to define a legal minimum income for all Brazilian citizens. Senator Suplicy's project motivated a number of articles in the major press and intense debates, dividing opinions and mobilizing adherents and opposition. The project led to the opening of new paths in dealing with hunger and poverty at the local level. Beginning in 1995, several Brazilian municipalities, beginning with Campinas, Ribeirão Preto, and Brasília, introduced Minimum Income Programs, with the purpose of coping with hunger and poverty. Fonseca<sup>13</sup> points out that the projects that were actually implemented differed from Senator Suplicy's original proposal insofar as they introduced conditions and the requirement that the poor families ensure that their children attend school on a regular basis in order to receive the benefits of the Minimum Income.<sup>14</sup> The intellectual mentors of this kind of aid argue that family poverty exerts a great influence on the early entry of children into the labor market, since the costs of maintaining the children in school are very high. It is also argued that, by entering the labor market at an early age, and consequently leaving school at an early age, children become adults with some experience from the labor market, but due to their low level of education, they end up having access only to precarious jobs and therefore to low income. Once they have been included in this vicious circle, these new adults will end by contributing to the poverty maintenance mechanisms, since today's poverty is presumed to generate the poverty of tomorrow.<sup>15</sup> Even if the goals of these conditions are positive, this kind of policy reinforces the ancient mechanisms of dependency and the absence of autonomy for the poor within the framework of Brazilian social policies.

Besides demanding the maintenance of children in school, the majority of the Minimum Income Programs require a minimum period of residence in the municipality benefited by the program, usually between 2 and 5 years. This condition serves the purpose of inhibiting migration for the sole purpose of obtaining the benefit. Furthermore, the majority of these Programs define a maximum value to be delivered to the families, the most generous reaching a limit of ½ a minimum wage per capita. According to Sposati,<sup>16</sup> there is a tendency to lower this value, which, according to the author, transforms this type of assistance into a sort of "institutionalized alms." Given the strict eligibility criteria, the Minimum Income Programs reach a very restricted public, leading to a form of selection of the "poorest among the poor,"<sup>17</sup> due to the absence of a rights-based policy.

The study conducted by Lavinás<sup>18</sup> indicates that it is difficult to generalize about the Minimum Income Programs at the local level are, since they demand larger availability of funds, while municipalities with a lesser fiscal capacity – the vast majority of Brazilian municipalities – would find it impossible to set up such programs. In view of this situation, Lavinás underlines the need for greater participation of State governments and of the Federal Government in implementing measures to fight hunger and poverty in Brazil.

### ***Programs for eradicating poverty and hunger at the federal level***

According to Bruera, beginning in the 90's, a national food-security policy began to be introduced in Brazil. This occurred as a result of the social mobilization campaign conducted by the Citizen's Action Against Hunger and Destitution and For Life, initiated by the sociologist Herbert de Souza, better known as "Betinho". During the Itamar Franco Administration (1992-1994), the CONSEA (National Council for Food Security) was set up as a body comprising representatives from all governmental levels and from civil society, which became an entity for consultation and coordination of government policies within the spheres of food security and elimination of hunger.

During its first term of office, the Fernando Henrique Cardoso Administration (1995-1998 and 1999-2002), with the Real Plan and the ensuing economic growth, placed its major bets on the stabilization of the economy as a form of eradicating hunger and poverty in Brazil. At the time, the impacts of economic stabilization were symbolically characterized by the alleged increase in the consumption of food products, e.g. chicken and yogurt. Given this government's priorities, the advances in the organization of a food-security policy lost their momentum. For Flávio Valente,<sup>19</sup> this represented the adoption of an economicist point of view for overcoming hunger and poverty. According to Valente the policies implemented during the 1st year of the Fernando Henrique Cardoso Administration adopted as their priority "[...] the stabilization of the Brazilian economy based on an indiscriminate insertion of the Brazilian economy into the global economy, leaving at a lower level of priority the immediate confrontation of the precarious living conditions of the vast majority of the Brazilian population."<sup>20</sup>

Starting in the second term of the Fernando Henrique Cardoso Administration, the emphasis shifted and food security policies acquired an explicit relevance. Within the vast range of public programs, a major initiative is the creation of a National Food and Nutrition Policy (PNAN). As a result of this policy, several programs distributing monetary benefits to poor families with children and adolescents at home were set up, especially as an incentive or inducement to access to universal health and education policies.

In 1996, the Child Labor Eradication Program (PETI)<sup>21</sup> was launched, with the purpose of eliminating the work of children and adolescents in charcoal plants, sisal, sugarcane and orange plantations, and in brick-burning facilities. In 1997, after intense debates, the Guaranteed Minimum Income Program was launched, linked to socio-educational actions. This program became operational in 1999. In 2001, it was reformulated, and renamed School Grant,<sup>22</sup> linked to the Ministry of Education. In 2001, the Youth Agent<sup>23</sup> and the Food Grant<sup>24</sup> Programs, linked to the Ministry of Health, were launched. In 2002, the Gas<sup>25</sup> Allowance Program was set up, linked to the Ministry of Mining and Power.

Before creating the programs listed above, the Federal Government maintained a food basket distribution program (initially named Program for Emergency Distribution of Food – PRODEA, and, later, renamed the 'Food Basket Program'), which reached out to several population groups at risk, including: destitute families; drought victims; landless farm laborers, and indigenous populations with scarce food. The Program reached its peak in 1998, when approx. 30 million food baskets were distributed to 3.9 million families, an action that was certainly motivated by the presidential elections held in the same year.

In 2001, the Food Basket Program was essentially deactivated, and was replaced with programs providing for direct transfer of income to needy families. Initially, this shift – financial resources instead of direct distribution of products – suffered from lack of continuity: the Food Basket Program was interrupted before the income-transfer programs to the population groups originally benefited by the Food Basket Program were put into practice.

Scholars studying Brazilian social policies have noted the absence of interaction between the various government programs and actions. Over the last two years of the Fernando Henrique Cardoso Administration, these projects were implemented by different ministries, without any coordinating

inter-ministerial action. Time and again, these programs would compete amongst each other in terms of liberating funds, e.g.: the School Grant, Child Labor Eradication Program, and Food Grant Programs. These programs were implemented by different ministries, which became a hindrance for optimizing these actions, thus resulting in high operational costs, poor efficiency and absence of any reference to rights.<sup>26</sup> Furthermore, for each municipality a maximum number of families to be benefited under these several programs was defined. Consequently, new families, even if they were extremely vulnerable and, therefore, entitled to the corresponding rights, could not be inserted in the Programs. From a human rights perspective, these families should have had the possibility of requesting the benefits and being covered by the Programs without delay.

For the Special Rapporteur on the right to food under the UN Human Rights Commission, Jean Ziegler,<sup>27</sup> the effects of these Programs on the improvement of the lives of needy families were relatively modest: “With respect to the impact of the program on poor families, one must admit that the current transfer of R\$ 15.00 per child per month has a relatively modest impact on the general levels of malnutrition and poverty, although it does provide some extra income for purchasing food.”<sup>28</sup> Given the eligibility criteria, the absence of intersectoriality and of any guarantee of access to the programs as a human right, only a minor portion of the poor population was in fact covered. The innovation represented by the transfer of income was insufficient to reach out to the target public, viz. the majority of the poor population. Consequently, the social programs followed the same logic of traditional public interventions, reproducing a model involving fragmentation, segmentation, focalization, and no access to the programs in terms of a human right to be met.

### ***The Zero Hunger Program of the Luiz Inácio Lula da Silva administration***

The main goal of the President elected for the 2003-2006 term of office, Luiz Inácio Lula da Silva, was to implement the Zero Hunger Program. For this purpose, once he took office, Lula created an Extraordinary Ministry for Food Security and Eradication of Hunger (MESA), the major goal of which was to formulate and coordinate the implementation of a National Policy for Food and Nutritional Security. The creating of this Ministry represented an innovation in terms of public hunger eradication policies. After one year of existence, however, on January 23 2004, this Ministry was extinguished and replaced by the Ministry for Social Development and Eradication of Hunger (MDS). This measure had the intention of increasing intersectorial coordination of the governmental actions in terms of social inclusion, eradication of hunger, eradication of poverty, and of social inequalities. The new Ministry was vested with the competences originally ascribed to the Extraordinary Ministry for Food Security and Eradication of Hunger, to the Ministry of Social Assistance, and to the Executive Secretary of the Family Grant Program, linked to the Office of the President. Among the major tasks of the Ministry for Social Development and Eradication of Hunger is the coordination of the national social development, food and nutritional security, and social assistance and income policies. Furthermore, it is incumbent on the Ministry for Social Development and Eradication of Hunger to articulate actions with the state and municipal governments, as well as to strengthen ties with civil society in the establishment of the guidelines for these policies.

### **From the Food Card Program to the Family Grant**

One of the first and major actions carried out by the Hunger Zero Program was the introduction of the Food Card Program, on October 20, 2003, replaced by the Family Grant Program.<sup>29</sup> The initial intent

of this Program was to centralize the several existing income-distribution programs. The Family Grant results therefore from the unification of the Federal Government income transfer programs, viz. the Food Grant (Ministry of Health), the Gas Allowance (Ministry of Mining and Energy), the School Grant (Ministry of Education), and the Food Card (Extraordinary Ministry for Food Security and Eradication of Hunger). The purpose of this unification was to reduce administrative costs, ensuring a coordinated and sector-integrated management. From the viewpoint of human rights, this unification was a step forward, since the centralization in a single program avoids fragmentation and ensures a greater clarity in terms of the public bodies in charge of its implementation. In other words, the centralization makes it easier to define which body a person must contact in order to request inclusion in the Program, a measure essential to facilitate access by the more vulnerable social groups.

The enrollment of beneficiaries of the Family grant is conducted by the City Administration, whilst civil society is in charge of controlling the policies in the form of a council or committee organized by the City Administration. Here, one will notice a difference with the former Food Card Program,<sup>30</sup> since under the Family grant scheme, civil society participates only insofar as it controls public policies, but it no longer plays a deliberative role. The restriction on the participation of civil society is a serious problem from a human rights perspective, given that General Comment No. 12, produced by the Committee for Economic, Social and Cultural Rights of the UN High Commissioner for Human Rights, requires adherence to the principles of transparency, popular participation, and political decentralization in formulating and implementing public policies that aim at meeting the right to food. “The formulation and implementation of national strategies for the right to food require full compliance with the principles of accountability, transparency, participation, decentralization, legislative capacity and independence of the Judiciary.”<sup>31</sup> The Comment points out that participation is essential to the fulfillment of human rights, to the eradication of poverty, and to ensure satisfactory means of life for all persons. In this sense, the State, when formulating public policies and benchmark legislation, must stimulate the active participation of civil society.

### **Barriers to the Family Grant Program from a human rights perspective**

The UN’s General Comment No. 12, mentioned above, states that “the right to food is fulfilled when every man, woman and child, singly or in company with others, has uninterrupted physical and economic access to adequate food.” In order to achieve this purpose, each State is obliged to ensure that all individuals under its jurisdiction have access to the minimum essential quantity of food. It should be noted that this quantity must be sufficient, so as to ensure that all citizens are in fact free from hunger. According to Valente,<sup>32</sup> “the right to be free from hunger” is the minimum level of human dignity, which cannot be dissociated from the right to adequate food in terms of quantity but also in terms of quality.

The Income Transfer Programs, e.g. the Minimum Income Program and the Universal Basic Income, are among the major strategies to guarantee that all persons shall have “the right to be free from hunger”, which are requirements set forth by the International Covenant for Economic, Social and Cultural Rights, ratified without reservations by the Brazilian State in 1992.<sup>33</sup> Several scholars have emphasized the relevance of public social protection policies, especially the Minimum Income Programs, for the eradication of hunger and of poverty.<sup>34</sup> Esping-Andersen<sup>35</sup> stresses the importance of the European social protection system, in the form of the Minimum Income Programs, in relation to the autonomy and independence of human beings in the face of the destructive market mechanisms. In this respect, Habermas<sup>36</sup> points out that the social protection institutions are an integral part of the constitutional democratic State, against which there are no visible alternatives.

### ***Providing the Family Grant as a human right***

As in the case of the preceding Administrations, the major weakness of the Family Grant<sup>37</sup> arises from the fact that the Program is not based on a notion of human rights, since access to the Program is not unconditionally ensured to the holders of a right. In other words, the Family Grant does not ensure an unrestricted access to the benefit, since there is a limitation on the number of families<sup>38</sup> to be assisted in each municipality. As already mentioned, this limitation stems from the fact that each municipality is ascribed a maximum number of families to receive the benefit. Once the quota is filled, the insertion of any new families becomes impossible, even if they are extremely vulnerable and, as such, entitled to the right. As a result, the Family Grant is not conceived of based on the notion of ensuring the benefit to all who need it. On the contrary, it adopts a selectivity which is often exclusive. The consequence of this approach is that poor families and individuals are not included in the Program even if they are destitute and have an urgent need to receive the benefit. A tangible example is represented by the over 1,200 families living under plastic-covered huts in the Grajaú Sector, in Goiânia.<sup>39</sup> Furthermore, homeless, Indians, quilombo-dwellers, garbage pickers and other highly vulnerable groups are still excluded from the Program. From a human rights perspective, these persons should be allowed to request the Family Grant benefit and to receive its benefits, without delay. Furthermore, if the benefit is not granted, it should be possible to demand such benefit through the courts.

In view of the facts presented above, it is evident that the logic of the Program is based on the humanitarian discourse of aid and assistance,<sup>40</sup> and not on the provision of human rights. Within the framework of human rights, the Family Grant ought to ensure access to the Program and to the human right to food as a right of all eligible people, and the benefit should be provided to all who are in a state of vulnerability. By the same token, there should not be a time limit to the availability of the Program; on the contrary, it should be designed to assist people for as long as their vulnerability persists, for their entire life if needed.

### ***The principle of universality and the conditionalities***

Article 11 of the International Covenant for Economic, Social and Cultural Rights acknowledges the fundamental right of every person to be free from hunger, and imposes on the Signatory States the obligation to implement tangible measures and programs to attain this goal. In the same fashion, General Comment No. 12 establishes that the right to adequate food is of essential importance for the enjoyment of the other rights. It must be applied to “the person and his/her family”, and shall not imply any restriction on the validation of this right against individuals or families headed by women. In other words, the right to adequate food is a right inherent to each and every person, irrespective of ethnic background, gender, race, and individual contribution. It is an individual right, to be universally and unconditionally guaranteed to every human being. According to Flávia Piovesan, universality “appeals to the universal reach of human rights, based on the belief that the condition of being a person is the sole requirement for entitlement to rights, since a human being is essentially a moral being, with a unique existence and dignity.”<sup>41</sup>

The Family grant imposes certain conditions on the granting of the benefit, to wit: supervision of the health and nutritional status of the families and school attendance and access to nutritional education.<sup>42</sup> From a human rights perspective, a right cannot be subject to set-offs, requirements or conditionalities, since the status of being a person is the sole requirement for entitlement. The

responsibility to provide and ensure the quality of such services to the holders of such rights is vested in the relevant public authorities. The obligation to comply with the conditionalities (schools, health centers) is also the responsibility of such authorities, and not of the persons.<sup>43</sup> For this reason, the Program ought to review its notion of imposing conditions and obligations on its beneficiaries, since the title to a right can never be conditional. The State must not punish and, under no circumstances, can it exclude beneficiaries from the Program if the conditions defined and/or imposed are not met. The municipalities, states, and other governmental bodies ought to be held accountable for not fulfilling their obligation to ensure access to rights currently subject to conditionalities.

### ***The amount of the Family Grant as compared to the costs of the Basic Food Basket***

Analysts of Income Transfer and Social Protection Programs in Brazil stress the modest amounts transferred by the State to the beneficiaries of the Family Grant. Therefore, the cost of the Domestic Food Basket was proposed as a criterion for evaluating the public Income Transfer policies. In the case of Brazil, the Interunion Department of Statistics and Socio-economic Studies (DIEESE) follows on a monthly basis the price evolution of thirteen food items, as well as of the monthly costs a person must undertake to purchase them. The DIEESE surveys evaluate how much an adult worker would need to earn to cover his/her minimum food needs (Minimum Essential Ration). The Domestic Food Basket calculates the upkeep and the well-being of an adult, containing balanced quantities of proteins, calories, iron, calcium, and phosphorus. According to these parameters, the amounts distributed under Minimum Income Programs, e.g. the Family Grant, should take as their criterion the cost of the Domestic Food Basket.

But the value of the Family Grant Program infringes the human right to food, since it is insufficient to still the hunger of a Brazilian family, as shown by the data for the DIEESE Domestic Food Basket. The Domestic Food Basket survey conducted by the DIEESE in June 2005, in sixteen state capitals in Brazil, indicates that an adult worker would need R\$ 159.29 to cover his minimum food needs (Minimum Essential Ration). The value of this basket would be sufficient to support one adult.

For the Brazilian State to minimally comply with the human right to food, especially in terms of its obligation to take tangible action to eradicate hunger, it would have to increase the value of the Family Grant to the equivalent of the DIEESE Domestic Food Basket (the value of the Family Grant is currently set at a maximum of R\$ 95.00 per family). As a signatory of the International Covenant for Economic, Social and Cultural Rights, Brazil is under an obligation to ensure that the individuals and their families have access to a minimum essential quantity of food, sufficient to ensure that they are free from hunger.

### ***Decentralization and administrative accountability***

The enforcement of economic, social and cultural rights, and, in particular, the human right to food, requires a new institutional framework for providing these rights, involving decentralization, social participation, administrative accountability, and transparent allotment of funds. According to Valente,<sup>44</sup> there is a need for articulating Federal programs with initiatives taken at State and Municipal levels. In the opinion of Salamanca,<sup>45</sup> even in a time of economic globalization, the city administrations exert a fundamental role in the enforceability of Economic, Social and Cultural Rights. Souza,<sup>46</sup> indicates that the Brazilian experience in local governance has been marked by a “powerful



institutional innovation” and by a complex system of intergovernmental relationships, especially between the Federal Administration and the Municipal Administrations. These innovations initially came into being under the redemocratization process, and, subsequently, as a result of decisions made by the governments themselves, both at Federal and at local levels. “Despite the unequal capacity of Brazilian municipalities in taking part in this new institutionality, there are indications that point towards changes in the form of exercising local governance.”<sup>47</sup> According to this author, these indications point toward a greater involvement of local governments and communities in providing universal social services and public assets for common use, including the Family Grant, as an indispensable tool for ensuring the right to food.

In order to attain this goal, the Family Grant must be provided by a new institutional framework, *i.e.*, by bodies or institutions within the municipalities, with a well defined and transparent set of responsibilities, the purpose of which would be not only to facilitate access to the Program, but also to demand such access from the government bodies. In this sense, studies should be conducted regarding the immediate implementation of instruments to guarantee the administrative demandability of the rights of those entitled to the Family Grant. Furthermore, there should be information available and public bodies to which to resort to avert any discrimination as to access and/or in the event of any interruption in the Program. Such information must be available in a clear form, accessible to the titleholders of the rights involved, and especially to the most vulnerable among them. At present, the Family Grant does not provide mechanisms for universal access to the Program, particularly so that the titleholders of the right to food can complain and demand their rights when they are being infringed and/or remain protected.

## **Final remarks**

As compared to the social programs preceding the Family Grant, the latter represents a major step forward in eradicating hunger in Brazil. This Program has brought about an improvement in the nourishment of a great number of poor Brazilian families. However, from a human rights perspective, the Family Grant still has a number of draw-backs. From this perspective, one must take into account that a human right cannot be conditioned by set-offs, demands, or conditionalities. More serious than the imposition of set-offs as such is the punishment of the holder of a right, specifically, his/her exclusion as beneficiary of the Program for not having complied with the conditionalities. This represents, indeed, a grievous infringement of human rights, given that, as pointed out above, a human right cannot be bound by the fulfillment of demands or by other forms of conduct. Aside from the issue of conditionalities, the value of the benefit granted by the Family Grant Program is insufficient to guarantee that all persons living in the country are free from hunger. In other words, the amount transferred by the Program is too low to guarantee the right to adequate food, primarily with respect to providing a minimum quantity of food. In view of this fact, the criterion to be used to evaluate the Program must be the cost of the Domestic Food Basket, which calculates the value that each adult person requires on a monthly basis in order to provide for his/her minimum nutritional needs.

Besides increasing the actual value, the Program must provide specific mechanisms of accessibility, with clear references to the public bodies charged with providing such access. Accessibility means that all citizens must be included in the Program when their rights are being infringed or not provided for. Within the framework of human rights, these persons must have the possibility of requesting the benefit and must be granted such benefit within a short period of time. If the benefit is not granted, it must be possible to demand such benefit through the courts.

Finally, from the human rights perspective, the Brazilian social programs ought to be designed, formulated, and conceived in a universal and unrestricted form, in which the conditions of a person are the sole requirement for determining a given right. Besides universal provisioning, social programs must ensure access mechanisms in the event of infringement, which are efficient, speedy, and aimed at including the holders of rights in the programs without any major delay or bureaucracy.

## NOTES

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1. Thus, a greater emphasis is now placed on the role of the State and on institutions, giving rise to the neo-institutionalist theory and to its three versions: historical institutionalism, the institutionalism of rational choice, and the sociological institutionalism. The neo-institutionalist theory has brought back to the public policy debate the central role of the institutions and of the different management models. The central roles of the institutions is underlined in a phrase by March & Olsen, “the organization of political life makes a difference” (see James March & Johan Olsen, *Rediscovering institutions - The organizational basis of politics*, New York, The Free Press, 1989, p. 159). As a result, the different typologies of public policies are emphasized, following a typology proposed by Esping-Andersen. On the one hand, institutions are taken as regulators of conflicts of interest, seen by some scholars as “opening” of institutional channels for the participation of political actors. On the other hand, some authors underline the ideal of “limitation” in the participation channels and the increased efficiency of state action (the technocratic vision).
2. See Maria Paula Dalari Bucci, “Buscando um conceito de políticas públicas para a concretização dos direitos humanos,” In: Bucci et al. (Org.), *Direitos humanos e políticas públicas*, São Paulo, Pólis, 2001, p. 7. [See various other FN titles, as well.]
3. At the World Food Summit, five years later (2002), the heads of State and Government invited the FAO Council to set up an intergovernmental work group, including participants from civil society. The purpose of this work group was to draw a series of voluntary guidelines in support of the Member States’ efforts to progressively achieve the Right to Adequate Food, within the framework of national food security.
4. V. FAO, *Voluntary guidelines to support the progressive realization of the right to adequate food in the context of national food security*, Rome, 2004, Guideline 5.1.
5. *Ibid.*, Guideline 5.4.
6. See Clóvis Roberto Zimmermann, *Combate à fome e o direito humano à alimentação no Brasil: O Programa Fome Zero do governo Lula*, Passo Fundo: Passografic, 2004, p. 81.
7. Maria Ozanira da Silva e Silva; Maria Carmelita Yasbek; Geraldo di Giovanni, *A política social brasileira no século XXI: A prevalência dos programas de transferência de renda*, São Paulo: Cortez, 2004, p. 212.
8. Maria Carmelita Yasbek, “O Programa Fome Zero no contexto das políticas sociais brasileiras”, *São Paulo em Perspectiva*, São Paulo, Fundação Seade, v. 18 , n. 2, 2004, p. 105.
9. Rosana Magalhães, “Integração, exclusão e solidariedade no debate contemporâneo sobre as políticas sociais”, *Cadernos de Saúde pública*, Rio de Janeiro, v. 17, n. 3, pp. 569-579, May/June 2001, p. 577.

10. Marcelo M. Coelho de Souza, *A transposição de teoria sobre a institucionalização do welfare state para o caso dos países subdesenvolvidos* (text for discussion no. 695), Rio de Janeiro: IPEA, 1999, p. 13.
11. Maria Carmelita Yasbek, op. cit., p. 105.
12. Given its general features, the Brazilian social protection system is inserted in what has become known as the residual welfare state. This definition implies that, whenever human beings are unable to fulfill their right to food within the framework of the market, as in the case of loss of employment, such persons can resort to two entities that provide assistance in the cases of hunger and poverty: Church and Family. In this case, it is not the social protection network of the State that provides assistance, but the philanthropic entities of the Church and of the relatives. The State abstains itself from guaranteeing rights to needy persons, and the social responsibility is imposed on private entities and natural persons.
13. See Ana M. Medeiros da Fonseca, *Família e política de renda mínima*, São Paulo: Editora Cortez, 2001, p. 219.
14. In most of the Guaranteed Minimum Income Programs that were implemented, the municipalities only transfer money to families with school-aged children. Other needy groups, such as elderly people, handicapped and others, are not entitled to the benefit.
15. Idem.
16. Aldaíza Sposati, “Sobre os programas brasileiros de garantia de renda mínima – PGRM”, In: Aldaíza Sposati, (Org.), *Renda mínima e crise mundial: Saída ou agravamento*, São Paulo, Editora Cortez, 1997, p. 123.
17. In Campinas, a city which in 2000 had 969,396 inhabitants, the Minimum Income Program benefited in 2002 only some 2,500 families.
18. Lena Lavinas *Programas de garantia de renda mínima: Perspectivas brasileiras* (Text for discussion no. 596). Rio de Janeiro: IPEA, 1998.
19. Flávio Valente, “O Direito à Alimentação”, In: Benvenuto, Jayme/ Zetterström, Lena (Org.), *Extrema pobreza no Brasil*, São Paulo: Loyola, 2002, p. 79.
20. Idem.
21. The PETI is directed to families with a *per capita* income of up to ½ minimum salaries, with children between 7 and 14 years of age working in activities deemed degrading or wearing. The value of the benefit is R\$ 25.00 (rural areas) and R\$ 40.00 (urban areas).
22. The School Grant was conceived based on the municipal experiences, and transfers R\$ 15.00 to each child between 6 and 15 years of age, up to the a maximum of three children per family. In order to retain the benefit, the family must keep the children at school, thus stimulating education and avoiding child labor.
23. The Youth Agent Program is directed to young people aged from 15 to 17, in a situation of poverty and social risk, belonging to families with a *per capita* income of up to ½ minimum salaries. The grant corresponds to a monthly sum of R\$ 65.00.
24. The Food Grant is geared to pregnant women, women with children of up to 6 years of age, pertaining to families with a *per capita* income of up to ½ minimum salaries. The grant corresponds to a monthly sum of R\$ 15.00 per child, up to a maximum of three children.

25. The Gas Allowance is granted to families with a *per capita* income of up to ½ minimum salary, and represents an amount of R\$ 7.50 per month.
26. For a discussion on the social policies as conducted under the Fernando Henrique Cardoso Administration, see Maria Ozanira da Silva e Silva (Org.), *O comunidade solidária: o não enfrentamento da pobreza no Brasil*, São Paulo: Cortez, 2001.
27. Jean Ziegler, *Relatório do relator especial sobre o direito à alimentação* (Relatório sobre missão ao Brasil), Geneve: United Nations, E/CN. 4/2003/54/Add. 1, 2003, p. 16.
28. *Ibid.*, p. 13.
29. The Family Grant Program transfers to its beneficiaries a fixed sum of R\$ 50.00 to families with a monthly income of up to R\$ 50.00 per person, whether or not they have children. Besides this fixed sum, those who have children aged from 0 to 15 receive a variable benefit of R\$ 15.00 per child, up to a maximum of three children. Thus, taking into account all existing benefits, the Family Grant distributes a maximum amount of R\$ 95.00 per family. Families with a *per capita* monthly income in excess of R\$ 50,00 up to R\$ 100.00 per person, the Family Grant grants a monthly allowance of R\$ 15.00 per child aged 0 to 15, up to a maximum of three benefits. Government sources estimate that, by November 2005, the Family Grant Program was transferring an average of R\$ 65.00 per family. By January 2006, the Program had reached out to a total of 8,644,202 families.
30. The Food Card Program was implemented locally by a Management Committee. The organization, choice, and election of the Management Committee were essential conditions for implementing the Food Card Program. Without the participation of civil society, it could simply not be implemented. Once it had been instated, the task of the Committee was to select families to benefit from the Food Card Program in the specific municipality. In other words, this Committee held deliberative powers in the implementation of the Program.
31. Comitê de Direitos Econômicos, Sociais e Culturais do Alto Comissariado de Direitos Humanos/Onu. *Comentário Geral número 12 - O direito humano à alimentação* (art.11), Genebra: ONU, 1999, artigo 25.
32. Valente, *op. cit.*, p. 53.
33. The Minimum Income Programs differ from Universal Basic Income. The former represent a transfer of income subject to certain conditions, i.e., families with an income below the official poverty line, unemployed, with a permanent residential address, who send their children to school, etc. The second program sets no conditions for access to the benefit, i.e., all persons living in a given country are entitled to this benefit, irrespective of their economic, social and cultural status.
34. Lavinias, *op. cit.*, and Jürgen Kohl, “Armut und Armutsforschung in der Europäischen Union“, In: Glatzer, Wolfgang; Habich, Roland; Mayer, Karl Ulrich (Org.), *Sozialer Wandel und gesellschaftliche Dauerbeobachtung*, Opladen: Leske + Budrich, 2002, pp. 163-179.
35. Esping-Andersen, *The three worlds of welfare capitalism*, Cambridge: Polity Press, 1990.
36. Jürgen Habermas, *Die neue Unübersichtlichkeit*, Frankfurt: Suhrkamp, 1985, p. 152.
37. The very name of the Grant (in the original Portuguese, “*bolsa*”, suggestive of a “scholarship”) presents serious problems in the light of human rights, since it indicates something that is temporary, with a fixed term to end, without taking into account people’s vulnerability. A right cannot be conceived of as a scholarship, as a temporary arrangement, but must be understood as something permanent, to be granted for as long as the state of vulnerability or social exclusion persists.

**38.** In theory, the Government adopts the notion of expanded family, i.e. the core unit, with the possible addition of other individuals related to the core unit, forming a domestic group, living under the same roof, and maintaining their economy with the contribution of its several members. In practice, however, only the core family concept is applied.

**39.** Over 22.1% of the homeless declare they have a zero *per capita* income, yet none of these families are receiving the benefits of the Family grant Program (see Clóvis Roberto Zimmermann, “Violação dos direitos humanos e discriminação dos sem teto em Goiânia”, *Revista Espaço Acadêmico*, Maringá, Nov. 8 2005, available at: [www.espacoacademico.com.br](http://www.espacoacademico.com.br), Access on Nov 08 2005.

**40.** As a consequence, this Program complies with the criteria adopted by liberal thinking, in which the task of social promotion is transferred to society instead of lying within the sphere of competence of the State.

**41.** Flávia Piovesan, “Direitos econômicos, sociais e culturais e direitos políticos”, *Sur: Revista Internacional de Direitos Humanos*, São Paulo, Year 1, n. 1, 2005, p. 22.

**42.** In a recent article, the Minister of Social Development and Eradication of Hunger, Patrus Ananias, defended the conditionalities as a form of ensuring strict compliance with the republican principles. In order to control the conduction of the Program, a Family Grant Supervision Network was set up, involving the Federal Comptroller General, the Audit Court, besides federal prosecutors and attorneys in all counties of the Brazilian territory (see Patrus Ananias, “Bolsa Família é uma história de conquistas”, Fortaleza, Disponível em: [www.adital.com.br](http://www.adital.com.br), Access on: Nov. 04 2005.) As a result, public expenditure with this Program has become very high, specially due to the operational costs involved in selecting the beneficiaries and in controlling the conditions. For this reason, in a number of cases, operational costs are higher than the actual transfer for funds to the families.

**43.** There are cases in which there are not schools or health centers in the vicinity of where the poor live. Under such situations, compliance with the conditionalities becomes impossible, since the State does not even offer the services it requires of the beneficiaries.

**44.** Valente, op. cit, p. 103.

**45.** Rosa Emília Salamanca, “Política pública y derechos económicos, sociales y culturales”, In: PIDHDD – Plataforma Interamericana de Derechos Humanos, Democracia y Desarrollo (Org.), *Para exigir nuestros derechos. Manual de exhibición en des*, Bogotá: PIDHDD, 2004, p. 271.

**46.** Celina Souza, “Governos locais e gestão de políticas sociais universais”, *São Paulo em Perspectiva*, São Paulo, Fundação Seade, v. 18, n. 2, 2004, pp. 27-41.

**47.** Ibid., p. 40.

*Translated by Francis Aubert*

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