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## Corporate Social Function and Public Policies for Socioeconomic Inclusion in Brazil

## Função Social Empresarial e Políticas Pública Para Inclusão Socioeconômica no Brasil

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**RESUMO**

This article discussed the corporate function when complying with public policies for social and economic inclusion. Firstly, the conceptualization of regulatory public policies was studied as the way to define rules and procedures that regulate the behavior of actors to meet the general interests of society. Subsequently, socioeconomic inclusion through decent work and regulatory public policies aimed for this specific purpose were analyzed. Finally, it was verified the effectiveness of the corporate social function in the fulfillment of such regulations. The deductive method was adopted, with the form of a qualitative approach, with an exploratory objective, through technical bibliographic procedure.

**KEYWORDS:** Socioeconomic Inclusion. Corporate Social Function. Decent Work. Public Policies. Regulation

**RESUMO**

Este artigo tem por objetivo discutir o papel das empresas no cumprimento das políticas públicas de inclusão social e econômica. Primeiramente, estudou-se a conceituação de políticas públicas regulatórias como meio de definição de regras e procedimentos para regular o comportamento dos atores ao encontro dos interesses gerais da sociedade. Posteriormente, analisou-se a inclusão socioeconômica por meio do trabalho decente e quais políticas públicas normativas apontam para esse fim específico. Por fim, verificou-se a efetividade da função social corporativa no cumprimento dessas normas. Adotou-se o método dedutivo, na forma de abordagem qualitativa, com objetivo exploratório, por meio do procedimento técnico bibliográfico.

**PALAVRAS-CHAVE:** Inclusão Socioeconômica. Função Social Empresarial. Trabalho Decente. Políticas Públicas. Regulação

## 1 INTRODUÇÃO

In this article, we propose to answer what is the corporate function exercised in the face of public policies of socioeconomic inclusion regulated by the State.

In order to clarify the importance of the company in the face of the need for socioeconomic inclusion, such research is justified, since we are facing a scenario of need for social inclusion through economic inclusion, which occurs, for the most part, through of work, which constitutionally must occur in a dignified manner.

For this, at first, what is a regulatory public policy will be studied, in order to, later, study socioeconomic inclusion through work, and which public policies aimed at socioeconomic inclusion, to finally verify the importance of the company. within this scenario, so that it is possible to verify which corporate function it performs.

For this, the deductive method was adopted, with the form of a qualitative approach, with an exploratory objective, so that it is possible to provide greater familiarity with the proposed problem, through the bibliographic technical procedure in doctrines and legislation.

## 2 THE CONCEPTUALIZATION OF REGULATORY PUBLIC POLICY

Public policies express demands, which can be demands for health, education, public safety, work, that is, they aim to implement constitutionally guaranteed social rights, as well as express demands for participation in the political system, organization of political associations, also, of control of corruption, of political information, of establishment of norms for the behavior of the public and private agents (RUA: 1998). Public policies are a dynamic process, with negotiations, pressures, mobilizations, alliances or coalitions of interests (TEIXEIRA: 2002).

In general, Public Policies are related to government actions, in order to implement its electoral proposals, and, specifically when trying to guarantee rights around decent work, as determined by the International Labor Organization (ILO), meet pressures of international organizations in response to social needs (SOUZA: 2006).

These are programs that will reflect on the social context, as they aim at social improvements, through pre-defined reasons, satisfying some need/deficiency in society. This means that the attempt to conceptualize Public Policies must permeate the context of the interrelationship between State, politics, economy and society.

Scheffer (2014) states that the essence of Public Policies is the public problem identified in society, and that it will bring a kind of response to this identification, in order to promote improvements.

Public Policies, after designed and formulated, are materialized in plans, programs, projects, databases or information and research systems. When put into action, they are implemented and then subjected to monitoring and evaluation systems (SOUZA: 2006).

A public policy usually involves more than one decision and requires several strategically selected actions to implement the decisions taken. Furthermore, as obvious as it may seem, public policies are 'public' - and not private or just collective. Precisely because of their imperative nature, since they are coercively imposed on those administered, and obedience is not optional by individuals, that is, they are decisions and actions covered by the sovereign authority of the public power (RUA: 1998).

The Public Policy focus should be public welfare, aiming to obtain the greatest possible welfare in the most efficient way, in order to face and solve a problem rationally through a process of governmental actions, and the public action will be carried out with resources that are also public, which is why even more efficiency is expected (VÁZQUEZ; DELAPLACE: 2011).

Vázquez and Delaplace (2011) bring another perspective, in the sense that the objective and essence of Public Policy is not the solution of specific problems, of unsatisfied demands, but the fulfillment of rights. Therefore, it is understood that public policies become instruments through which fundamental rights are realized.

Based on these premises, the concept of Regulatory Public Policy, according to Lowi's classification is that it is about the establishment of standards of behavior, service or product for both public and private actors (SCHEEFFER: 2014).

Adding Veruska Goias (2014) that regulatory public policies cannot be confused with normatized rights, regulatory frameworks, since they have their own cycle of existence, which are decisions, implementation, evaluation, extinction or permanence.

Therefore, not all normatized rights and regulatory frameworks are public policies, since for their real existence they need their own cycle, which is the 'management cycle or processes', which result from a process divided into stages or stages: 1) problem identification; 2) agenda-setting (becomes a political issue); 3) formulation of alternatives (choosing the best actions to be taken to deal with the public problem); 4) decision making (choosing the best actions to be taken to deal with the public problem); 5) implementation; 6) evaluation and 7) extinction (SCHEEFFER: 2014).

The Regulatory Public Policy is specifically the implementation of rules for the relations between public power and society, mediating actions between actors of society and the State. Being explained, systematized, or formulated in documents, as for example, in legislation, aiming to respond to demands, social needs, as well as to expand and make effective citizenship rights (TEIXEIRA: 2002).

Assuming a specific role in social relations, as they aim to define rules and procedures that regulate the behavior of actors to meet the general interests of society (TEIXEIRA; 2002). According to Frey (2000), regulatory policies work with orders and prohibitions, decrees and ordinances.

Based on this study, it is concluded that the implementation of a regulatory public policy occurs in a complex and proceduralized way, being even more complex the regulation of corporate behavior with the goal of socioeconomic inclusion, since for this purpose the State will have to intervene in the sphere private sector, making the private sector also public, which for Pilati (2012) signals a new paradigm, as will be studied further, together with specific public policies for socioeconomic inclusion.

### 3 SOCIOECONOMIC INCLUSION THROUGH DECENT WORK

The Welfare State, according to Delgado (2005), was the maximum point of income and power distribution already experienced by capitalism since its origins. One of its fundamental postulates was the *primacy of work* in capitalist society. From this period on, employment became the epicenter of the organization of social life and the economy, that is, it becomes the most relevant instrument for the affirmation of human beings, in terms of their social and economic family insertion. It is the pillar of the structuring of the economic, social and cultural order of a minimally democratic capitalist society.

This cultural matrix wisely detected that work, especially regulated work (employment, in short), as it guarantees a certain level of guarantees for human beings, constitutes the most important vehicle of socioeconomic affirmation of the vast majority of the individuals that make up the capitalist society, thus being one of the most relevant (if not the most of them) instruments of affirmation of Democracy in social life. Work assumes the character of being the most relevant means of guaranteeing a minimum of social power to the great mass of the population, which is deprived of wealth and other licit means of reaching it. In this way, he wisely perceived this cultural matrix, the fallacy of instituting Democracy

without a corresponding economic-social system that values human work (DELGADO: 2005).

Therefore, work assumes a fundamental character for the guarantee of human dignity, since through decent work the distribution of wealth is guaranteed, the most important instrument of socioeconomic inclusion. Employment, regulated and protected by legal norms, emerges as the main vehicle for the insertion of workers in the capitalist socioeconomic arena, aiming to provide them with a consistent level of individual, family, social, economic and even ethical affirmation. Adding still, not to be the only one, since the specialized and valued autonomous work also has this character, but it is the main and most comprehensive vehicle of socioeconomic affirmation of most of the population in the unequal capitalist society (DELGADO: 2005).

In this sense, public policies aimed at increasing formal jobs are, from a macro-economic point of view, the best and most effective affirmative actions for the dignity of the human person. Thanks to them, a large mass of workers hitherto excluded and marginalized pass to formality and conquer the means of social welfare (health, social security, FGTS for housing, providing them with dignity through work, enabling them to themselves seek the goods of the world of life, with their own strength, without assistance.

Goldschmidt (2008) explains that public policies focused on economically including the worker through the employment contract, with due compliance with labor laws are the most effective way to obtain a better distribution of wealth and to build an economy more solid, without loss of internal or external competitiveness. The affirmation of work, especially formal work, is therefore a fundamental element for social inclusion and better income distribution. In other words, public employment policies and the regulation of formal work, roles that are assigned to the State, are necessary not only to affirm the dignity of the human person, but also to ensure the firm and consistent development of the country's economy, in a spiral positive and growing, resulting in benefits for all those involved: workers, companies and the State.

It is up to the State to give normative force to the Constitution by implementing concrete actions that encourage the formal hiring of workers, removing them from unemployment or underemployment (GOLDSCHMIDT: 2008).

In this context, the Federal Constitution of 1988 establishes that one of the foundations of the Democratic State of Law is the 'dignity of the human person' (art. 1st, III). In addition, the Brazilian constitutional text states that all economic action aims to ensure a dignified existence for everyone (art. 170) (RAMOS: 2014).

The Federal Constitution ensures that economic power must value human work; and its main objective is to assure everyone a dignified existence according to the dictates of social justice, under the terms of art. 170. Based on this guarantee, Ramos (2014) notes that capital (or economic power) is the *means* to ensure and promote the dignity of the human being, and any reasoning that seeks to reverse this order is illegitimate and unconstitutional. Because man cannot fail to benefit from the production chain, that is, man is not just the means of fostering the accumulation of capital. For that, the State must intervene in the relationship between capital and work, affirming the principled basis of Labor Law, considering that these are current and effective directives to guarantee the fair distribution of wealth in the country. country: inclusion of more workers in the formality of employment, generating income for them and taxes to the State and driving the economy towards a growth spiral; increase in domestic consumption, provided by the wages paid to workers who, in the final analysis, are also consumers; and guaranteeing the infrastructure works so desired by entrepreneurs as a form of growth, which is only possible with the increase in taxes (GOLDSCHMIDT: 2008).

In this way, socioeconomic inclusion through work can be considered a Fundamental Right, since fundamental rights are those internally positivized, that is, present in the national legal system, and therefore subject to judicial collection, as they would have a constitutional matrix (RAMOS: 2014).

The 1988 Constitution dealt with human rights in its Title II called “Fundamental Rights and Guarantees”, dividing it into five categories, namely: a) individual and collective rights and duties; b) social rights; c) nationality rights; d) political rights; and e) political parties. Not being an exhaustive list, since it guarantees in its art. 5, §2 of the Constitution the principle of non-exhaustiveness of fundamental rights, also called opening of the Constitution to human rights. Since the right to work guaranteed in article 6 of the Federal Constitution is called a social right that consists of a set of legal faculties and positions by which an individual can demand benefits from the State or society or even abstention to act, all to ensure minimum material conditions for survival.

Historically, social rights are the result of socialist revolutions in several countries, having been inserted, in the constitutional field, in a pioneering way in the Constitution of Mexico in 1917 and in the Constitution of Weimar (Germany) of 1919. In International Rights, the Treaty of Versailles (1919) is innovative in constituting the main defense of workers' rights. In Brazil, the 1934 Constitution is the starting point for the introduction of social rights, but these were included in the chapter on economic and social order. The 1988

Constitution, on the other hand, has a specific chapter (“Social Rights”, articles 6 to 11) in Title II (“Fundamental Rights and Guarantees”) and also enshrined the principle of non-exhaustiveness of social rights, which allows to extract new rights resulting *from* the regime and principles, as well as from the treaties entered into by Brazil (Article 5, §2) (RAMOS: 2014).

Article 7 guarantees work in a dignified way, complemented especially by the Consolidation of Labor Laws, which are *essentially provisional in content*, in which State and society action is required to overcome factual inequality and material situations that are offensive to the dignity of the worker. , as well as, they can be content with abstention (or defense), in which the State must refrain from unduly interfering in a certain social right, such as, for example, freedom of union association or still the right to strike (RAMOS: 2014).

Consequently, work is the main social instrument of inclusion, which is a fundamental right, being duly ensured by the Brazilian legal system, which is guaranteed in a dignified way to all individuals without distinction of sex, race, color, religion, according to will observe next.

#### **4 PUBLIC POLICIES THAT REGULATE SOCIOECONOMIC INCLUSION**

Given the importance of work in the capitalist economic order, and in order to guarantee it in the best way for individuals, it is important to study which public policies for socioeconomic inclusion exist in the Brazilian legal system.

Juarez Freitas (2010) highlights as the first precept and the key to the systematic interpretation of the Constitution, the hierarchy of principles against norms in the strict sense (rules), which would make them, in practice, foundation and summit of the order. When the entire constitutional system is connected, in order to resolve some legal issue, either through the performance of the public administrator or through the performance of the judiciary, fundamental rights are achieved in practice by the fact that the interpreter goes beyond the mere text and recognizes its direct and indirect effectiveness. This provides a satisfying and dignified life.

It also argues that in our Democratic State of law, all legal interpretation is systematic, emphasizing that systematic interpretation is, in a way, constitutional, subordinating any rule to fundamental rights and superior principles, that is, understanding these like the constitutional ones (FREITAS: 2010).

In this way, based on the fundamental rights guaranteed constitutionally, here specifically the right to decent work and economic order, based on the appreciation of human work and free initiative, in order to ensure everyone a dignified existence, according to the dictates of social justice, to study infra constitutional laws will be used to implement public policies for socio-economic inclusion in a systematic way.

We will begin the study with Law nº 13.146, of July 6, 2015, which establishes the Brazilian Law for the Inclusion of Persons with Disabilities (Statute of Persons with Disabilities), intended to ensure and promote, on an equal basis, the exercise of fundamental rights and freedoms by people with disabilities, aiming at their social inclusion and citizenship (BRASIL: 2015).

Ensuring your art. 35 be the primary purpose of public policies on work and employment to promote and guarantee conditions of access and permanence of people with disabilities in the work field, asserting that programs to encourage entrepreneurship and self-employment, including cooperativism and associativism, must provide for the participation of people with disabilities and the availability of credit lines, when necessary (BRASIL: 2015).

This legislation is complemented by Law No. 8,213, of July 24, 1991, which provides for Social Security Benefit Plans, as it determines in its article 93 that a company with 100 (one hundred) or more employees is required to complete from 2% (two percent) to 5% (five percent) of their positions with rehabilitated beneficiaries or people with disabilities, in the following proportion: i) up to 200 employees: 2%; ii) from 201 to 500:3%; iii) from 501 to 1000: 4%; iv) IV - from 1,001 onwards: 5% (BRASIL: 1991).

In the Brazilian legal system, incentives for the first job were also created, through Law No. 11,692, of 2008 (BRASIL: 2008a)

Law No. 11,692, of June 10, 2008, which provides for the National Youth Inclusion Program - Projovem, which is a National Youth Inclusion Program - Projovem , established by Law No.<sup>11,129</sup>, of June 30, 2005, which became governed, as of January 1<sup>o</sup>2008, by the provisions of this Law (BRASIL: 2008a).

Projovem is aimed at young people aged between 15 (fifteen) and 29 (twenty-nine) years old, with the objective of promoting their reintegration into the educational process, their professional qualification, and their human development, being developed through the following modalities: i) Projovem Adolescent – Socio-educational Service; ii) Projovem Urbano; iii) Projovem Campo- Saberes da Terra; i) Proyoung Worker (BRASIL: 2008a).

Projovem is a National Youth Inclusion Program, which authorizes the Union to grant financial aid, in - originally - the amount of R\$ 100.00 (one hundred reais) monthly, to Projovem beneficiaries, in the aforementioned modalities (BRASIL: 2008a).

Laws also ensure job stability for young people, such as Decree No. 5,598, of December 1, 2005, which regulates the hiring of apprentices. Considering an apprentice to be over fourteen years old and under twenty-four years old who enters an apprenticeship contract, pursuant to art. 428 of the Consolidation of Labor Laws – CLT, the maximum age provided does not apply to disabled apprentices (BRASIL: 2005c).

According to article 3, the apprenticeship contract is the special employment contract, agreed in writing and for a fixed period not exceeding two years, in which the employer undertakes to ensure to the apprentice, enrolled in an apprenticeship program, methodical technical-professional training compatible with their physical, moral, and psychological development, and the apprentice undertakes to carry out with zeal and diligence the tasks necessary for this training (BRASIL: 2005c).

As well as Law No. 11,788, of September 25, 2008, which provides for student internships; changes the wording of art. 428 of the Consolidation of Labor Laws - CLT, and the internship is a supervised school educational act, developed in the work environment, which aims to prepare for the productive work of students who are attending regular education in institutions of higher education, professional education, secondary education, special education and the final years of elementary education, in the professional modality of youth and adult education (BRASIL: 2008b).

Law No. 9,799, of May 26, 1999, which included rules<sup>1</sup> on women's access to the labor market in the Consolidation of Labor Laws and provided other measures, such as the prohibition of discriminatory conduct in labor relations with women (BRASIL: 1999).

Law No. 9,029, of April 13, 1995, art. 1 prohibits the requirement of pregnancy and sterilization certificates, and other discriminatory practices, for the purposes of admission or

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<sup>1</sup> Art. 373-A. Except for the legal provisions intended to correct the distortions that affect women's access to the labor market and certain specificities established in labor agreements, it is prohibited to:

I - publish or have a job advertisement in which there is reference to sex, age, color or family situation, except when the nature of the activity to be exercised, publicly and notoriously, so requires;

II-refuse employment, promotion or motivate dismissal from work due to sex, age, color, family situation or pregnancy status, except when the nature of the activity is notoriously and publicly incompatible;

III - consider gender, age, color or family situation as a determining variable for purposes of remuneration, professional training and opportunities for professional advancement;

IV - require a certificate or examination, of any nature, to prove sterility or pregnancy, upon admission or permanence in employment;

V - prevent access or adopt subjective criteria for deferring registration or approval in competitions, in private companies, due to sex, age, color, family situation or pregnancy status;

VI - to carry out the employer or agent to search the female employees. (BRAZIL, 1999).

permanence of the legal employment relationship, and provides other measures. The following discriminatory practices constitute crimes: i) I - the requirement of testing, examination, expertise, report, certificate, declaration or any other procedure related to sterilization or pregnancy status; ii) II - the adoption of any measures, at the initiative of the employer, that configure; a) inducing or instigating genetic sterilization; b) promotion of birth control, thus not considering the provision of services and counseling or family planning, carried out through public or private institutions, subject to the rules of the Unified Health System (SUS in Portuguese) (BRASIL: 1995).

Such regulations aim to balance the gender situation (man x woman) in the labor market, with the sole purpose of socio-economically including women on an equal basis with men, through the measures/barriers exposed above.

Law No. 10,741, of October 1, 2003, which provides for the Elderly Statute, which now ensures that the elderly person has the right to exercise a professional activity, respecting their physical, intellectual, and psychological conditions. Determining that in the admission of the elderly to any job or job, discrimination is prohibited and the establishment of a maximum age limit, including for competitions, except in cases where the nature of the position so requires. (BRASIL: 2003). Therefore, in its art. 28 guarantees that the Public Power will create and encourage programs for a) specialized professionalization for the elderly, taking advantage of their potential and skills for regular and remunerated activities; b) preparing workers for retirement, at least 1 (one) year in advance, by encouraging new social projects, according to their interests, and providing clarification on social and citizenship rights; and c) encouragement to private companies for the admission of elderly people to work (BRASIL: 2003).

Also, Law No. 12,990, of June 9, 2014, which reserves 20% (twenty percent) of the vacancies offered in public competitions for blacks to fill effective positions and public jobs within the scope of the federal public administration, autarchies, public foundations, public companies and mixed capital companies controlled by the Union (BRASIL: 2014).

In terms of socioeconomic inclusion, we also consider Law No. 12,711, of August 29, 2012, which provides for admission to federal universities and federal high-level technical education institutions and other measures, ensuring that in federal higher education institutions linked to the Ministry of Education will reserve, in each selective competition for admission to undergraduate courses, by course and shift, at least 50% (fifty percent) of their vacancies for students who have completed high school in public schools (BRASIL: 2012).

Finally, it is interesting to mention Law No. 13,445, of May 24, 2017, which establishes the Migration Law, which in its art. 21 ensures that after receiving the asylum request, the Federal Police Department will issue a protocol in favor of the applicant and his family group that is in the national territory, which will authorize the stay until the final decision of the process. Since that protocol will allow the Ministry of Labor to issue a provisional work card, for the exercise of remunerated activity in the country (BRASIL: 2021).

Also guaranteeing, in its art. 44 that the recognition of certificates and diplomas, the requirements for obtaining resident status and admission to academic institutions at all levels should be facilitated, taking into account the unfavorable situation experienced by refugees (BRASIL: 2021).

Furthermore, the immigrant is assured that public policies must observe the following principles and guidelines: i) protection and provision of consular assistance through Brazilian representations abroad; ii) promotion of decent living conditions, through, among others, the facilitation of consular registration and the provision of consular services related to the areas of education, health, work, social security and culture; iii) promotion of studies and research on emigrants and Brazilian communities abroad, in order to support the formulation of public policies; iv) diplomatic action, at the bilateral, regional and multilateral levels, in defense of the rights of Brazilian emigrants, in accordance with international law; v) integrated government action, with the participation of government bodies acting in the thematic areas mentioned in items I, II, III and IV, aiming to assist Brazilian communities abroad; vi) permanent effort to reduce bureaucracy, update and modernize the service system, with the objective of improving assistance to emigrants (BRASIL: 2021).

With the implementation of these policies, there is the effectiveness of material equality, since it is already known that in order to achieve ideal equality, unequals must be treated unequally in the measure of their inequalities. It is understood that such policies are essential for economic development, as there is the distribution of wealth through the breaking of barriers that delay full development, such as prejudice, for example, as well as the appreciation of social diversity, causing for excluded groups or minorities to conquer their social space, causing the full development of all, it also makes the business sector pluralized, and in general they end up preparing young people for the job market, as is the case of work permits for young people apprentices and the internship itself, causing an advance in the strategic direction of the company in the sense of social responsibility.

## 5 BUSINESS ROLE IN FRONT OF PUBLIC POLICIES OF SOCIOECONOMIC INCLUSION

As seen at the first moment, it is the duty of the State to regulate public policies according to social demands, however, their fulfillment occurs in a plural way, through the interrelationship of the public and private sectors, assuming the private sector, at the moment, a collective duty, the so-called principle of business social function.

The principle of the social function of the company has as foundations for its conceptualization the social function of private property together with an economic order based on the appreciation of human work and free initiative, articles 5, item XXIII and 170, item III of the Constitution of the Brazilian Federative Republic 1988, respectively. In short, ensuring a dignified life through the economy itself (BRASIL: 1988).

All individuals are guaranteed the right to private property, consequently the ownership of the means of production, through the free exercise of business economic activities. However, the Federal Constitution itself imposes a limitation on this right, as the property must harmoniously serve not only private interests, but also collective interests, thus fulfilling its social function.

There is then a right and duty in relation to the exercise of private property, there is no absolute freedom in the right to property and, therefore, in the exercise of business activities. There are greater interests to be pursued than the lucrative desires, which have to be exercised in consideration of the other interests that surround it, the interests of employees, the tax authorities and the community (TOMAZETTE: 2018).

Through this principle, he reconciled conflicting principles, namely, the principle of private property, which guarantees private/individual rights, and the principle of social function, which aims to guarantee collective interests. For this, a requirement was imposed for the guarantee of private property, which is the fulfillment of its social function.

In order to do so, we started from the premise that in post-modernity we work with the concept of property in the broad sense, including all patrimonial power opposable to the social group. This puts within reach of the function all individual and social power, be it political, economic, of whatever nature. Concluding that within this context, not only the concept of property is modified, but the entire paradigm (PILATI: 2012).

In this bias, since the company is a private property, which has political and economic power, when starting from this new paradigm defended by Pilati, in the sense that everything that encompasses private property in post-modernity brings with it the duty of fulfill its social

function, according to collective interests, emerging a new structure and business concept, as the collective starts to have the same weight as the individual property right.

Fabio Coelho (2017) conceptualizes the social business function in the sense that it is fulfilled when the company generates jobs, taxes, distribution of wealth, contributing to the economic, social and cultural development where it operates, adopting sustainable business practices, aiming here to protect the environment, as well as to fulfill its duties towards its employees by complying with the labor laws that aim to guarantee dignity in the exercise of work. That is, it fulfills its social function when it is strictly complying with legislation relevant to its economic activities, as well as all the facets that involve it.

Within this context, Zanoti (2006) adds that this means that the pursuit of profit does not give permission to despise the appreciation of the dignity of the human person, represented, in short, by the due respect for the well-being of employees and the surrounding community; by permanently optimizing the quality of its goods or services; for loyalty to the State and suppliers, and for the preservation of the environment.

The need for concern with the social is posited in the chapter that deals with the 'Economic Order', in Art. 170, of the Federal Constitution: The economic order, founded on the valorization of human work and free initiative, aims to ensure everyone's existence is dignified, according to the dictates of social justice [...]. For such ideas to be made possible, it is essential that the principles that are established in the same Art. 170 are observed.

With this, the administrator receives a difficult mission, that of reconciling economic and social interests, for through an ethical stance in decision-making, which Zanoti (2006) scored well in the sense of respecting the social well-being of employees, as well as the community in which it is inserted. This dualism must be the fundamental problem that every company, with an ethical posture, needs to manage.

Goias (2014) contextualizes the social business function from the perspective that the company organizes itself as a private agent, as a rule, and seeks its own benefits, incurring in the capitalist regime of market freedom and initiative. But as it is a large-scale economic activity, it interferes widely in the social environment, receiving not only rights, but especially obligations, which is justified in view of the strength with which it operates in the economy. Currently, there is talk of constitutionalization of civil law, due to the requirement that property meet its social function (CRFB/88, art. 5, XXIII).

Coelho (2017) elaborates that the social scenario that a company can involve, in addition to the interests of entrepreneurs, the partners of the business society and investors, namely, the interests of workers, focusing on the preservation of their jobs, with decent work

and salary improvement, consumers, tax authorities, as well as the collective or diffuse meta-individual interests of the collectivity, such as the local, regional, national and global economy, which is the commitment to development.

For Massoli (2015), the social function of the company would be a natural result of its own development, with the generation of jobs, payment of taxes, circulation of wealth, among others. Adding that the corporate social function is materialized by complying with the rules of Consumer Law, Competition Law and Labor Law.

The term corporate social function is present in the Corporation Law and in the Judicial and Extrajudicial Reorganization Law, and in Law 6,404/76 (Brazilian Corporation Law), in articles 116 and 154, it contains the determination that the shareholder The controller has the duty to use its power to meet the company's own objectives, as well as to ensure that it fulfills its social function, that is, it must fulfill its duties and responsibilities towards the other shareholders of the company, those who work in it and for with the community where it operates, whose rights and interests it must loyally respect and attend, being diligent in all decisions to be taken, in order to ensure such objectives without deviation from purpose (BRASIL: 1976).

In judicial reorganization, Law No. 11,101/2005, the principle of social function is the foundation to justify the need for judicial reorganization, serving as a basis for decision-making, together with interpreting the will of creditors and debtors. In other words, when working on a judicial reorganization one must always keep in mind its social function. If the company can perform its social function very well, there is a justification for further efforts towards its recovery (TOMAZETTE: 2018).

Also, in the Judicial and Extrajudicial Reorganization Law, it aims to make it possible to overcome the debtor's economic-financial crisis situation, in order to allow the maintenance of the producing source, the employment of workers and the interests of creditors, thus promoting the preservation of the company, its social function and the stimulus to economic activity, as expressly provided for in article 47 (BRASIL: 2005a).

Therefore, present is the requirement, on the part of the controlling shareholder, to act responsibly with its power of control, in obedience to the social function of the company, in addition to its duties of diligence, being vetoed the deviation of purpose that is the social function itself. and the specific objectives of the company (BRASIL:1976).

Massoli (2015) explains that It is important to assert that the exercise of the social function, by the controlling shareholder, must occur primarily at the general meeting, as it is in this scenario that, in fact, he has the conditions to exercise his power. At a time outside the

meeting, the controlling shareholder will verify the performance of the managers, however, without exceeding the limit of their attributions, as a shareholder. The development of business activity, obviously, moves the economy and generates patrimonial and off-balance sheet effects in the daily lives of several people, whether physical or legal. The fact is that, especially when it comes to large companies, the reflection of the decisions taken by the company, in the fulfillment of its object, has the power to completely change the routine of a significant range of entities.

Requião (2019) explains that the company ends up assuming severe and serious duties towards the community in which it operates. Managers must reconcile [...] multiple and different interests, of which profit is the main one, but not the only one. Concluding that every company must behave as a responsible part of the social aggregate in which it operates.

The administrators, therefore, have the ethical-social duty, the duty of diligence and the prohibition of the misuse of power, having as justification the need to prevent the deviation of their social functions, which occurs also through socioeconomic inclusion itself.

The company is the key to achieving the desired social and economic inclusion through the implementation of public policies previously studied, through socioeconomic inclusion, which not only distributes wealth, but mainly has the duty to guarantee decent work through the application of labor laws, the aim is then economic development, passing through the fulfillment of the then social business function, in which all facets of society win, a key point for social balance.

The State regulates the public policy of socio-economic inclusion, but it is in the private sector, through companies, that the regulated public policies are fulfilled, with the company assuming a collective duty, the so-called corporate social function. Companies in the established economic order, that is, capitalism, companies assume an indispensable role, because it is not only responsible for the distribution of wealth, but the fulfillment of specific public policies, which has the role not only of pluralizing the environment. business, but mainly to include individuals socioeconomically through decent work, that is, in compliance with the norms of the ILO, CRFB/88, CLT, together with the implementation of specific norms for the socioeconomic inclusion of young people, of the elderly, of the women, of the immigrant.

## 6 CONCLUSION

Public Regulatory Policies are about the implementation of rules between public power and society, mediating actions between actors of society and the State, determined by the State itself, aiming to respond to demands, social needs, as well as to expand and make effective citizenship rights. Assuming a specific role in social relations, as they define rules and procedures that regulate the behavior of those involved to meet the general interests of society, through orders and prohibitions, decrees and ordinances.

Faced with the power of the State in certain social aspects, it has the duty, therefore, to intervene in the private sector in order to implement fundamental rights, as is the case of work, which is the epicenter of the organization of social life and the economy, an instrument most relevant for the affirmation of the human being, being the pillar of the structuring of the economic, social and cultural order of the minimally democratic capitalist society, as studied. It is constituted as the most important vehicle of socio-economic affirmation of the great majority of the individuals that make up the capitalist society, with the character of being the most relevant means of guaranteeing a minimum of social power to the great mass of the population, which is, unfortunately, in its majority, destitute of wealth and other lawful means of attaining wealth itself.

Therefore, we conclude that work plays a fundamental role in guaranteeing human dignity, since through decent work the wealth distribution is guaranteed. It becomes the most important instrument of socioeconomic inclusion. For its proper execution, the work must be properly regulated and protected by legal norms, aiming to provide a consistent level of individual, family, social, economic and even ethical affirmation.

Within this bias, public policies for socioeconomic inclusion are of great importance, such as those that guarantee the entry into higher education of people who have always studied through public education, and it is possible to assume that they are of lower income, together with the law that guarantees professional experience, such as the authorization of the young apprentice and the internship itself. Also the laws that aim at material equality, as is the case of those that guarantee work to the elderly, the black and the woman, preventing social discrimination aiming at full social development.

However, for the proper fulfillment of such regulatory policies of socioeconomic inclusion, the private sector, the business sector, is responsible for fulfilling these collective needs, which as we have seen is a new paradigm, since it has changed business horizons, because it added to its purposes, in addition to profit, the social function itself. In the current

economic order, companies assume the essential role for economic development, being necessary to balance all sectors towards the desired development, and then to fulfill the corporate social function.

## REFERENCES

BRASIL. (1988). Constituição Federal da República Federativa Brasileira de 1988. Available at: < [http://www.planalto.gov.br/ccivil\\_03/constituicao/constituicaocompilado.htm](http://www.planalto.gov.br/ccivil_03/constituicao/constituicaocompilado.htm)> access in nov 2021.

\_\_\_\_\_. (1976) Lei nº 6.404, de 15 de dezembro de 1976: dispõe sobre Sociedade Anônima. Available at: < [http://www.planalto.gov.br/ccivil\\_03/leis/L6404compilada.htm](http://www.planalto.gov.br/ccivil_03/leis/L6404compilada.htm)> access in nov 2021.

\_\_\_\_\_. (1991) Lei nº 8.213, de 24 de julho de 1991: dispõe sobre os Planos de Benefícios da Previdência Social e dá outras providências. Available at: < [http://www.planalto.gov.br/ccivil\\_03/leis/L8213cons.htm](http://www.planalto.gov.br/ccivil_03/leis/L8213cons.htm)> access in nov 2021.

\_\_\_\_\_. (1995) Lei nº 9.029, de 13 de abril de 1995: Proíbe a exigência de atestados de gravidez e esterilização, e outras práticas discriminatórias, para efeitos admissionais ou de permanência da relação jurídica de trabalho, e dá outras providências. Available at: < [http://www.planalto.gov.br/ccivil\\_03/LEIS/L9029.HTM](http://www.planalto.gov.br/ccivil_03/LEIS/L9029.HTM)> access in nov 2021.

\_\_\_\_\_. (1999) Lei nº 9.799, de 26 de maio de 1999: Insere na Consolidação das Leis do Trabalho regras sobre o acesso da mulher ao mercado de trabalho e dá outras providências. Available at: < [http://www.planalto.gov.br/ccivil\\_03/leis/L9799.htm](http://www.planalto.gov.br/ccivil_03/leis/L9799.htm)> access in nov 2021.

\_\_\_\_\_. (2003a) Lei nº 10.741, de 1º de outubro de 2003: Dispõe sobre o Estatuto do Idoso e dá outras providências. Available at: < [http://www.planalto.gov.br/ccivil\\_03/leis/2003/L10.741.htm](http://www.planalto.gov.br/ccivil_03/leis/2003/L10.741.htm)> access in nov 2021.

\_\_\_\_\_. (2003b) Lei nº 10.748, de 22 de outubro de 2003. Revogado pela Lei nº 11.692, de 2008. Criou o Programa Nacional de Estímulo ao Primeiro Emprego para os Jovens - PNPE, acrescenta dispositivo à Lei no 9.608, de 18 de fevereiro de 1998, e dá outras providências. Available at: < [http://www.planalto.gov.br/ccivil\\_03/leis/2003/L10.748.htm](http://www.planalto.gov.br/ccivil_03/leis/2003/L10.748.htm)> access in nov 2021.

\_\_\_\_\_. (2005a) Lei nº 11.101, de 9 de fevereiro de 2005: regula a recuperação judicial, a extrajudicial e a falência do empresário e da sociedade empresária. Available at: < [http://www.planalto.gov.br/ccivil\\_03/\\_ato2004-2006/2005/lei/111101.htm](http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2005/lei/111101.htm)> access in nov 2021.

\_\_\_\_\_. (2005b) Lei nº 11.129, de 30 de junho de 2005: Institui o Programa Nacional de Inclusão de Jovens - ProJovem; cria o Conselho Nacional da Juventude - CNJ e a Secretaria Nacional de Juventude. Revogada pela Lei nº 11.692, de 10/6/2008. Available at: < <http://www2.camara.leg.br/legin/fed/lei/2005/lei-11129-30-junho-2005-537682-normaatualizada-pl.html>> access in nov 2021.

\_\_\_\_\_. (2005c) Decreto nº 5.598, de 1º de dezembro de 2005: Regulamenta a contratação de aprendizes e dá outras providências. Available at: < [http://www.planalto.gov.br/ccivil\\_03/\\_ato2004-2006/2005/decreto/d5598.htm](http://www.planalto.gov.br/ccivil_03/_ato2004-2006/2005/decreto/d5598.htm)> access in nov 2021.

\_\_\_\_\_. (2008a) Lei nº 11.692, de 10 de junho de 2008: Dispõe sobre o Programa Nacional de Inclusão de Jovens - Projovem, instituído pela Lei no 11.129, de 30 de junho de 2005; altera a Lei no 10.836, de 9 de janeiro de 2004. Available at: < [http://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2008/lei/111692.htm](http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2008/lei/111692.htm)> access in nov 2021.

\_\_\_\_\_. (2008b) Lei nº 11.788, de 25 de setembro de 2008: Dispõe sobre o estágio de estudantes; altera a redação do art. 428 da Consolidação das Leis do Trabalho – CLT. Available at: < [http://www.planalto.gov.br/ccivil\\_03/\\_ato2007-2010/2008/lei/111788.htm](http://www.planalto.gov.br/ccivil_03/_ato2007-2010/2008/lei/111788.htm)> access in nov 2021.

\_\_\_\_\_. (2012) Lei nº 12.711, de 29 de novembro de 2012: Dispõe sobre o ingresso nas universidades federais e nas instituições federais de ensino técnico de nível médio e dá outras providências. Available at: < [http://www.planalto.gov.br/ccivil\\_03/\\_ato2011-2014/2012/lei/112711.htm](http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2012/lei/112711.htm) > access in nov 2021.

\_\_\_\_\_. (2014) Lei nº 12.990, de 9 de junho de 2014: Reserva aos negros 20% (vinte por cento) das vagas oferecidas nos concursos públicos para provimento de cargos efetivos e empregos públicos no âmbito da administração pública federal, das autarquias, das fundações públicas, das empresas públicas e das sociedades de economia mista controladas pela União. Available at: < [http://www.planalto.gov.br/ccivil\\_03/\\_ato2011-2014/2014/lei/112990.htm](http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2014/lei/112990.htm)> access in nov 2021.

\_\_\_\_\_. (2015) Lei nº 13.146, de 6 de julho de 2015: institui a Lei Brasileira de Inclusão da Pessoa com Deficiência (Estatuto da Pessoa com Deficiência). Available at: < [http://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2015/lei/113146.htm](http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2015/lei/113146.htm)> access in nov 2021.

\_\_\_\_\_. (2021) Lei nº 13.445, de 24 de maio de 2021: Institui a Lei de Migração. Available at: < [http://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2017/lei/L13445.htm](http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2017/lei/L13445.htm) > access in nov 2021.

COELHO, F. U. (2017). Curso de direito comercial, volume 1: direito de empresa. São Paulo: Saraiva.

DELGADO, M. G. (2005). Capitalismo, trabalho e emprego: entre o paradigma da destruição e os caminhos de reconstrução. São Paulo: LTr.

FREITAS, J. (2010). A interpretação sistemática do direito. São Paulo: Malheiros.

FREY, K. (2000). <Políticas públicas: um debate conceitual e reflexões referentes à prática da análise de políticas públicas no Brasil> Planejamento e políticas públicas. 21, jun. 2000. Available at: [www.en.ipea.gov.br/ppp/index.php/PPP/article/viewFile/89/158](http://www.en.ipea.gov.br/ppp/index.php/PPP/article/viewFile/89/158)

GOIAS, V. S (2014). A Lei de Compliance e sua Configuração Enquanto Política Pública Regulatória para o Setor Privado Brasileiro. 2014. Available at <<https://www.tce.ce.gov.br/edicoes/revista-controle-volume-xii-n-2-dezembro-2014/send/228-revista-controle-volume-xii-n-2-dezembro-2014/2570-artigo-5-a-lei-de-compliance-e-sua-configuracao-enquanto-politica-publica-regulatoria-para-o-setor-privado-brasileiro>> acesso nov 2021.

GOLDSCHMIDT, R. (2008). Flexibilização dos direitos trabalhistas: ações afirmativas da dignidade da pessoa humana como forma de resistência. 2008. 253 p. (Doutorado em Direito). Universidade Federal de Santa Catarina – UFSC. Available at: <<https://repositorio.ufsc.br/bitstream/handle/123456789/91866/252613.pdf?sequence=1>>. access in nov 2021.

MASSOLI, V. B. (2015). Função social da empresa aspectos relevantes. 2015. <<https://www.conpedi.org.br/publicacoes/66fsl345/h0yx9ly1/Jgu7U1umFoz688Io.pdf>>access in nov 2021.

ORGANIZAÇÃO INTERNACIONAL DO TRABALHO (2021). Conheça a OIT. 2021. Available at: <<http://www.ilo.org/brasil/conheca-a-oit/lang--pt/index.htm>> access in nov 2021.

PILATI, J. I. (2012). Propriedade e função social na pós-modernidade. Rio de Janeiro: Lumen Juris.

RAMOS, A. C. (2014). Curso de direitos humanos. São Paulo: Saraiva.

REQUIÃO, R. (2019). Curso de direito comercial. v.2. São Paulo: Saraiva. Rua, Maria das Graças (1998). Análises de Políticas Públicas: conceitos básicos. 1998. Available at: <[http://franciscoqueiroz.com.br/portal/phocadownload/gestao/rua%20maria%20\\_%20analise depoliticaspUBLICAS.pdf](http://franciscoqueiroz.com.br/portal/phocadownload/gestao/rua%20maria%20_%20analise%20depoliticaspUBLICAS.pdf)>. access in nov 2021.

SCHEEFFER, F. (2014). O papel das Políticas Públicas: uma questão controversa. ANO. Available at: <[http://www.apec.unesc.net/VIII\\_EEC/sesoes\\_tematicas/6%20%20Eco%20Social%20PPs/Pol%20C3%ADticas%20p%20C3%BAblicas.pdf](http://www.apec.unesc.net/VIII_EEC/sesoes_tematicas/6%20%20Eco%20Social%20PPs/Pol%20C3%ADticas%20p%20C3%BAblicas.pdf)> access in nov 2021

SOUZA, C. (2006). Políticas públicas: uma revisão de literatura. Sociologias, Porto Alegre, ano 8, n. 16 (jul/dez 2006), p. 20-45.

TEIXEIRA, E. C. (2002). O papel das Políticas Públicas no Desenvolvimento Local e na transformação da realidade. 2002. Available at: <[http://www.dhnet.org.br/dados/cursos/aatr2/a\\_pdf/03\\_aatr\\_pp\\_papel.pdf](http://www.dhnet.org.br/dados/cursos/aatr2/a_pdf/03_aatr_pp_papel.pdf)> access in nov 2021.

TOMAZETTE, M. (2018). Curso de direito empresarial. São Paulo: Atlas.

VÁZQUEZ, D; DELAPLACE, D. (2011). Políticas públicas na perspectiva de direitos humanos: um campo em construção. SUR: Revista Internacional de Direitos Humanos, São

Paulo, v. 8, n. 14, jun. 2011. Available at: <<http://bdjur.stj.jus.br/dspace/handle/2011/44454>>. access in nov 2021.

ZANOTI, L. A. R. (2006). A função social da empresa como forma de valorização da dignidade da pessoa humana.

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