

PUBLIC FUNDING OF SOCIAL BENEFITS FOR IMMIGRANTS IN BRAZIL

Luciana Grassano¹

Abstract

This article examines, from the perspective of financial law, the disconnect between the universality of social rights guaranteed to immigrants by the Constitution of Brazil and the Migration Law (Act nº 13445, 2017) and the instruments that structure their public financing. It posits the hypothesis of the immigrant's budgetary invisibility, insofar as budgetary planning instruments and the criteria for the federal distribution of revenues ignore the presence of the migrant population. The effectiveness of these rights depends on fiscal improvisations, such as the extraordinary appropriations that funded Operation Welcome, and the burden of reception falls asymmetrically on the destination states, as demonstrated by the case of Roraima. Based on a review of the literature and documentary research, this study proposes three mechanisms to realign the budget with the constitutional promise: the creation of specific budget line items for migration policy; the establishment of mandatory and automatic compensatory transfers to overburdened entities; and the revision of the general criteria for revenue distribution.

Keywords

Financial law; Social rights of immigrants; Public budget; Fiscal federalism; Operation welcome.

Summary

Introduction. 1. Universality as a Premise: The Social Rights of Immigrants in the 1988 Constitution and the Migration Law. 2. The Financial Arrangement for Social Rights and the Budgetary Invisibility of Immigrants. 3. Fiscal Federalism and the Asymmetric Cost of Reception: The Case of Roraima. 4. Financial mechanisms to ensure the effectiveness of universality. Conclusions.

¹ Full Professor. Federal University of Pernambuco - Brazil

INTRODUCTION

Any discussion of the effectiveness of social rights must start from an irrefutable premise: rights cost money. As Holmes and Sunstein (1999) demonstrate, all state provision—including so-called negative freedoms—ly depends on public resources collected and allocated through budgetary decisions. It is precisely in the realm of financial law, therefore, that the constitutional promise of universality is realized—or not—and it is from this perspective, still largely unexplored by the legal literature on migration, that the topic will be addressed in this study.

The scholarly concern that motivates this research stems from the observation of an unreasonable contrast within the Brazilian legal system. On the one hand, the country boasts one of the most advanced immigration laws in the world, the Immigration Law (Act nº 13445, 2017), which is aligned with the provisions of the 1988 Constitution that universalize social rights, without distinction between nationals and foreigners (Articles 196, 205, and 203 of Brazilian's Constitution). On the other hand, an analysis of the public budget reveals the financial invisibility of this population, given the absence of specific appropriations, programmatic indicators, and federal distribution criteria that reflect their actual presence in the country. The right is proclaimed, but its funding is not even planned for.

The financial structures underpinning health, education, and social assistance in Brazil—namely, constitutional revenue earmarking, budgetary planning and execution instruments (PPA, LDO, and LOA), and criteria for the federal distribution of revenues—were designed without any consideration for the phenomenon of migration. So much so that the criteria for apportioning transfers earmarked for health and education are based on census population figures, which are incapable of capturing recent and geographically concentrated migration flows, so that the financial burden of hosting migrants falls asymmetrically on the destination subnational entities, which often have less fiscal capacity. This was starkly revealed by the Venezuelan migration flow concentrated in Roraima, which the federal government only addressed through extraordinary appropriations—instruments intended for exceptional circumstances—a fact that precisely highlights the absence of plan².

Given this context, the issues this article seeks to analyze are:

i) Is there a correspondence between the constitutional mandate of the universality of social rights—extended to immigrants by the 1988 Constitution (CF/88) and the Migration Law—and the instruments of

²The extraordinary appropriations that funded Operation “Acolhida” can be traced on SIGA Brazil (senado.leg.br) and the Transparency Portal (portaldatransparencia.gov.br), documentary sources used in Section 3 of this article.

financial law that structure the public financing of these benefits? ii) If not, what financial mechanisms would be capable of bringing the public budget back into alignment with the constitutional promise?

The hypothesis guiding this investigation is that no such correspondence exists. It is therefore argued that there is a structural mismatch between the normative-constitutional level and the financial-budgetary level, resulting from what is referred to here as *the “budgetary invisibility of immigrants,”* understood as the indifference of instruments for planning, allocating, and distributing public resources to the presence of the migrant population. Two verifiable consequences arise from this invisibility: the effectiveness of immigrants’ social rights depends on exceptional fiscal improvisations, and the cost of reception is distributed asymmetrically across the federation, overburdening the jurisdictions that concentrate migratory flows.

To this end, the methodological approach of this article consists of limiting the investigation to the normative framework that comprises the legal order—that is, the Constitution, the Migration Law, and financial legislation, and comparing it with a documentary review of federal budgetary instruments, budget execution data available on public transparency portals, and official reports from oversight bodies and international organizations regarding the Venezuelan migration flow. It should be noted that the case of Roraima is used as an empirical illustration of the hypothesis, rather

than as an exhaustive case study, which is justified by the length constraints of this paper.

The article is structured into four sections, in addition to this introduction and the conclusions. Section I establishes the normative premise, defining the constitutional and legal status of immigrants' social rights. Section II, the core of the study, examines the financial framework for social rights and demonstrates the budgetary invisibility of immigrants in planning and resource allocation instruments. Section III analyzes the federal dimension of the problem, using the case of Roraima to illustrate the asymmetry between the territorial concentration of migration flows and the criteria for revenue distribution. Finally, Section IV, which is propositional in nature, discusses mechanisms for intergovernmental compensation and for adjusting the criteria for revenue transfers capable of ensuring the effectiveness of the constitutionally promised universality.

1 Universality as a Premise: The Social Rights of Immigrants in the 1988 Federal Constitution and the Migration Law

The Federal Constitution of Brazil, in 5th Article guarantees the inviolability of fundamental rights “to Brazilians and to foreigners residing in the country.” A hasty and literal reading of this provision

might suggest that the entitlement to rights is conditional on residence and, perhaps, on lawful residence. However, legal doctrine and case law³ have long moved beyond this literal interpretation.

The entitlement to fundamental rights stems from human dignity, established as the foundation of the Republic by Article 1, III, of the Federal Constitution of Brazil, and not from nationality or the regularity of one's immigration status⁴. The phrase “residents of the country” is interpreted as a territorial limitation on the scope of these rights—which apply to anyone under Brazilian jurisdiction—and not as a clause excluding non-resident or undocumented foreigners.

With specific regard to social rights, the constitutional text is even more explicit. Article 6th sets forth social rights without any distinction based on nationality. Health care is “a right of all and a duty of the State” (Art. 196); education, “a right of all and a duty of the State and the family” (Art. 205); and social assistance “shall be provided to those who need it” (Art. 203). Note that the criterion chosen by the framers of the Constitution for access to social assistance is need, not nationality, citizenship, or legal status. The framers of the

³ BRAZIL. Federal Supreme Court. HC 94.016/SP. Reporting Justice: Justice Celso de Mello. 2nd Panel, decided Sept. 16, 2008. DJe, Feb. 27, 2009; and BRAZIL. Federal Supreme Court. RE-215.267/SP. Presiding Justice: Justice Ellen Gracie. 1st Panel. DJ, May 25, 2001.

⁴ SARLET 2018; PIOVESAN, 2013.

Brazilian Constitution, therefore, designed a welfare state with a universalist orientation, whose benefits are directed toward the human person as such.

This universalist approach was confirmed by the Federal Supreme Court in its ruling on RE 587.970, when the Court held that foreign nationals residing in the country are beneficiaries of the social assistance provided for in Article 203, V, of the Brazilian Constitution, and are entitled to the continuous cash benefit, provided the legal requirements are met.

In the specific case at hand, the issue was whether to grant the benefit to an elderly woman of Italian nationality who had been residing in the country for decades; the public Brazilian institute of social security had denied her the benefit based on Article 7th of Decree No. 6214, 2007, which restricted the benefit to native-born and naturalized Brazilians and, , to persons of Portuguese nationality. The Court struck down the regulatory restriction on the grounds that it was incompatible with the universality of Article 203 of the Brazilian Constitution. This precedent is significant both because it reveals that resistance to universality does not stem from the constitutional text itself, but rather from the infra-constitutional acts that implement it; and because it specifically addresses a non-contributory benefit, financed by society.

At the legislative level, the Migration Law marked a complete break with the previous paradigm. The old Foreigners' Statute,

replaced by the Migration Law, enacted under the military regime, treated immigrants as a matter of national security, whereas the Migration Law treats them as rights-holders. Article 3rd of the law lists among the principles of Brazilian migration policy the universality, indivisibility, and interdependence of human rights (subparagraph I), humanitarian reception (subparagraph VI), and migrants' equal and unrestricted access to social services, programs, and benefits; public goods; education; comprehensive public legal aid; work; housing; banking services; and social security (subparagraph XI). Article 4th, in turn, guarantees migrants, on an equal footing with nationals, access to public health and social assistance services and social security, without discrimination based on nationality or immigration status (subparagraph VIII), as well as the right to public education, with the same prohibition against discrimination (subparagraph X).

We must not lose sight of the significance of this clause regarding immigration status, because, under the Brazilian model, even undocumented immigrants are entitled to access public health care and education. This is a legal provision that sets Brazil apart in a comparative context, where European models tend to make access to social benefits contingent on legal immigration status or prior contributions—a reflection of the tension, identified by Bosniak⁵,

⁵ BOSNIAK 2006.

between the universalist logic of human rights and the exclusionary logic of national citizenship. The Brazilian model aligns, on this point, with the understanding of social rights as enforceable rights, rather than as gracious concessions from the State⁶, and to the role of law as the “law of the weakest,” in Ferrajoli’s⁷ well-known formulation, with the poor immigrant perhaps being the contemporary figure who best embodies this vulnerability in need of protection.

The normative premise is established; at the constitutional and legal levels, immigrants—including those in an irregular situation—are entitled to the social rights to health, education, and assistance, on an equal footing with nationals. In my view, there is no serious legal controversy in Brazilian law regarding the existence of this right. However, proclaiming a right is not the same as funding it. Once the right is recognized, the question remains whether the financial framework underpinning Brazil’s social benefits acknowledges its new beneficiary.

2 The Financial Framework for Social Rights and the Budgetary Invisibility of Immigrants

⁶ ABRAMOVICH; COURTIS, 2002.

⁷ FERRAJOLI 1999.

The Constitution provides financial guarantees for the realization of social rights and is therefore not limited to merely proclaiming them. Social security was allocated its own budget and specific funding sources (Arts. 165, § 5, III, and 195); health care was allocated minimum percentages of revenue for the three levels of government (Art. 198, §§ 2 and 3, regulated by Constitutional Law No. 141/2012); and education is subject to the allocation stipulated in Art. 212—never less than 18% of tax revenue for the Federal Government and 25% for states, the Federal District, and municipalities—reinforced by the constitutional enshrinement of Fundeb as a permanent fund (Art. 212-A, as amended by Constitutional Amendment No. 108/2020). In this framework, the public budget is not merely an accounting document but an instrument for the realization of fundamental rights, a tangible expression of the constitutional pact⁸.

However, these financial guarantees answer the question “how much is spent,” but say nothing about “on whom it is spent.” Earmarking ensures a minimum level of spending; funds and mandatory transfers distribute resources among federal entities according to predominantly population-based criteria, calculated using census data and official estimates. However, none of these

⁸ TORRES, 2008; SCAFF, 2018; PINTO, 2015.

mechanisms was designed to account for the arrival of new beneficiaries of the rights they finance. The inclusion of hundreds of thousands of immigrants among the users of the public health system, the public school system, and the public health system does not automatically trigger a change in even a single budget allocation.

The situation worsens when examining the planning instruments outlined in Article 165 of the Constitution, namely the multi-year plan, the budget guidelines law, and the annual budget law. The functional-programmatic classification of the federal budget exists precisely to provide visibility into the State's allocation choices, allowing for the identification of programs, actions, and beneficiaries of public policies.

A review of the federal government's budgetary instruments—the current multi-year plan and successive budget laws—reveals that, to date, no structural program, permanent budgetary initiative, or specific budget line item has been dedicated to migration policy and the reception of immigrants. Note that other vulnerable populations have, over the past few decades, gained programmatic visibility in the federal budget, such as policies for women, children and adolescents, and the promotion of racial equality. Immigrants, however, have not achieved this.

It is true that the regulatory and institutional framework has begun to change. The recent Decree nº 12657, 2025 established the National Policy on Migration, Refugee, and Statelessness (PNMRA),

regulating—eight years later—Article 120 of the Migration Law, and the First National Plan for Migration, Refugee, and Statelessness (I PlaNaMigra), valid for four years, has been signed and is in the process of being published. This is an undeniable step forward, but it should not be confused with the resolution of the problem identified here.

Sectoral policies and plans are not instruments of budgetary law. Thus, as long as their actions and goals are not translated into programs, appropriations, and budget line items in the multi-year plan and the annual budget law, the plan will face the well-known risk of so many Brazilian national plans: that of becoming obsolete without a budget.

Strictly speaking, a plan with more than a hundred actions and nearly three hundred indicators, lacking its own budgetary backing, is less a refutation of budgetary invisibility than its most recent manifestation. It is this indifference of the instruments for planning, allocating, and distributing public resources toward the presence of the migrant population that this study refers to as *the “budgetary invisibility of immigrants.”*

Budgetary invisibility is not merely a statistical problem, but also a legal one. First, because it undermines budgetary transparency, preventing society—and the oversight bodies themselves—from knowing how much the Brazilian State spends on the reception and integration of immigrants, in violation of the duty of transparency that underpins contemporary financial law. Second, because, considering

the prohibitions set forth in Article 167, I and II, of the Constitution, no expenditure may be made without a budgetary appropriation authorizing it. Without a specific budget allocation, the cost of reception is quietly absorbed by the general health, education, and social assistance budgets of the entities that provide the services—which, as will be seen in the following section, are the entities geographically exposed to the migratory flow, and not necessarily those with the greatest fiscal capacity.

The most telling evidence of this budgetary invisibility is, paradoxically, the very response that the federal government has organized to address the Venezuelan migration flow. Operation “Acolhida”, established in 2018 as part of the emergency assistance framework created by Provisional Measure nº 820, 2018, which was converted into Act nº 13,684, 2018, was financed by successive extraordinary appropriations authorized by provisional measures, such as Provisional Measure nº 857, 2018 and Provisional Measure nº 880, 2019, which were renewed each fiscal year.

However, an extraordinary appropriation is, by constitutional definition, an exceptional instrument. Article 167, paragraph 3, of the Constitution reserves it for unforeseeable and urgent expenses, “such as those arising from war, internal unrest, or public calamity.” A migratory flow that has been ongoing for nearly a decade—documented by international organizations and fully integrated into the national demographic reality—is not unforeseeable, but structural.

Funding a permanent public policy through the constitutional instrument of public calamity means admitting, year after year, that the Brazilian State refuses to plan for what it already knows will happen.

This is not, of course, to deny the humanitarian merit of Operation Welcome, which, according to official data, has already resettled more than 150,000 Venezuelans in over 1,100 Brazilian municipalities since 2018 (BRAZIL, 2025), constituting one of the largest humanitarian operations in the country's history. What is being pointed out, however, is the legal and financial fragility of its funding model. This is because a permanent right enshrined in the Constitution is financed through a temporary and discretionary mechanism, such that the policy's continuity depends, in each fiscal year, on the will of the government in office—which is exactly the opposite of the logic of financial commitments and guarantees that the Constitution established for social rights in general. For immigrants, the Brazilian state already has a policy; what it does not yet have is a budget.

In my view, this budgetary invisibility thus operates as a silent denial of universality. The right itself is not denied—which would be legally untenable, as seen in the previous section—but rather, no plan is made to fund it. And this omission produces a second consequence, this time of a federal nature. If no one plans for it, someone pays, and

it is those at the point of entry who pay. This is what we will examine in the following section.

3 Fiscal Federalism and the Asymmetric Cost of Reception: The Case of Roraima

Brazilian federalism is cooperative by constitutional design, since providing health care and public assistance is a shared responsibility of all levels of government (Art. 23rd, II, of the Constitution), and education is organized through collaboration among the various educational systems (Art. 211). In practice, however, it is the states and, above all, the municipalities that provide services at the front lines, since it is in the municipal primary health care units, local public schools, and public health system facilities that social rights are realized.

To make this framework viable, the Constitution established a system of revenue sharing and intergovernmental transfers, namely the participation funds under Article 159, transfers from the SUS, and Fundeb (Article 212-A)—mechanisms whose very purpose is to equalize the disparities between the fiscal capacity and spending needs of subnational entities⁹. The question posed by this study is: does this

⁹ CONTI, 2001.

equalization system account for the dynamic needs generated by migratory flows?

The answer requires the prior acknowledgment that the migration phenomenon is geographically concentrated. The Venezuelan migration flow enters the country almost exclusively through Pacaraima and initially settles in Boa Vista. Roraima is, in fact, the state with the smallest population and the weakest economy in the federation, with a heavy reliance on federal transfers. A study documented the impact of the influx on Roraima's economy and public services (FGV DAPP, 2020), and estimates from the capital city's own municipal government indicated that, as early as 2018, Venezuelans accounted for more than 10% of Boa Vista's population. In contemporary Brazil, there is no clearer example of the disconnect between the national scope of the law and the local scale of its cost.

The criteria for the federal distribution of revenues are structurally blind to this phenomenon. The State Participation Fund operates using apportionment coefficients that are largely insensitive to abrupt demographic changes; the Municipal Participation Fund is distributed according to population brackets calculated based on official estimates (), which do not adequately capture a migrant population that is newly arrived, fluid, and, in part, undocumented; and federal transfers to the public health system are calculated on a per capita basis for the resident population. An official structure, named FUNDEB, it is true, responds to this influx, since it distributes

resources per student actually enrolled, but it does so based on the school census data from the previous fiscal year and without covering the cost of physical expansion of the school system. The result is a perverse equation, in that demand for services grows immediately when immigrants cross the border, while revenue—when it does grow—does so belatedly and in insufficient amounts. In the interim, it is the local government’s coffers that finance the right to universal education.

The consequences are well known and well documented—for example, the overload on Boa Vista’s hospital system, the pressure on public school enrollment, and the saturation of social assistance facilities. And the conflict, as was inevitable, reached the Federal Supreme Court through federal channels. In ACO 3.121, the State of Roraima sued the federal government, seeking, among other remedies, border control measures and reimbursement for the additional expenses incurred in providing services to the migrant population. The request for a preliminary injunction regarding the closure of the border was denied, as it was incompatible with international commitments and with the Migration Law itself.

The claim for compensation was not resolved until 2026¹⁰ , when Justice Luiz Fux approved an agreement under which the

¹⁰ BRAZIL. Federal Supreme Court. **Original Civil Action 3.121/RR**. Reporting Justice: Justice Luiz Fux. Single-judge decision ratifying a settlement. Brasília, DF,

federal government committed to transferring R\$ 115 million to the state, that is, just over one-third of the approximately R\$ 306 million that the state government estimated was owed, with full settlement and dismissal of the case. The outcome, however, confirms rather than refutes the findings of this study: compensation was provided through a consensual judicial settlement, *ex post*, nearly a decade after the influx began, without establishing replicable regulatory criteria and without directly reaching the municipalities that operate the frontline services. The case was resolved; the problem remains intact.

The existing federal response does not solve the problem and, strictly speaking, confirms it. Operation “Acolhida” federalized part of the costs of border management, shelter, and relocation to the interior, and the federal government’s financial support to local governments that receive migrants who have been relocated to the interior is provided through voluntary transfers, upon request. Note that in both cases, this involves discretionary and conditional aid, not compensation due as a right of the overburdened entity. The logic of Brazilian fiscal federalism includes mandatory, automatic, and targeted transfers to equalize spending needs; however, none of this applies to migration-related needs. The international comparison is

April 28, 2026. Available at:
<https://portal.stf.jus.br/processos/downloadPeca.asp?id=15386546877&ext=.pdf>.
 Accessed on: July 9, 2026.

telling, given that the European Union has maintained, since 2014, a specific fund, the current Asylum, Migration, and Integration Fund (AMIF), established for the 2021–2027 period by Regulation (EU) 2021/1147, which allocates resources among member states according to objective indicators of migration pressure. In Brazilian federalism, nothing analogous exists.

The case of Roraima, therefore, is not a mere hiccup but the structural consequence of a combination of three elements: a universally applicable entitlement, defined at the national level; decentralized delivery, carried out locally; and a revenue-sharing system that is insensitive to migration-related variables. In my view, this equation embodies a federal injustice that financial law cannot continue to ignore, given that it is the Republic that guarantees the right, yet the bill has been paid by Roraima. Thus, having identified the problem in its dual dimension—namely, budgetary invisibility and federal asymmetry—we must now address the issue proactively, analyzing it through the following question: what is lacking in Brazilian financial law to recognize and allocate the cost of reception—a technical issue or a policy decision?

4 Financial Mechanisms to Ensure the Effectiveness of Universality

The answer to this problem, in my view, does not require any major constitutional reform. This is because the instruments already

available under Brazilian financial law are largely sufficient. What is lacking is not technique, but decision-making. We present the proposals along three axes: visibility, compensation, and correction of criteria, to which we add, at the end, the need to address the inevitable fiscal objection.

The first pillar is visibility. We propose the creation, as part of a multi-year plan, of a specific program dedicated to migration policy, with permanent budgetary provisions in the annual budget law, supplemented by a cross-cutting indicator that allows for the identification, within the appropriations for health, education, and social assistance, the resources associated with serving the migrant population, similar to what is already done in the federal “ ” budget with the cross-cutting policy agendas for women, children and adolescents, and the promotion of racial equality. To manage, monitor, and correct, it is necessary to measure. This measure has a low political cost, does not require a constitutional amendment, can be implemented through the budget guidelines law itself, and would immediately produce three effects: transparency regarding migration-related spending, multi-year planning to replace the emergency-based logic of extraordinary appropriations, and an information base for oversight by the courts of auditors and by society. The enactment of the PNMRA and the drafting of the First PlaNaMigra, in fact, open the appropriate institutional window, since it is through the implementation of the plan that the budget program and the cross-

cutting indicator must emerge; otherwise, the plan risks suffering the same fate as plans without a budget.

The second and most urgent pillar is that of intergovernmental compensation, as demonstrated by the case of Roraima, where the settlement in ACO 3.121 concluded without, however, resolving the problem for the future. It is proposed that a specific law be enacted to establish a mandatory and automatic transfer from the federal government to subnational entities that are demonstrably overburdened by migratory flows, to reach not only the states but also, and directly, the municipalities that provide frontline services—whose invisibility in the outcome of ACO 3.121 is symptomatic. This transfer would be calculated based on objective and verifiable criteria, such as official migration records, the enrollment of migrant students as determined by the school census, and the health care services provided by the public health system to non-citizens.

The comparative benchmark is the European Asylum, Migration, and Integration Fund, which allocates resources based on indicators of migratory pressure. Two features of the regulatory framework are essential. First, automaticity, since the transfer must be due as a right of the overburdened entity, and not granted as a discretionary favor by the federal government of the day nor negotiated on a case-by-case basis before the Federal Supreme Court. It was the absence of a regulatory framework that led Roraima to nearly a decade of litigation to ultimately receive only a fraction of

what it estimated was owed to it—and that will leave the next affected entity in the same starting position. Second, the timing and periodic review of the coefficients, which must be revised in short cycles, accompanied by the measurement of results, so that the compensation reflects actual trends—a precaution that, moreover, should accompany any differentiated financial treatment, as I have previously argued regarding tax benefits¹¹

The third pillar involves adjusting the general distribution criteria, which are less visible but have a greater systemic impact. This involves incorporating administrative migration records into the population estimates that serve as the basis for the Municipal Participation Fund and the per capita transfers from the Unified Health System (SUS), thereby reducing the gap between the population actually served and the officially counted population, as well as improving the responsiveness of Fundeb, for example, in the federal government's supplementary funding, in response to a sudden surge in enrollment in specific school districts.

The foreseeable operational objection—that the fund's coefficients are set by the Federal Court of Accounts based on population estimates provided by the IBGE as required by law (Act nº 8443, 1992, Art. 102), estimates that are projected from the previous

¹¹ MELO 2021, 18–37.

census and do not capture current migration trends—does not invalidate the proposal. All that would be required is an amendment to ordinary law—or even a provision included in the budget guidelines law—stipulating that, for municipalities under migratory pressure as attested by official records, the estimates be adjusted using data from the National Migration Registry System (Sismigra), the Federal Police, the Unified Health System (SUS), and CadÚnico, for the purpose of classification into coefficient brackets—which, moreover, confirms the premise of this study that the obstacle is not technical but rather one of decision-making. No new mechanism is being created here; rather, existing mechanisms are simply being made to recognize a demographic reality that they currently ignore.

There remains the fiscal objection, which should not be underestimated in the context of constitutional and legal spending limits: is there room for new spending? The objection, however, is based on a mistaken premise, and the answer is twofold. First, the spending is not new; it already exists, it is simply not visible or distributed. Immigrants already receive care through the SUS, are already enrolled in the public school system, and already access the SUAS. Thus, compensating the overburdened entity does not create new spending, but rather equitably reallocates the burden of an expense that currently falls, hidden, on those at the point of entry. Second, the international empirical literature indicates that immigrants tend to be net contributors in the medium term, as

demonstrated by the influential study by Dustmann and Frattini (2014) on the United Kingdom. The very debate on the relationship between immigration and the welfare state acknowledges that the institutional design of integration policies is decisive for this outcome¹². Therefore, investing in the reception and productive integration of immigrants should also be viewed as a revenue-generating policy, as it can accelerate the moment when immigrants cease to be a cost and come to be recognized as what they effectively are: contributors and participants in the financing of the welfare state that welcomed them.

The three proposals converge toward a single objective: to reconcile the financial constitution with the social constitution, ensuring that the public budget—and not just the law—recognizes immigrants as rights-holders.

Conclusions

The issue addressed in this study is whether there is a correspondence between the constitutional mandate of the universality of social rights—extended to immigrants by the Constitution and the Migration Law—and the financial instruments

¹² BANTING; KYMLICKA, 2006.

that structure the funding of these benefits in Brazil. The answer, as demonstrated, is negative, and the hypothesis of *the immigrant's budgetary invisibility* has been confirmed in both of its consequences. At the normative level, there is no serious legal controversy, since the Constitution, the Migration Law, and the case law of the Federal Supreme Court guarantee immigrants—including undocumented immigrants—the right to social benefits in the areas of health, education, and social assistance, on an equal footing with nationals. From a financial standpoint, however, such a beneficiary simply does not exist. This is because there is no structural program, permanent budgetary measure, or budget line item that identifies them in planning instruments, and no criterion for the federal distribution of revenues accounts for their presence.

As noted, this invisibility has led to the two consequences described above. The first is fiscal improvisation, which was evident in the country's main reception policy, Operation Welcome, which was financed, year after year, by extraordinary appropriations—which the Constitution reserves for unforeseeable and urgent expenses—even though the migratory flow has been, for nearly a decade, a structural, documented, and predictable phenomenon. Funding what is permanent through emergency measures is a budgetary admission that the Brazilian state refuses to plan for what it knows will happen. The second consequence is federal injustice because the combination of national law, local service delivery, and revenue sharing—which is

insensitive to migration fluctuations—has placed the cost of an obligation that belongs to the Republic on Roraima, the smallest entity in the federation, without any compensatory mechanism in place to this day—one that is due as a right, not as a discretionary favor from the Union.

The proposals presented do not require major constitutional restructuring. The creation of a specific program and budget line item for migration policy, following the example of existing cross-cutting agendas; the establishment, by law, of a mandatory and automatic compensatory transfer to overburdened entities, calculated based on objective criteria and subject to time limits and periodic evaluation, similar to the European Asylum, Migration, and Integration Fund; and the incorporation of migration records into the general criteria for resource allocation. In response to the fiscal objection, it was argued that the expenditure already exists; it is merely hidden and unfairly distributed. Empirical evidence indicates that integrated immigrants are taxpayers in the host country, so planning for their reception is also a revenue-generating policy in the medium and long term.

I have previously argued that Brazil's fiscal injustice does not stem from the Constitution, but from the way in which the branches of government implement it¹³. The conclusion of this study follows

¹³ MELO 2020.

this same line of reasoning, as it recognizes that the problem regarding immigrants' social rights in Brazil does not lie in the constitutional ideal—generous and universalist, reinforced by the Migration Law—but in the financial and budgetary reality that refuses to acknowledge them.

If the public budget fails to recognize immigrants as rights-holders, universality will remain a constitutional promise funded by emergency measures, paid for by those at the border, and dependent, in each fiscal year, on the goodwill of the government in power. Giving immigrants budgetary visibility is, ultimately, a matter of completing the process that the Constitution began in 1988 and recognizing foreigners as the people they have always been—including in terms of financial rights.

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