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**SOLIDARITY ECONOMY  
AND LEGISLATIVE  
INCENTIVE TO JOB  
GENERATION FROM  
ASSOCIATIVISM**

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**Abstract:** This article takes as the object of study the legislative support for associative work that, through a policy of Solidarity Economy, fosters the social development of the country. The Solidarity Economy is the set of economic-productive activities carried out by the rural and urban population, to generate work and income. Being based on collective work, it represents practices based on solidary collaboration relationships, inspired by cultural values that place man as the subject and purpose of economic activity. The process of expansion of the democratic spaces of control of the State and capital by the population, through associative work and the Solidarity Economy, motivates the growth of self-management of society, as well as the popular protagonism towards social inclusion. However, it is necessary that government policies ratify the process of democratic management, analyzing local economic realities, as well as public incentive policies, opening spaces for new forms of socialization of political and economic power.

**Keywords:** Solidarity Economy – Associativism – Legislative Incentive.

## INTRODUCTION

The present work is intended to discuss the role of solidarity economy as a socioeconomic phenomenon that has been gaining prominence in several countries since the beginning of the 90s. It is an area still in development, both in terms of its practices, as well as their theoretical conceptions.

Coherent and sustainable would be the creation, by the state power, of work and income alternatives for workers, an essential condition for improving the quality of life and economic and social inclusion. In this sense, the following question is inferred as the central problem of the present study: to what extent does the state power develop public

<sup>1</sup> The Participatory Budget is a political process of participatory democracy, through which the population itself decides, directly, the allocation and application of municipal public budget resources.

policies and provide legislative incentives to develop the Solidarity Economy and support the creation and management of associative work?

The present research presents scientific relevance since the theme adopted detonates immense social value. A good portion of Brazilian society is excluded from the labor market at the mercy of legal incentives, aiming not only at improving life from an economic perspective, but also at social inclusion in economic management and in contributing to the socio-cultural growth of the country.

It is important to clarify that the enterprises of the solidary economy need a specific treatment by the public power, so that they can develop, be formalized and have a long life, constituting an alternative of decent work. Therefore, the existence of laws that make State policies official is emerging, analyzing the local social contexts, as well as the creation of support and promotion instruments such as technical advisory services, commercialization spaces and access to credits and public financing.

It is then a matter of enforcing the State's legislative function towards the encouragement of this powerful instrument for combating social exclusion. Therefore, the solidarity economy presents viable alternatives for the generation of work and income, and for the satisfaction of everyone's needs, proving that it is possible to organize production in society in order to eliminate material inequalities and spread the values of human solidarity.

A comparison can be drawn between the Participatory Budget <sup>1</sup>, because in the same way that it expands and radicalizes democracy, the solidary popular economy democratizes the economy, distributes income and enables dignified and emancipated work for workers. Its purpose is, in fact, to project itself into the

public space, with the perspective of building a socially sustainable and fair environment.

## **SOLIDARY ECONOMY IN CLASS SOCIETY**

The solidary economy presents itself today as an alternative for the generation of work and income that opposes the capitalist model of organization of social relations, still bringing in its bulge, the historical rescue of workers' struggles in defense of the exploitation of human labor.

Thus, economist Paul Singer states that:

The Capitalist System has become dominant for so long that we tend to take it as a normal and natural system. Which means that the market economy must be competitive in every way: each product must be sold in numerous places, each job must be contested by numerous applicants, each university vacancy must be contested by numerous university students, and so on.<sup>2</sup>

It must be mentioned that in the second half of the 17th century, capitalism replaced feudalism, with the so-called "Industrial Revolution" in which steam and machines transformed manufacturing workshops into large industries. The productive forces created under the leadership of the bourgeoisie began to develop in proportions never seen before. This created serious friction between the social character of production and the private capitalist form of appropriation, in which profit was concentrated.

From this dichotomy between the productive forces and the relations of production, intellectual confrontations were generated between the holders of the means of production and the workers. In these early days of capitalism, the first opposition thoughts emerged, called at the time "Utopian

2 SINGER, Paul. Introdução a Economia Solidária. 1. ed. São Paulo: Editora Fundação Perseu Abramo, 2002, pg.7.

3 At the end of the 19th century came the 1st Great Depression (1873-1896) which strengthened companies through the centralization and concentration of capital.

4 ENGELS, Friedrich. Socialismo Utópico e Socialismo Científico. Digital source - ebook version. Available at: [www.ebooksbrasil.org](http://www.ebooksbrasil.org). Access: December 29, 2009.

Socialists", critics of the regime, strove to prove the need for a new social logic, supported by the abolition of individualism, competition and the influence of property. They were, however, idealists and believed that the ruling classes could be convinced simply to agree to the new social structure.

In the mid-nineteenth century, a new variant of socialism emerged, the communist or Marxist, in which socialism was conceived as a scientific character and as a historical necessity that resulted from the very contradictions of capitalism and its cyclical crises. For that, they used a "Scientific Method" of analysis of society and its successive modes of production.

Based on this, Friedrich Engels, in his classic work "Utopian Socialism and Scientific Socialism", demonstrates, in an excellent way, that the establishment of socialism could come as a result of the contradictory evolution of capitalism itself, mainly in its monopolistic phase.<sup>3</sup>

The contradiction between social production and capitalist appropriation presents itself, therefore, as an antagonism between the organization of production in the individual factory and the anarchy of production in society as a whole.<sup>4</sup>

And it is based on this contradiction, that is, on the contradiction of capitalism itself, that Engels adduces the centralization of capital:

The fact that the social organization of production inside the factory has developed to the point of becoming incompatible with the anarchy of production in society, outside and above it, becomes palpable even to the capitalist by the violent concentration of capital that occurs during crises. through the ruin of many large capitalists and an

even greater number of small ones.<sup>5</sup>

With regard to the current view of classical socialism, it proposes the direct appropriation of the means of production by society as an overcoming of capitalism. The state dominated by the proletariat is only an instrument of this appropriation, for as soon as it takes place, the proletariat is abolished and the state begins to perish.

Based on the classical view, Marx and Engels bequeathed us a profound critique of the capitalist production model, in addition to targeting state management, this line of thought boosted the institution of political workers' organizations that fought for rights such as the expansion of right to vote, the right to strike and union organization, resulting in the creation of two successive international organizations, known as the First and Second International.

However, in the eyes of contemporary society, we know that his criticisms, despite being masterful, do not respond to a series of questions that today, a century later, we feel are essential.

Therefore, causing structural transformations in the face of the problems of the current social situation requires rethinking and readjusting the economy, so that competition and individualism are opposed by the construction of a collective culture based on solidarity and the democratization of knowledge about production relations, as well as in the generation of work and income. Central axes of action of the Solidarity Economy.

Despite the element of competition, Paul Singer, in a current reinterpretation, analyzes that:

Competition is good from two points of view: it allows all of us consumers to choose what satisfies us most at the lowest price; and

it makes the best win, since the companies that sell the most are the ones that make the most profit and grow the most, while those that sell the least lose money and if they don't get more customers they will end up closing. The ones that serve consumers best are the winners, the ones that don't are the losers. Despite these virtues, competition in economics has been criticized because of the social effects.<sup>6</sup>

This generates an apology for competition, between losers and winners.

The apology of competition draws attention only to the winners, the fate of the losers is in the dark. What happens to business owners and employees who go bankrupt? What about suitors who can't get a job? Or with college entrance students who don't go to university? In theory, they must keep trying to compete, to see if they do better next time. But in the capitalist economy, winners accumulate advantages and losers accumulate disadvantages under future conditions. Bankrupt businessmen no longer have their own capital, and banks deny them credit precisely because they have already failed once. Jobseekers who are unemployed for a long time are less likely to be accepted, as are those who are older. Those who fail the entrance exams would need to prepare better, but the probability that they will succeed is less and less.<sup>7</sup>

This explains why capitalism produces growing inequalities, effective apology between winners and losers. The descendants of those who accumulate capital or professional prestige enter economic competition with a clear advantage over the descendants of those who ruin themselves, become impoverished and are socially excluded. Which ends up producing profoundly unequal societies.

Thus, for us to have a society in which equality prevails among all its members, it would be necessary for the economy to be solidary rather than competitive, which

<sup>5</sup> *Ibid.*

<sup>6</sup> SINGER, *op. cit.*, p. 8

<sup>7</sup> *Ibid.*, p. 9

means that participants in economic activity must cooperate with each other instead of competing.

Solidarity in the economy can only be realized if it is organized equally by those who associate to produce, trade, consume or save. Singer further adds that: “The key to this proposal is the association between equals instead of a contract between unequals.”<sup>8</sup>

Relevant, Paul Singer also tells us that: “What is important to understand is that inequality is not natural, and generalized competition is neither. They result from the way in which economic activities are organized and which is called the mode of production.”<sup>9</sup>

Finally, it must be reaffirmed that the capitalist model of economy is a mode of production whose principles are the individual property right applied to capital, and the right to individual freedom. The application of these principles divides society into its basic classes: the class that owns the modes of production and the class that makes them available, survives in the social system by selling its workforce.<sup>10</sup> to the other class. The natural result is competition and inequality.

Solidarity economy is another mode of production, whose basic principles are associative and collective ownership of capital, cooperation, solidarity, self-management and the right to individual freedom.

## **THE SOCIAL FUNCTION OF THE STATE AND THE LEGAL FRAMEWORK OF THE SOLIDARITY ECONOMY**

Based on the political conceptions bequeathed by Aristotle, he claims that it is the task of politics to investigate what the

<sup>8</sup> *Ibid*, p. 9

<sup>9</sup> *Ibid*, p. 10

<sup>10</sup> Buying and selling labor power is an expression used by Karl Marx in his work *Capital*, which is a basic characteristic of capitalism.

<sup>11</sup> BRAZIL. *Constituição da República Federativa do Brasil* (“*Constitution of the Federative Republic of Brazil*”): enacted on October 5, 1988. Edition:41 – current review. São Paulo: Saraiva, 2008, p. 106.

best form of government and institution are capable of guaranteeing collective happiness. He also stated that the Greek polis represented in the figure of the State is a human need, where every city is a form of association and every association is established with the purpose of some good.

This way, in order to discuss solidarity economy, before, we need to be convinced that it inserts in society the novelty that, the effectiveness of new productive relations contrary to the system of social exploitation and accumulation of capital, will not be solely a consequence of the reorganization of the State, or purely reliance on government bureaucracy. It certainly implies a deep commitment to the organization of civil society in favor of collective well-being.

In a current legal analysis, the State, being the main normative agent for encouraging the economic order, holds great responsibility when it comes to legitimizing the processes of social and economic transformations demanded by Brazilian civil society.

The Federal Constitution of 1988, in addition to legitimizing this, assigns that burden to the State, as can be seen from the following constitutional text:

Article 174. As a normative and regulatory agent of economic activity, the State will exercise, under the terms of the law, the functions of supervision, incentive and planning, this being determinant for the public sector and indicative for the private sector.

(...)

§ 2º - The law will support and encourage cooperativism and other forms of associativism.<sup>11</sup>



In this context, the place occupied by the State deserves special attention. This starts to play a fundamental role in carrying out a solidary economy policy centered on self-managed associations of civil society. This means that the State's responsibility is centered not only in the sense of planning economic activity, but in the sense of creating conditions for the free self-organization of producers and consumers to be effective.

The idea of the State as an administrative bureaucracy is overcome in the name of the idea of the State as a public space, as a stage for the search for collective solutions, which may reduce individualistic voracity in the name of the satisfaction of each and every one. In fact, without society being organized autonomously, any action by the State in the perspective of the solidary economy will testify against it, destroy its foundations through paternalism. In this sense, the State, before being a bureaucracy, an abstraction for the few, must be understood as an organized society with autonomy to help it develop for the benefit of all.

For that, the Vargas government is an important milestone, which began to interfere in the political and economic structure of Brazilian land. On December 9, 1932, that government put into effect Decree-Law Number 22,239, the first cooperative legislation in the country, which made it possible to form cooperatives of a civil nature.

Based on the legal apparatus of the Vargas government, "Cooperativism, from this context of rationalization, becomes a liberal alternative to the process of resurgence of tensions in the countryside".<sup>12</sup> Also mitigating economic conflicts between classes, with the state being an important instrument for regulating social demands.

Inherent to the legal consolidation of cooperativism and associations in Brazil, it is also mentioned Decree-Law n° 59, 12 VERAS NETO, 2000, *apud* GOERCK, 2009, p. 59

of November 21, 1966, which defines the national policy of cooperativism and creates the National Council of Cooperativism and, later, the Law n° 5.764, of December 16, 1971, which defines the National Policy of Cooperativism and institutes the legal regime of cooperative societies. This way, the State began to act with greater impact on collective undertakings.

In continuity, from January 2003, the New Brazilian Civil Code came into force, which redefined the jurisdictional function of joint venture models. It must be mentioned that solidarity economy enterprises are generally organized in two ways: association or cooperative society.

Associations are regulated by articles 53 to 61 of the aforementioned legal diploma, and in general by articles 44 to 52, which deal with legal entities governed by private law, as follows:

Cooperatives, societies with a strong expression of the Solidarity Economy, are regulated by articles 1093 to 1096 of the same code and by special legislation, Law n° 5764/71, current legislation in force that concerns the policy of national cooperativism. Where the provisions above are omitted, the provisions of Simple Societies, articles 997 to 1038 of the Brazilian Civil Code, shall apply to Cooperative Societies, safeguarding the peculiar characteristics of the cooperative established in article 1094 of the same code.

Self-management companies, in addition to organizing themselves in the form of a cooperative society, are also organized in the form of a limited liability company or corporation. This way, the devices that regularize limited liability companies are provided for in arts. 1,052 to 1,087 of the Brazilian Civil Code and those that regularize Corporations are governed by a special law, Law 6,404/76, and in omissions, subsidiarily by the Civil Code.

However, we need to consider some questions. Law Number 5,764 of December 1971, currently in force, which defines the Brazilian cooperative policy and instituted the legal regime of cooperative societies dates from the period of the military dictatorship in Brazil, a moment in which the Democratic structure of the State fell to the ground, suppressed the Legislative Power and made the centralization and control of a single power, the dictatorial executive, prevail. This way, we can say that the inherited and current legal model demands the lack of real knowledge and popular sense about cooperativism, as well as the debate on State policies for the Solidarity Economy.

The Political Charter of 1988 and later, the Brazilian Civil Code, could try to better regulate the issue, we know that coexistence with the old legal diploma creates difficulties in fact and in law regarding the applicability of the norms and legal reasoning on the issue. Even though the applicability of legal norms is possible in a subsidiary way, we envision that the social appeal in favor of the solidary economy demands the need to create a specific legal framework to subsidize and guide public policies, whether in the form of a statute or general national law, thus realizing the solidary economy as a State policy.

In this sense, the debate on the solidary economy needs to become more positive and, in the current legal context, it is the Democratic State based on the rule of law that must guide the implementation of a legal framework that supports and promotes it. In the words of Canotilho "(...) the democratic principle points, however, in the constitutional sense, to a process of democratization extensive to different aspects of economic, social and cultural life."<sup>13</sup>

However, the shortcomings of structuring

a legal framework for promoting the solidarity economy are clear, especially if we bear in mind that:

Cooperatives, associations and other solidarity enterprises demonstrate not only the inadequacy of legal instruments to regulate the lives of these groups, but also the difficulty that people or social movements have in recognizing what are the functions of law in society.<sup>14</sup>

Therefore, it is urgent to assert the legislative function of the Federal State, towards the encouragement of this powerful instrument to combat social exclusion, given that the solidary economy has a multidimensional purpose, that is, it involves the social, economic, political, and cultural dimension. This is because, in addition to the economic vision of job and income generation, Solidarity Economy experiences are projected into the public space, with the perspective of building a socially fair and sustainable environment, based on associativism, collective and self-management work.

As the central objective of this research is to analyze the extent to which public authorities develop mechanisms to encourage the solidarity economy, we will now move on to a survey of some laws and decrees that well translate the debate on the screen.

The State of Rio Grande do Sul obviously made possible the biggest incentive program for the solidarity economy ever carried out in our country, through Decree number 41.062, of September 21, 2001, sanctioned by the then governed of the State at the time. Said Decree, instituted the Popular Solidarity Economy Program, known as ECOPOPSOL, whose central objective was to create, maintain and expand job opportunities and access to income, through self-managed enterprises, in a collective and participatory manner

13 CANOTILHO, José Joaquim Gomes. *Direito constitucional*. 7 ed. Coimbra: Livraria Almedina, 2003, p. 290.

14 GEDIEL, José Antonio. *O marco legal e as políticas públicas para a economia solidária*. Cadernos da Fundação Luís Eduardo Magalhães, Salvador: FLEM, 2003, pg. 117.

by the workers themselves. It also provided opportunities for the development of new economic activities that would distribute income more equitably, thereby stimulating relations of production and consumption in a cooperative manner.

We also mention the Bill nº 830/03 of the State of Minas Gerais, which institutes the state policy to promote the solidary economy. This bill was approved by the Legislative Assembly of the State of Minas Gerais and sanctioned by the governor of the state, on January 19, 2004, becoming Law 15.028/04.

In the State of Rio de Janeiro, the debate on solidarity economy was positive in 2008, when the Legislative Assembly, based on §50, combined with §70, of article 115 of the State Constitution, enacted Law nº 5.315, originating from of Bill 3373/06, creating the State Council for Solidarity Economy in the state of Rio de Janeiro.

In a more local analysis, it is essential to mention Municipal Law nº 5.245/09 of the municipality of Itajaí, Santa Catarina, which instituted the Policy for Fostering the Solidarity Economy. Said law has as its central guideline the promotion of solidarity economy in the municipality and the development of self-managed groups of economic activities, through programs, projects and partnerships with public and private institutions, in addition to other forms allowed by law.

At the federal level, there was Bill Number 5,849/01 which dealt with the qualification of legal entities governed by private law as self-management companies. This project aimed to stipulate some requirements that, if fulfilled by companies organized in the form of cooperative societies, limited liability companies or corporations, would allow them to be qualified as self-management companies, a title that would facilitate national credit policies for the sector.

There are several bills, both at state and

municipal level, which aim to institute public policies for the solidarity economy, however, few are approved and become law. Among them, we can mention the PL 393/03, also from the State of Rio Grande do Sul, which aimed to institute the State Policy for Fostering Solidarity Popular Economy and which is currently being processed as a bill of popular initiative.

Due to and through the legislative rise that ratifies the development of government policies to the solidarity economy, the debate about how to institutionalize them has become more permanent, that is, how to make these policies be incorporated by the structure of the State, so that, instead of government policies, which are sometimes transitory, they become State policies.

The history of humanity shows us that the law by itself does not create reality, but it is the representation of realities of struggles, historical processes and social aspirations. As a result, the law is an important instrument for organized civil society to claim the recognition of rights before the structure of the State.

Accordingly, the creation of a specific legal framework for the solidarity economy has been the great demand of the sector, that is, to understand it as a right of millions of men and women who live and make solidarity economy in Brazil, and, therefore, as a duty of the State to dispose of the instruments that make this right effective.

## FINAL CONSIDERATIONS

We know that the pragmatism of political actions must be balanced by constant reference to theoretical principles, which for us are embodied in the word socialism. We also know that at the moment there is a lot of hesitation and a lot of doubt about socialism. The collapse of the Soviet Union and the mischaracterization of social democracy in Europe are factors that contributed to generate these feelings.



But socialism is something vaster than its historical manifestations and continues to be the most adequate path for social struggles whose purpose is to establish the maximum possible economic, social and educational equality as a requirement for the conquest of freedom for each and every one.

#### **Antonio Candido**

This research was concerned with debating the solidarity economy as a response to the inability of the capitalist system to integrate into its economy all members of society who want and need to work. It could be, as it was conceived in its beginnings, a superior alternative to capitalism. Superior not in strict economic terms, but superior in the sense of providing people who adopt it with a better quality of life, culminating in social emancipation.

When talking about better quality of life, one is not simply referring to the fact that society produces and consumes more with less productive expenditure, but rather, in the conception that it is possible to build a new social environment in which cooperation and solidarity are rational forms of behavior that produce equal rights, autonomy in productive activity, equitable distribution of income, full and democratic participation in decisions, in short, in overcoming the tensions and anxieties that the apology of competition entails in this society that are found immersed in the logic of the inhuman distinction of economic classes.

The question that arises is how the solidarity economy can be transformed from an interstitial mode of production, inserted in the capital system and in the gaps left by it, into a general form of organization of the economy as well as of society itself, which overcomes the distinction of antagonistic classes and ease the wild competition in the economy, bearing in mind that the enterprises of solidarity economy, today, for the most part, are dispersed territorially and sectorally,

competing alone in the capitalist economy.

Currently, most solidarity enterprises have an interstitial character, as they emerged as a response to the economic crises of capitalism, unemployment and social exclusion itself, however, in certain regions, the solidarity economy has reached such a hegemonic density that it guides not only the lives of citizens as well as its own expansion.

Responding to this problem and based on the studies carried out by the economist Paul Singer, the solidarity economy would therefore need, in order to overcome the inequalities generated by the capitalist economy, to continue in the growing generation of its own dynamics, instead of consolidating its undertakings, simply through the contradictions and shortcomings of the dominant economy

The construction of a fairer society with economic, social and educational equality, in modern times, can no longer be achieved in the manner that the utopians believed, that is, through the rise of the proletariat class and the seizure of state power. But yes, by the social transformations within the current system in which people are born and live.

As a result, this research endeavored to believe that the participation and democratic demands of the working class, in view of the structure of the Rule of Law, can be, in short, an alternative for the effective consolidation of the dynamics of the solidarity economy, through the function State legislation, public policies and, primarily, the construction of a specific legal framework for the solidarity economy.

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