


## FROM FEUDALISM TO THE DIGITAL AGE: A HISTORY OF TAX CONSTITUTIONALISM AND THE SEARCH FOR FISCAL JUSTICE AND HUMAN RIGHTS

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**José Rossini Campos do Couto Corrêa<sup>1</sup>, Maurin Almeida Falcão<sup>2</sup>, Charles Sarmento Abreu<sup>3</sup>, Rudson Domingos Bueno<sup>4</sup>, Heroldes Bahr Neto<sup>5</sup>, Eulírio de Farias Dantas<sup>6</sup>, Clarimar Santos Motta Junior<sup>7</sup> and Rita de Cássia Antunes Gomes Mascarenhas<sup>8</sup>**

### ABSTRACT

This article analyzes the evolution of tax constitutionalism, from feudal economies to the challenges of globalization and digitalization, focusing on the impact of these transformations on human rights. The research investigates how the transition from a tax system based on feudal relations to a model shaped by the monetary economy, mercantilism, and mass production impacted the organization of societies and the guarantee of rights. The study highlights the growing influence of private authoritarianism, as warned by Karl Popper, and the role of large technology companies in the formulation of

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<sup>1</sup> Post-doctorate in Law (USP)

Dr in Sociology (UnB)

Master's in Religious Sciences from the Antioquia International School of Theology

Lawyer

Poet

Essayist

Jurist

University Professor

<sup>2</sup> Post-doctorate at the University of Paris I-Panthéon-Sorbonne

Dr in Public Law from the University of Paris 11-Sud

Translator

University Professor

<sup>3</sup> Master's in Law from (UCB)

Doctorate candidate in Law at I.D.P-DF

Tax Auditor of the Federal District Revenue

<sup>4</sup> Master's in Law from (UCB)

Dr candidate in Law at I.D.P-DF

Tax Auditor of the Federal District Revenue and University Professor

<sup>5</sup> Master's in Law from UniBrasil-PR

Dr in Law from I.D.P-DF

Lawyer

<sup>6</sup> Master in Law from (UCB)

Dr in Law from I.D.P-DF

Member of the Writers Association – ANE

University Professor

<sup>7</sup> Master in Law from I.D.P -SP

PhD in Law from I.D.P-DF

Lawyer

<sup>8</sup> Master in Accounting

Controllership from the Federal University of Amazonas

PhD in Law from I.D.P-DF

Federal Auditor of External Control of the Federal Court of Auditors

tax policies. The interdisciplinary methodology combines a bibliographic review of authors such as Bloch, Rossini Corrêa, Maurin Falcão, Pirenne, Braudel, Wallerstein, Marx, and Hobsbawm with a critical analysis that integrates economic history, sociology, and tax law. Using Edoardo Celeste's concept of "constitutional ecosystem," the study examines how digital technology affects the balance of powers and the fiscal sovereignty of States, implying the emergence of digital constitutionalism as a new field of study. The research concludes that globalization and digitalization pose challenges to tax constitutionalism, threatening the fiscal sovereignty of States and the guarantee of human rights. The rise of private authoritarianism requires new regulations and international cooperation to ensure tax justice and the protection of human rights. The study contributes to the debate by offering a historical and critical analysis of tax constitutionalism, providing support for public policies that promote tax justice and sustainable development, and considering the implications of digital constitutionalism for taxation in the digital age.

**Keywords:** Tax constitutionalism, Globalization and taxation, Digital constitutionalism and fiscal sovereignty, Private authoritarianism and human rights, Tax justice and sustainable development.

## INTRODUCTION

This study aims to investigate the evolution of tax constitutionalism, tracing its origins in feudal economic structures to the contemporary challenges of globalization. Anchoring the analysis in authors such as Marc Bloch, Henri Pirenne, Fernand Braudel, Immanuel Wallerstein, Karl Marx, Rossini Corrêa, Maurin Falcão, Edoardo Celeste, and Eric Hobsbawm, the research will explore how historical and contemporary transformations in systems of power and tax collection have shaped the organization and functioning of societies.

The originality of this study lies in the interdisciplinary approach that interweaves economic history, sociology, and tax law, seeking to understand the complex interaction between trade, power, and taxation. By investigating the roots of tax constitutionalism in the feudal period, the research will examine the transition from the natural to the monetary economy, the role of merchants in the disintegration of feudal structures, and the rise of mercantilism.

The relevance of the research is manifested in the critical analysis of the implications of globalization and digitalization for tax constitutionalism. The challenges posed by tax evasion, the need for harmonization of tax policies between nations, and the impact of private authoritarianism exercised by large technology companies (Big Techs) will be examined, using the critical lens of Karl Popper, who warns about the dangers of unrestricted economic freedom and the concentration of power in the hands of a few, threatening human rights. The research will focus on the Brazilian experience, contextualizing it in the tax relations between global actors such as the United States and China, and analyzing the role of trading blocs, such as the European Union, in the search for solutions to contemporary taxation challenges. In this context, the work of Edoardo Celeste, with his concepts of “constitutional ecosystem” and “normative countermeasures”, will be fundamental to analyzing how digital technology impacts the balance of powers and the fiscal sovereignty of nation-states. Large technology companies, with their complex structures and global operations, are emerging as new poles of power, challenging traditional tax constitutionalism. The research will investigate how these companies influence the formulation of tax policies, the need for international agreements to harmonize the taxation of digital activities, and cooperation mechanisms for the exchange of tax information.

Through a literature review and a critical analysis of emblematic cases, this study aims to contribute to the academic debate, shedding light on the historical transformations and future trends of tax constitutionalism. The research will therefore offer a comprehensive perspective on the relationships between power, economy, and taxation in a globalized and digitalized world, providing support for the formulation of public policies that promote tax justice and sustainable development.

## **BRIEF HISTORY OF TAX CONSTITUTIONALISM: FROM THE FEUDAL ERA TO THE GLOBALIZED WORLD**

Discussing tax law and its origins necessarily involves addressing foreign trade and the internationalization of business, especially in the context of the formation of nation-states in Europe and, at an earlier stage, feudal Europe. The evolution of tax law cannot be dissociated from the historical and economic context in which it developed, especially regarding foreign trade and the consolidation of European nation-states. As authors such as John Tiley (2004) and Robert S. Lopez (1976) argue, tax practices evolved in close connection with the expansion of trade and the strengthening of emerging state structures. Charles Tilly (1993) also highlights the central role of tax collection in the formation of European nation-states, while Richard Musgrave (2000) explores the impact of international trade on tax policies. Understanding this historical link is essential for a comprehensive analysis of contemporary tax law. In this context, the relevance of tax law is revealed in several aspects. First, we live in a capitalist society, whose genesis occurred in tension with the feudal order that prevailed at the time. Feudalism, in turn, was an economic and social structure based on local life and the natural economy. Rodney Hilton et al. (1976) thoroughly investigate the transformations of the economic and social structures of Europe, highlighting the rise of capitalist relations of production and the gradual decline of feudal forms. Marc Bloch (1961) complements this perspective by examining the local economy and its dynamics, emphasizing the agricultural practices and local exchange networks that shaped the medieval economic environment. On the other hand, Fernand Braudel (1992) illuminates the tensions between the established feudal system and the emerging capitalism, showing how trade and financialization began to challenge traditional forms of power and production. During the feudal period, production was predominantly geared towards subsistence consumption rather than trade. When surpluses occurred, the practice of barter - the direct exchange of goods without monetary intermediation - was widely used,

reflecting the non-monetary character of the feudal economy (Bloch, 1961). Henri Pirenne (1963), in his work “Economic and Social History of Medieval Europe”, explores the predominance of barter and the absence of a significant monetary economy in this period. As time passed, however, the gradual introduction of the monetary economy and the development of trade were essential for the transition from feudal to modern economic structures.

Henri Pirenne (2014), a Belgian historian, is widely recognized for his theory on the continuity of European trade after the fall of the Roman Empire, challenging the traditional view of a complete interruption during the Middle Ages. He argues that despite the fall of Rome, trade flourished, especially in cities and among Germanic peoples, challenging the notion of an economic “Dark Age.” Peter Heather (2005), in “The Fall of the Roman Empire: A New History,” examines the causes and consequences of this collapse, showing how it promoted profound changes in Europe, including the resurgence of trade. Robert J. Temin (2017), in “The Roman Market Economy,” reinforces this continuity by analyzing how the Roman economy influenced European trade during the Middle Ages.

With the fall of Rome, a new society with a Germanic territorial base emerged, bringing with it its institutions. Among these, the “coronato,” an institution fundamental to the feudal order, stands out. The word “feud”, in its origins, referred to “cattle” or “herd”<sup>9</sup>, but over time it came to designate the group of serfs of a feudal estate. This new society, founded on livestock, agriculture, and crafts, and with a pre-monetary spirit, between the 10th and 12th centuries, began to see the rise of merchants, who challenged the established economic structures. In this way, the transition to a Germanic territorial-based society paved the way for feudalism, and with it, the stage was set for the complex interaction between commerce, law, and taxation (BLOCH, 1961, p. 106; PIRENNE, 1963; 2014)<sup>10</sup>.

<sup>9</sup> Dentre as diversas teorias, a mais amplamente aceita é a do historiador francês Marc Block, e relaciona feudo ao termo franco *fehu-ôd*, no qual *fehu* significa “gado” e *ôd* significa “bens”, indicando “um objeto móvel de valor”.

<sup>10</sup> O declínio do feudalismo significou um processo longitudinal, em que as fraturas desagregadoras se evidenciaram dialeticamente em conexão, inclusive, com grandes cenários de mudança sistêmica, em que conquistas territoriais, científicas, técnicas e produtivas típicas da revolução de uma civilização material, validaram a ordem posta, tornando-se reais, positivas e concretas. Os vetores de mudança, personificados pelos Mercadores, em torno dos quais reapareceram as cidades portuárias, entre os séculos X e XII, determinando o retorno ao grande comércio, que já existira em caravanas do mundo antigo, cresceram contra doas as evidências. O ato mercantil ainda que permitido pelo trânsito na estrada líquida das águas do Mar Mediterrâneo, para ser consumado, exigia a penetração do campo, onde estava a concentração democrática das comunidades feudais, passíveis do consumo de mercadorias, posto que a registrar a passagem da economia natural para a economia monetária, com a substituição da renda trabalho e da renda produto pela

The merchant, a figure that had existed for centuries, re-emerged in history when he cleared the Mediterranean Sea routes, using them to facilitate trade. This trade was no longer concentrated in rural areas but in cities. Between the 10th and 12th centuries, cities such as Bordeaux, Barcelona, Venice, Porto, and Amsterdam stood out as port and mercantile centers, located around rivers, lakes, and seas, a phenomenon known as the Urban Renaissance. The growth of these cities reflected the return of the merchant as an economic force, the “townsman of the town”, a term that gives rise to the word “bourgeoisie”.

With the need to move between the countryside and the city - where the majority of the population lived - merchants played a fundamental role in intermediating rural and urban trade. Authors such as Pirenne (2014) and Braudel (1992) analyze the rise of port cities and the impact of trade, while Bloch (1961) emphasizes the importance of this transformation for the development of medieval cities. This new economic dynamic profoundly altered the economy of medieval Europe, marking trade as an essential factor for both urban and rural development.

Michael Postan (2002), in his studies on the medieval economy, explores the dynamics of consumption and trade in feudal communities, highlighting the challenges faced by peasants when trying to obtain currency to purchase goods from merchants. The transition from the feudal economy to a developing monetary economy changed exchange and consumption relations, highlighting the growing importance of currency. E.P. Thompson (1998) deepens this analysis by examining how the introduction of currency impacted social and economic relations in rural communities, while Karl Polanyi (2011) argues that the monetization of social relations in medieval Europe was a complex process, profoundly transforming life in feudal villages and cities.

The traditional view of the feudal economy as predominantly pre-monetary has been challenged by scholars who observe a gradual transition to an emerging monetary economy, driven by significant changes. Among these is the perception of rent by land barons, who distinguished themselves from Roman lords in that they were rentiers rather than direct producers. The barons received rent from the labor of the feudal community, through a vast allocation of land. However, these lands did not formally belong to the feudal

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renda dinheiro. Assim, o Senhor Feudal forçava servos e camponeses a produzirem na agricultura, na pecuária e no artesanato, levando-os à venda e compra no Mercado, que estava feudal, mas seria capitalista, no intuito de receberem uma renda em metal sonante, com a parente minimização dos ricos (CORRÊA & FALCÃO, 2016, p. 146).

community in terms of ownership, but only in possession (Thompson, 1998). The land was owned by the barons, and labor on the land was governed by a system of service in which the community worked six days on the baron's land in exchange for one day's labor on their communal land. This dynamic exemplified the complex relationship of labor and income transfer that characterized the feudal economy (WICKHAM, 2016).

As needs grew and estates expanded, a second form of feudal income emerged: product income. At this stage, barons employed a large number of serfs and peasants, appropriating the majority of agricultural, livestock, and craft production, while only a small portion was distributed to the community. This inequality in distribution reflects the asymmetrical relations of production and power in feudal society (THOMPSON, 1998).

In the face of unpredictable risks, such as natural disasters or epidemics, barons developed a third form of income: money income. In this model, peasants were compelled to pay tribute in currency, which forced them to become market agents, producing to sell and thus paying tribute to the baron. This development marked a significant transition in the feudal economy, where economic risk was transferred to the peasants. The emerging monetary economy also undermined, in the long term, the dominant position of the barons, as it allowed the emergence of new economic actors, such as capitalist entrepreneurs (BRAUDEL, 1992; POSTAN, 1975).

The territorial fragmentation of feudal society, with its multiple taxes and tariffs, limited the process of wealth accumulation by merchant entrepreneurs. These, in turn, aspired to the formation of a unitary state, where they could pay a single tax, instead of facing a multiplicity of taxes imposed by local barons (WALLERSTEIN, 2011; HOBBSBAWM, 1995). This aspiration reflected the search for a more centralized economic order, which would facilitate trade and capital accumulation.

Karl Marx (2013) and Karl Polanyi (2011) offer significant contributions to this debate. Marx analyzes the transition from feudal to capitalist relations, while Polanyi addresses the social and economic transformations that accompanied this change. Both highlight the impact of these transformations on the distribution of power and wealth, central elements in the rise of capitalism.

In the context of feudal society, merchants emerged with a new ethic, characterized by the acceptance of risk and perseverance in the face of adversity. For them, the market was a space of opportunity and uncertainty, where success and failure coexisted as a natural part of the mercantile process. This new mentality anticipated the rise of capitalism,



challenging the rigid structures of feudal society (WEBER, 2004; SIMMEL, 2014; SOMBART, 2014; HARVEY, 1990)<sup>11</sup>.

Merchants who traded between the city and the countryside faced a series of obstacles, such as taxes and the risk of robberies by local barons. Faced with these difficulties, Jews in the diaspora identified a business opportunity by offering financial services to merchants, such as the safe transport of capital for a small discount. This model was the precursor to the first banks and the banking system, a brilliant financial innovation for the transition from a feudal economy to a monetary one (WALLERSTEIN, 2011; LANDES, 2003; DAVIS, 1973).

It was no longer viable to reduce the complexity of reality to the sphere of material, institutional, and spiritual interests, because, although with often contrasting meanings, the driving forces of power began to be divided into four poles: Pope, King, Land Baron, and Merchant. The latter, initially a simple 'street vendor', emerged against all odds of success in a world rigidly marked by servitude. However, even under constant risk, it managed to accumulate capital in a primitive way, becoming an active participant in new businesses. Bankers and merchants began to play fundamental roles, promoting proactive attitudes that echoed the Schumpeterian type, whose boldness and innovative spirit led them to accept the risk of earning more, even when faced with the possibility of losing everything (SCHUMPETER, 1964, p. 1385; CORRÊA & FALCÃO, p. 149).

It is worth highlighting the research by Davis (1973), which proposes a detailed analysis of the development of the Atlantic economies. Davis highlights the essential role of banks and financial institutions in the expansion of trade and capitalism during the 17th and 18th centuries. He argues that these financial intermediaries were fundamental for the mobilization of capital, financing of commercial expeditions, and mitigation of risks associated with maritime trade. In addition, Davis explores how financial innovation and the creation of credit markets contributed to the economic integration and growth of port cities, facilitating the transition to more complex and globalized economies.

<sup>11</sup> It so happens that, having immediately gained the most comfortable income in money, the Baron of the Land, between conquest and leisure, in the space of the mediate plowed in the sea, fortifying the Market as a central space of the economic spheres, which, in their commercial potential, and not of pure territoriality, required a mobile actor, and not with roots; bold, and not tied to honor; open to risk, and not in search of certainty. The Feudal Lord was a co-participant in the construction of the Market, benefiting from it, without realizing that, historically, he would devour it, considering that the Merchant was the type born par excellence, for the economy of exchange and money, dissociated from the logic of use and barter, in its origin not territorial: urban, port and business (CORRÊA & FALCÃO, 2016, pp. 146-147).).



In this context, merchants also played a challenging role in the primitive accumulation of capital and financing research in science and technology during the transition from feudal economy to capitalism (HOBSEBAWM, 1995). Recognizing the need to break with feudal structures, these merchants invested in scientific and technological schools to increase navigation capacity over long distances. This expansion was essential for economic and social progress, allowing the beginning of the cycle of discoveries and the encounter with new lands and cultures. Landes (2003), for example, examines the origins of technological development in Europe, highlighting the relevance of private financing to boost research and innovation.

Mercantilism emerged as a projection of European economic power during the great voyages of navigation, characterized by the intense circulation of people and goods. It represented a new historical reality, especially during the Renaissance, marked by the greatest scenario of commercial and cultural exchange ever seen (ELLIOTT, 2007; POMERANZ, 2001). This system profoundly influenced political, economic, and cultural relations between the continents.

In Brazil, mercantilism had a significant impact, particularly in regions such as Pernambuco. Historian Gilberto Freyre (2003) highlights the role of Jews in the development of trade and sugarcane production in port cities such as Recife (SCHWARTZ, 1986). At the end of the 16th century, it was common to find a variety of products and influences from different parts of the world in Brazilian homes and sugar mills, reflecting the emergence of a society shaped by the magnitude of mercantilism and global exchange.

Furthermore, mercantilism promoted the global exchange of natural species, such as the coconut tree, brought from India, and sugar cane, introduced from Cape Verde by the Portuguese (CURTIN, 2010). Crosby (2003) explores the biological and cultural consequences of this exchange of species during the era of great navigation, observing how it contributed to the development of commercial capitalism.

The evolution of capitalism goes through three stages: commercial capitalism, industrial capitalism, and, finally, financial capitalism (MARX, 2013). These stages are unified in a new economic order driven by manufacturing production and the dissociation of wealth from land. This phenomenon, from the beginning, was marked by a global perspective, significantly transforming the world's economic structure (HOBSEBAWM, 1996; HARVEY, 1990; ARRIGHI, 2010).

The Industrial Revolution, which began in England, marked a historic break with craftsmanship by introducing mass production (LANDES, 2003). This phenomenon allowed for the mass production of identical products, such as cell phones, profoundly influencing economic development and the transformation of societies around the world.

The feudal craftsman, in turn, exercised control over his production process, seeking aesthetic fulfillment in his creations, although mass production replaced this artisanal approach. Research by Norbert Elias (2000) and Johan Huizinga (2016) details these cultural and social changes, demonstrating how the mentality of medieval craftsmen was deeply linked to creativity and aesthetics.

Mass production not only democratized access to goods and services but also highlighted the importance of science and technology in the global market, which began to replace the local market, typical of feudalism. This transformation shaped the economic, legal, and tax dynamics of States, improving the tax collection system. (APPADURAI, 1986; BRAUDEL, 1992; MARX, 1992).

## **TAX CONSTITUTIONALISM AND THE EVOLUTION OF TAXES IN INTERNATIONAL MARKETS: IMPLICATIONS FOR BRAZIL AND THE GLOBALIZED WORLD**

The Magna Carta, signed in 1215, represented a fundamental milestone in limiting the absolute power of the English monarchs, establishing a legal precedent that subordinated the king to the law. Originally conceived as a response to tensions between King John, the Church and the barons, the Magna Carta imposed significant restrictions on royal authority, requiring that certain legal rights and procedures be respected. Although centered on ecclesiastical and baronial freedoms, it laid the foundations for the development of governance based on consent and the limitation of power, principles that, centuries later, would influence the emergence of tax constitutionalism. By subordinating the will of the monarch to the law, the Magna Carta paved the way for the creation of mechanisms that would control the power to tax, which would be further developed in later landmarks (TURNER, 2009).<sup>12</sup>

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<sup>12</sup> King John of England, often referred to as "John Lackland" and widely considered one of the worst English monarchs, is remembered for his military incompetence and disastrous fiscal management. During his reign, he lost important territories in Normandy and faced difficulties in his military campaigns, which led him to exploit his subjects with illegal and oppressive taxes. His unpopularity, fueled by his temperamental personality and cruel acts, culminated in the revolt of the English nobility, which forced him to grant the Magna Carta in 1215, a landmark that limited royal powers and established the basis of modern constitutionalism..

This movement evolved most clearly in the context of tax constitutionalism, which emerged as a direct response to the need to curb state power in tax collection while simultaneously guaranteeing citizens' rights. The 1689 Bill of Rights in England consolidated this transformation by establishing that the imposition of taxes depended on the consent of parliament, an advance on the principles introduced by the Magna Carta. Similarly, the 1787 United States Constitution reaffirmed the importance of a legal framework that ensured uniformity in taxation, linking the fiscal powers of the state to respect for fundamental rights. Throughout history, taxation has evolved, reflecting not only economic changes but also political and social advances, as demonstrated by the introduction of the progressive income tax in Germany at the end of the 19th century, which sought not only to increase revenue but also to promote social justice and reduce inequality (AVI-YONAH, 2000). Historically, taxes have played an essential role in financing state activities and public policies. However, the way in which taxes are implemented and collected reflects the power relations and economic interests prevailing in each period. In the Middle Ages, for example, taxes were often used by feudal lords as a tool to consolidate power over peasants. The French Revolution, in turn, brought about a significant rupture by replacing the feudal tax system with a more equitable model, aligned with the new ideals of equality and social justice.

With the emergence of ism and the rise of modern states, taxes began to play an unquestionable role in economic regulation and the redistribution of wealth. Progressive taxes, for example, helped to mitigate the economic inequalities exacerbated by the Industrial Revolution. However, the increase in economic complexity and the globalization of markets created new challenges for international taxation, such as tax evasion and the need to harmonize tax policies between nations (BIRD & ZOLT, 2003).<sup>13</sup>

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<sup>13</sup> Entre o Mercado e o Estado, sob o imperativo da afirmação histórica do indivíduo, aquilo que foi denominado como modernidade, se desdobrou entre o Renascimento e a Revolução Francesa. A subsunção da ciência e da técnica ao mundo material caminhou na direção do estabelecimento de um novo modo de produção e de produzir, trazendo o capitalismo como símbolo da nova riqueza a manufatura, em parques fabris urbanos, e o fabrico em série transnacional, com a sua globalização. No âmbito espiritual, por sua vez, uma singular antropologia filosófica, conectada ao Humanismo, à Reforma e ao Utopismo, descerrou ao homem expectativas cujos precedentes estavam na cultura do Paganismo, na qual o relativista Protágoras proclamara que: *“o homem é a medida de todas as coisas, daquelas que são por aquilo que são e daquelas que não são por aquilo que não são”* (REALE & ANTISERI, 2003, p. 76; CORRÊA & FALCÃO, p. 156). Ou seja, A frase “o homem é a medida de todas as coisas” faz parte de sua concepção relativista do conhecimento e da verdade. A interpretação **filosófica** desse dizer sugere que a verdade e a realidade são relativas à percepção humana. Em outras palavras, o que é verdadeiro ou real depende do sujeito que observa. “O homem” aqui simboliza o ser humano em sua capacidade de julgar, perceber e interpretar o mundo ao seu redor. A segunda parte da frase - *“daquelas que são por aquilo que são e daquelas que não são por aquilo que não são”* - reforça esse ponto ao indicar que aquilo que existe ou não existe, o que é ou não é, só pode ser compreendido a partir da

No Brasil, o constitucionalismo tributário tem sido uma ferramenta central na busca por justiça fiscal e equidade na distribuição da carga tributária (BITTENCOURT, 2015). A Constituição de 1988 estabeleceu princípios fundamentais, como a progressividade dos impostos e a destinação dos recursos públicos para o bem-estar social. Esses preceitos têm como objetivo garantir que a arrecadação tributária seja justa e que os recursos sejam direcionados para a redução das desigualdades sociais e a melhoria da qualidade de vida.

Em 2023, durante o governo do presidente Lula, houve uma reforma tributária significativa no Brasil, voltada à modernização do sistema tributário brasileiro, tornando-o mais adequado às demandas do mercado global. A proposta buscou simplificar o sistema, reduzir a carga tributária sobre setores específicos e aumentar a transparência e eficiência na arrecadação. A reforma, ao extinguir cinco tributos, incluindo PIS, Cofins e IPI, reforçou o compromisso com a simplificação e modernização tributária (AGÊNCIA SENADO, 2023).

No contexto internacional, as relações tributárias entre atores globais, como Estados Unidos e China, têm sido marcadas por disputas comerciais e políticas de retaliação (BIRD & ZOLT, 2003)<sup>14</sup>. The creation of trading blocs, such as the European Union, has encouraged the harmonization of tax policies and promoted cooperation among member countries. In addition, the advancement of digital technologies and the growing relevance of the digital economy are putting pressure on traditional tax systems to adapt to new forms of value generation and cross-border transactions, demanding continuous tax reforms to address issues such as base erosion and profit shifting (DEVEREUX & VELLA, 2014).

## **TAX AND DIGITAL CONSTITUTIONALISM: CONTEXTUALIZED REFLECTIONS**

Both Edoardo Celeste (2021, pp. 63-91) and Jane Reis Gonçalves Pereira and Clara Iglesias Keller (2022, pp.-6454-2616) bring an important reflection on digital constitutionalism. In both works, the problem of tax constitutionalism is not directly focused on the textual overviews presented, which concentrate on the discussion of digital

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percepção humana. Se um indivíduo percebe algo como verdadeiro, para ele, aquilo é verdadeiro; se não o percebe, então aquilo, para ele, não existe ou não é real. De uma perspectiva **sociológica**, essa ideia de Protágoras também pode ser relacionada ao conceito de construção social da realidade. O que consideramos “real” em uma sociedade é frequentemente moldado pelas normas, culturas e subjetividades humanas.

<sup>14</sup> Sergio Caldas Mercador Abi-sad mentions that “the death of Mao Zedong in 1976, the immediate departure of the remnants of the Cultural Revolution (“the gang of four”), the liquidation of the uninspired leadership of Hua Guofeng (General Secretary of the CPC from 1976 to 1978) and, above all, the irresistible rise of Deng Xiaoping as the supreme leader of the People’s Republic of China – PRC had a strong impact on the profile of Chinese foreign relations. The “Denguist era” marked the beginning of an ambitious program of economic reforms and opening up to the outside world, which broke frontally with the line previously followed by the People’s Republic under Maoist tutelage” (ABI-SAD 1996, p. 84; YAHUDA, 1983).

constitutionalism and its challenges. However, we can make some reflections based on the concepts present in the texts to address the central issue addressed by this work.

Celeste's article (2021, p. 60) highlights the impact of digital technology on the "constitutional ecosystem", arguing that it affects the balance of powers, with private actors such as large technology companies emerging as new poles of power. This shift in power directly impacts tax constitutionalism, which is traditionally based on the fiscal sovereignty of nation-states. It can therefore be said that: in a globalized and digitalized world, the ability of States to tax transactions and economic activities that occur in the digital environment is challenged (TEUBNER apud JOERGES; SAND, 2004; RODOTÀ, 2010; TEUBNER, 2004; 2012); and that the cross-border nature of the internet and the difficulty in determining the physical location of companies and online users make it difficult to apply traditional tax laws.

The author also mentions the emergence of "normative countermeasures" to deal with changes in the constitutional balance (2021, p. 67). In the tax context, these countermeasures could act as follows::

- a) International agreements to harmonize the taxation of digital activities and avoid double taxation or tax avoidance.
- b) New laws and regulations that adapt tax systems to the digital reality, such as the creation of taxes on digital services or the taxation of profits of multinational companies based on their effective economic presence in each country.
- c) International cooperation mechanisms for the exchange of tax information and the monitoring of companies operating globally.

Jane Reis and Clara Keller's text addresses concerns about the concentration of private power in the digital environment (2022, p. 2657), arguing that digital constitutionalism can be used to legitimize this concentration. This argument also applies to the tax context.

Continuing the analysis, large technology companies, with their complex structures and global operations, can influence the formulation of tax policies to their benefit (REIS & KELLER, 2022, pp. 2679-80). The lack of transparency in the operations and tax practices of these companies makes monitoring and tax collection difficult (DIJCK; NIEBORG; POELL, 2019, p. 3; BELLI, 2022; COHEN, 2019, p. 2). The proliferation of "internet bills of rights", which can be used as self-regulatory instruments by these companies, raises the question of the legitimacy and effectiveness of non-state mechanisms for the protection of rights and the promotion of tax justice (REIS & KELLER, 2022, pp. 2650-51 and 2669; CELESTE, 2019, p. 124; YLMA, 2017, p. 128; HOFFMANN-RIEM, 2022).

Based on the reflections in the texts, we can conclude that tax constitutionalism in a globalized and digitalized world faces significant challenges, such as:

- a) The erosion of the tax base of nation states due to the difficulty in taxing digital activities.
- b) The shift of power to private actors, who can influence the formulation of tax policies in their favor and make tax enforcement and collection more difficult.
- c) The need to find new ways to ensure tax justice and equity in taxation, taking into account the specificities of the digital environment and the rights of taxpayers.

Although the articles do not directly address tax constitutionalism, the reflections developed here are based on concepts present in these studies. From them, it is possible to establish networks between global economic practices and the impact of private authoritarianism, especially in scenarios of deregulation, as seen in the great economic powers - Brazil, China and the USA. Karl Popper already warned about the risks of unrestricted economic freedom, which, without state safeguards, can concentrate power in the hands of a few and threaten human rights. This challenge is even more evident in an interdependent world, where the balance between economic growth and the protection of fundamental rights is essential.

### **PRIVATE AUTHORITARIANISM, BRAZIL, CHINA, USA AND HUMAN RIGHTS: POPPER AND THE RISKS OF DEREGULATION**

When addressing the intersection of tax constitutionalism and human rights in the context of international markets, especially with China and the United States as central economic actors, it is crucial to consider the impact that different models of political economy have on social and political freedoms. The challenge lies in balancing the role of the state in economic regulation and the protection of individual rights. Extreme models, such as state totalitarianism or unregulated market capitalism, compromise both economic justice and political freedoms. As Karl Popper<sup>15</sup> announced, the promotion of individual freedoms should not be used as a pretext to dismantle state safeguards, as this could open the way for private authoritarianism that imposes severe inequalities (KINLEY, 2013, p. 56). Brazil and the globalized world face the challenge of integrating these elements, seeking solutions

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<sup>15</sup> This was a consequence of what Popper called the "paradox of freedom" (KINLEY, 2013, p. 161 apud POPPER, 1945, Notes to the Chapters, Chap. 7, Note 4).



that reconcile the protection of human rights with the balanced management of the economy, avoiding the dangerous extremes of both systems.<sup>16</sup>

Elon Musk's stance, often characterized by resistance to state regulations and labor laws, as well as vote buying in the 2024 US presidential election in favor of Republican candidate Donald Trump (DOUTRADO, 2024), illustrates the dangers that Karl Popper foretold in relation to private authoritarianism. Musk, by repeatedly defying rules and regulations in various parts of the world - such as his frictions with Brazil over the use of satellites (the case of Starlink satellites), his conflicts with authorities in Australia over the deployment of energy systems, and with the European Union and the United Kingdom over issues of data privacy and business practices - exemplifies an approach of extreme economic freedom, which ignores state safeguards. This type of attitude can generate an imbalance of power between the private sector and states, with the risk of concentrating vast economic and political power in the hands of individuals or corporations, compromising both tax justice and human rights. Thus, the lack of control can allow these corporations to act without due consideration for the laws that protect the rights of the populations, reinforcing the need for a balance between economic freedoms and intervention (BALAGUER CALLEJÓN, 2022, NUNES, 2024)<sup>17</sup>.

For Brazil, entering this globalized scenario implies both challenges and opportunities. The need to align its tax policies with international practices can encourage reforms that make the tax system more efficient and competitive. Adherence to tax cooperation agreements, such as the Multilateral Convention to Prevent Base Erosion and Profit Shifting (BEPS), promoted by the OECD, is a step in this direction (OECD, 2013). However, the country faces the challenge of attracting foreign investment while preserving

<sup>16</sup> Fernando Mezzetti (2000, p. 496) when addressing the issue of human rights in China, makes an interesting statement saying that "Free men cannot fail to offer solidarity and support to any human being persecuted for his or her ideas in contrast to those of the government, precisely with the hope that the economic pluralism already underway will lead to an evolution of the political structure. However, even while maintaining firm and clear positions regarding respect for life, people and their rights, and without forgetting Tiananmen, one cannot ignore the progress achieved by the country: one fifth of humanity freed from hunger, a multitude no longer subject to the mass arbitrariness of political campaigns, a great civilization snatched from backwardness and self-isolation, brought back to the world and to history, with internal development and international relations promoted by a regime that will long be challenged by its own successes. Today, China already enjoys a "space" of freedom that not even the most dreamy and idealistic people of Tiananmen could have imagined. New and increasingly powerful independent economic agents will inevitably seek political representation. And with that the party itself, now entrenched in the defense of the last and fundamental weapon it has left, political control, will undergo profound transformations within itself."

<sup>17</sup> Popper's concept of the role of the State as a "necessary evil" to guarantee freedom of expression and protect society from abuse also applies to the context presented, where a lack of control can result in an imbalance of power between the private sector and the State..



its fiscal sovereignty, ensuring sufficient revenues to support its public policies and social programs (AVI-YONAH, 2007).

Trade disputes between major economies, such as the US and China, have direct implications for Brazil, especially with regard to global supply chains and market access. The trade war between these countries offers opportunities for increasing Brazilian exports, but it can also generate uncertainty for trade and investment (IRWIN, 2015). Strengthening regional trade blocs, such as Mercosur, is an effective strategy for Brazil to improve its position in international trade negotiations, while regional integration requires commitments to fiscal transparency and cooperation in the implementation of common tax rules. Let us look at a summary of these scenarios.:

Opportunities for Brazil	Challenges and Uncertainties
<p><b>1. Increase in Exports:</b> Brazil can benefit from trade diversion resulting from tariffs imposed by the U.S. on Chinese products. With China seeking alternatives, there is an expectation of increased demand for Brazilian products, especially soybeans and beef. China is the main market for Brazilian soybeans, and the reduction in U.S. soybean imports can contribute to Brazilian sales. Additionally, steel production in Brazil may also increase, as the country is one of the main suppliers of this product to the U.S. (CARVALHO et al., 2019, pp. 1-20; DUARTE, 2018; AMÉRICO, 2024).</p>	<p><b>1. Impact of Protectionism:</b> U.S. protectionism and China's retaliations may affect the levels of Brazilian exports in other sectors. While there are gains in sectors like soybeans and steel, other products may face difficulties due to increased tariffs (DUARTE, 2018; KALOUT &amp; COSTA, 2022).</p>
<p><b>2. Strengthening of Mercosur:</b> In light of growing global trade tensions, such as increased protectionism and trade disputes among major powers, Brazil may be led to strengthen regional trade blocs like Mercosur. This strategy allows Brazil to strengthen its position in international negotiations and gain greater economic security. At the same time, the country can promote commitments to fiscal transparency and common tax norms within the bloc (CARVALHO et al., 2019; KALOUT &amp; COSTA, 2022).</p>	<p><b>2. Economic Vulnerability:</b> The slowdown in China's economy, caused by the trade war, could lead to decreased demand for Brazilian commodities such as oil and iron ore, harming exports (TREVIZAN, 2019; AMÉRICO, 2024). Additionally, general global economic shifts could impact real levels and increase inflation in Brazil (DUARTE, 2018; TREVIZAN, 2019).</p>

In this context, it is essential that Brazil and other nations strengthen their tax policies and cooperate internationally to face the fiscal challenges of a globalized world (SLEMROD, 2014).<sup>18</sup> The adoption of effective measures to combat tax evasion, promote

<sup>18</sup> "Although situated in a geostrategic and even geoeconomic context that is very different from that of Brazil, China has a specific international weight that should not be neglected. The importance of Chinese foreign policy, particularly on the Asian continent and also as a result of its position as a permanent member of the United Nations Security Council, represents a significant element to be taken into consideration for Brazil's broad diplomatic planning. Furthermore, because China is what it is, with its imposing population, its varied natural resources, its rapidly expanding production apparatus and its significant strategic defensive potential, it is justified to give it a special place in Brazil's foreign action" (ABI-SAD, 1996, p. 191).

transparency and ensure tax justice, both at the national and international levels, not only ensures efficient collection of resources, but also contributes to the well-being of the population. In addition, these actions reinforce the pillars of democracy and the rule of law, by promoting a fairer and more balanced tax system, which enables sustainable economic development and social justice, which are fundamental to building more equitable societies..<sup>19</sup>

When revisiting the evolution of tax constitutionalism, from feudal economic structures to the challenges posed by contemporary globalization, it becomes clear that economic and social transformations have profoundly shaped tax practices and policies. The transition from feudal barter to a monetary economy, driven by mercantilism, fostered the development of a more complex and efficient tax system. The Industrial Revolution and mass production democratized access to goods, while global interconnection posed unprecedented challenges to taxation. Understanding this historical trajectory is crucial to proposing future reforms that seek balance and fiscal justice in a dynamic and competitive international scenario..

## **FINAL CONSIDERATIONS**

Taxation, as demonstrated in this study, occupies a central position in the organization and functioning of societies, from feudal structures to the globalized and digitalized scenario that characterizes the contemporary world. The research confirmed that tax systems have evolved profoundly, reflecting changes in power relations and dominant economic models in each historical period.

The analysis of the transition from the feudal system to the monetary economy, driven by mercantilism and the rise of international trade, revealed the importance of taxation for financing state activities and the construction of nation-states. It was observed that the Industrial Revolution, with the introduction of mass production, democratized

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<sup>19</sup> How can we sustain the values of the dreamed-of universal communion among men, if the world's poor have a consumption pattern 16 (sixteen) times lower than that of the rich, whose closed club constitutes the caste of financial domination of existence? How can we legitimize the tax mechanism in local, national and international societies, if the 'common contribution' of organized citizenship is not matched by the power of the State, with the minimum compensation or reasonable return of services, benefits, improvements, public policies, after all, the guarantee of rights? How can we forget the dramatic situation of social exclusion and death from hunger, in the prospective scenario that points to the morally damaging idea that, by the end of the 21st century, a mere 90% of the Earth's wealth will belong to 1% of the god Mammon's chosen ones, to the detriment of any and all prospects of aspiring to a more human being, in a more common good? This is the challenge of Humanism in the face of Taxation (JACQUARD, 1996, p. 112; CORRÊA & FALCÃO, 2016, p. 167).

access to goods and services, while at the same time intensifying the need to improve tax collection mechanisms.

However, the study also showed that globalization and the digitalization of the economy pose significant challenges to contemporary tax systems. Tax evasion and avoidance, facilitated by the complexity of international transactions and the mobility of capital, require the strengthening of international cooperation. Taxation of the digital economy, in turn, requires the creation of new rules and the adaptation of traditional tax systems to ensure tax justice in a cross-border digital environment.

In view of these challenges, the study recommends the adoption of concrete measures, such as:

- **Strengthening international cooperation:** Coordinated actions between countries are essential to combat tax evasion and avoidance, harmonize tax policies and ensure fair taxation of the digital economy. Brazil's active participation in international forums, such as the OECD, and its accession to the Multilateral Convention to Prevent Base Erosion and Profit Shifting (BEPS) are important steps in this direction;

- **Implementing domestic tax reforms:** It is crucial to modernize tax systems, simplifying legislation and promoting tax justice<sup>10</sup>. Reforms must seek a balance between the need to raise funds to finance public policies and ensuring a fair tax system that promotes sustainable development;

- **Strengthening regional trade blocs:** Regional integration, through blocs such as Mercosur, offers opportunities for Brazil to strengthen its position in international trade negotiations and promote the harmonization of tax policies. <sup>15</sup> Cooperation between member countries can contribute to the creation of a more stable and predictable economic environment, favoring trade and investment. The study also demonstrated the importance of integrating the debate on tax constitutionalism with the protection of human rights. The concentration of economic power in the hands of private actors, such as large technology companies, can threaten democracy and fundamental rights, especially in contexts of deregulation. As warned by Karl Popper, unrestricted economic freedom can lead to private authoritarianism, compromising social justice and the ability of States to guarantee the well-being of the population. The case of Elon Musk, with his frequent resistance to state regulations and vote buying in the 2024 US presidential election, illustrates the dangers of this uncontrolled concentration of power. This study contributes to the debate on tax constitutionalism by presenting a comprehensive historical analysis of the evolution of tax

systems, from feudal structures to the challenges of the digital age. The research offers a critical approach, identifying the challenges and opportunities of taxation in the era of globalization and digitalization. By analyzing the interaction between tax systems, globalization, digitalization, economic power and human rights, the study provides support for the formulation of public policies that promote tax justice, the protection of human rights, sustainable development and digital constitutionalism..

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