



O controle jurisdicional de políticas públicas e o ativismo judicial (Portuguese Edition)

Homem Eduardo Hoff

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O problema que se coloca agudamente na doutrina recente consiste em buscar mecanismos constitucionais e fundamentos teóricos para superar o caráter abstrato e incompleto das normas definidoras de direitos sociais, ainda concebidas como programáticas, a fim de possibilitar sua concretização prática. Nesse compasso, sedimentou-se o entendimento de que as normas constitucionais consagradoras de direitos sociais não podem ter um caráter meramente programático; antes, estão a desafiar/exigir providências de parte do Estado, que lhes assegurem a máxima efetividade. No entanto, como em nosso país são constatadas inúmeras omissões do Poder Público na elaboração de políticas públicas e medidas para tornar efetivos os direitos previstos na Constituição Federal, o Poder Judiciário tem agido de forma a levar os demais poderes ao cumprimento de seus deveres. Ao adotar medidas concretas para tornar efetivos os direitos sociais a decisão em caráter final, pelo Poder Judiciário, não representa, intromissão grave, a ponto de gerar uma séria crise que caracterize ofensa aos princípios constitucionais da separação, independência e harmonia dos poderes.

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