



Análise econômica das candidaturas laranjas de mulheres no processo eleitoral: entre a igualdade de gênero na política e o direito fundamental a eleições livres de fraudes (Comentários à ADI 6.338) [

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Analítica

This paper explores, from the point of view of the economic analysis of law and the feminist legal theory, the discussion raised in the recently sued ADI n. 6.338, about the scope of the norm of art. 22, inciso XIV, of LC n. 64/90. This norm provides the cassation of all candidates of the coalition benefited by the fraud in female applications (through the inclusion of "straw-women candidates"), and not only of those members directly involved in the fraud. The economic analysis of the law is used to explore the effects of possible interpretations on the mentioned rule, as well as the incentives of an eventual decision that restricts the scope of the contested norm, determining that the cassation should be limited to those proven to be responsible for the fraudulent conduct. After that, the feminist legal theory is used to justify the promotion of public policies aimed at making effective equality in political representation and also to debate legal methods and to verify in which sense the law must consider the gender of those who will benefit or prejudiced by the interpretation given to legal rules. These considerations are intended to map the scene of debates on gender equality in politics, to reconstruct the fundamental right to fraud-free elections and to point the way for the future decision to be taken by the Supreme Court on whether or not to exclude all candidates, including those not involved with the orange candidacies of their coalition

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