

YOUR EXCELLENCY, MS **FATOU BENSOUDA**,
MD. PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT -
THE HAGUE, THE NETHERLANDS

Federal Constitution:

Article 1 The Federative
Republic of Brazil, made up of
the indissoluble union of its
States and Cities and the
Federal District, is a Legal
Democratic State and is founded
on:

(...)

III - the dignity of the human
person;

Art. 196. Health is a right of
all and a duty of the State and
shall be guaranteed by means of
social and economic policies
aimed at reducing the risk of
illness and other hazards and at
the universal and equal access
to actions and services for the
promotion, protection, and
recovery of people's health.

UNI GLOBAL UNION, SEDE REGIONAL UNI AMERICAS, Colonia 993, Esquina José Herrera y Obes; Oficina 101; Montevideo, Uruguay; CP 11100.

INTERNACIONAL DOS SERVIÇOS PÚBLICOS, CNPJ: 04.691.342/0001-56; Rua da Quitanda, 162; 4^{to} Andar; Centro; São Paulo, SP; CEP 01012-010.

UNIAO GERAL DOS TRABALHADORES, CNPJ: 09.067.053/0001-02; Rua Aguiar de Barros, 144; Bela Vista; São Paulo, SP; CEP 01316-020

CENTRAL UNICA DOS TRABALHADORES, CNPJ: 60.563.731/0018-15; Rua Caetano Pinto, 575; Brás; São Paulo, SP; CEP 03041-000.

NOVA CENTRAL SINDICAL DE TRABALHADORES (NCST), CNPJ: 07.542.094/0001-70; SAF SUL, Quadra 02, Bloco D, SALA 102 - Ed. Via Esplanada; Brasília, Distrito Federal; CEP 70070-600.

CONFEDERAÇÃO NACIONAL DOS TRABALHADORES EM SEGURIDADE SOCIAL DA CUT (CNTSS/CUT), CNPJ: 04.981.307/0001-71; Rua Caetano Pinto, 575; Brás; São Paulo, SP; CEP 03041-000.

CONFEDERAÇÃO NACIONAL DOS TRABALHADORES NA SAUDE (CNTS), CNPJ: 67.139.485/0001-70; SCS, Quadra 01, Bloco "G", Edifício Bacarat, conjunto nº 1.605; Brasília, Distrito Federal; CEP 70309-900.

CONFEDERAÇÃO DOS TRABALHADORES NO SERVIÇO PUBLICO FEDERAL (CONDSEF), CNPJ: 26.474.510/0001-94; Setor Bancário Sul, Quadra 1, Bloco "K", Salas 308/314, Edifício Seguradoras; Asa Sul; Brasília, Distrito Federal; CEP 70093-900.

FEDERAÇÃO NACIONAL DOS ENFERMEIROS, CNPJ: 03.658.291/0001-06. St. Scs Quadra 1 Bloco G, S/N, Sala 201; Asa Sul; Brasília, Distrito Federal; CEP 70309-900.

FEDERAÇÃO NACIONAL DOS FARMACEUTICOS (FENAFAR), CNPJ: 00.679.357/0001-48. Rua Barão de Itapetininga, 255, 3^o andar, Cj. 302; São Paulo, SP; CEP 01045-001.

UNIAO GERAL DOS TRABALHADORES DO DISTRITO FEDERAL (UGT-DF), CNPJ: 13.995.209/0001-84; SCS QD. 01 BL. L Ed. Márcia, Sala 508; Brasília, Distrito Federal; CEP 70307-900.

CENTRAL SINDICAL E POPULAR CONLUTAS (CSP CONLUTAS) - MINAS GERAIS. Rua da Bahia, 504; Centro; Belo Horizonte, Minas Gerais; CEP 30160-010.

UNIAO GERAL DOS TRABALHADORES DO ESTADO DE SAO PAULO (UGT-SP), CNPJ 22.588.715/0002-20; Avenida Rebouças, 1974; Pinheiros; São Paulo, SP; CEP 05402-200.

FEDERAÇÃO DOS TRABALHADORES EM HOSPITAIS E ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DO ESTADO DO PARANÁ - FETRASAÚDE/PR, CNPJ N° 22.233.293/0001-90, fundada em 21 de fevereiro de 2014, Sediada na Rua Cândido Lopes, número 289, 19° andar, conjunto 1913, Curitiba, Paraná, CEP 80.020-060.

FEDERAÇÃO DOS EMPREGADOS EM ESTABELECIMENTOS DE SAÚDE DO ESTADO DO RIO GRANDE DO SUL; CNPJ: 88.763.271/0001-40; Rua Santo Antônio, 635; Bairro Bom Fim; Porto Alegre, Rio Grande do Sul; CEP 90220-011.

FEDERAÇÃO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DO ESTADO DE SÃO PAULO(federacaosaude@terra.com.br), entidade sindical de segundo grau, portadora do CNPJ/MF n. 44.002.293/0001-11, estabelecida à rua Consolação, 233 -17° andar -Centro (Centro Empresarial Conceição) - Campinas/Sp. -CEP 13010-916.

SINDICATO DOS ENFERMEIROS DO ESTADO DE ALAGOAS, CNPJ: 24.245.011/0001-08, Rua 1 de Maio, 194; Prado, Maceio, Alagoas, CEP 57036-540.

SINDICATO DOS TRABALHADORES EM SAÚDE PÚBLICA DO ESTADO DO AMAZONAS, CNPJ: 34.989.674/0001-13; Rua Professor Antônio Giulesse, 22; Bairro Alvorada 3; Manaus, Amazonas; CEP 69402-075.

SINDICATO DOS ENFERMEIROS DO ESTADO DA BAHIA, CNPJ: 14.108.807/0001-57, Avenida Manoel Dias da Silva, 486;

Ed. Empresarial Manoel Dias Salas 105, 108, e 208;
Pituba; Salvador, Bahia, CEP 41830-001.

SINDICATO DOS NUTRICIONISTAS NO ESTADO DA BAHIA, CNPJ:
10.861.192/0001-84; Avenida Antônio Carlos Magalhães,
2501; Edif. Profissional Centersala 204; Candeal;
Salvador, Bahia; CEP 40280-000.

SINDICATO DOS ENFERMEIROS DO ESTADO DE GOIAS, CNPJ:
00.799.189/0001-24; Avenida Goiás, 606; Ed. MinasBank,
Sala 1605/1605; Setor Central; Goiânia, Goiás, CEP
74010-010.

SINDICATO DOS NUTRICIONISTAS NO ESTADO DE GOIAS, CNPJ:
86.953.809/0001-53; Rua 26, n. 411; Jardim Santo
Antônio; Goiânia, Goiás, CEP 74853-070.

**SINDICATO DOS AGENTES COMUNITARIOS DE SAUDE E AGENTES
DE COMBATE AS ENDEMIAS DO OESTE GOIANO (SINDACS/ACE)**,
Bom Jardim, SN; Quadra 2, Lote 13; Bairro Marajoara;
Jussara, Goiás; 76270-000

**SINDICATO DOS TRABALHADORES EM SEGURIDADE SOCIAL NO
MATO GROSSO DO SUL**, CNPJ: 33.730.250/0001-36; Rua da
Abolição, n. 108; Taquarussú; Campo Grande, Mato Grosso
do Sul; CEP 79006-070.

**SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE
SERVIÇOS DE SAUDE DE BELO HORIZONTE, CAETE, VESPASIANO
E SABARA (SINDEESS)**, CNPJ: 17.454.414/0001-93; Rua
Floresta, 114; Bairro Floresta; Belo Horizonte, Minas
Gerais; CEP 31015-174.

**SINDICATO UNICO DOS TRABALHADORES DA SAUDE (SIND-SAUDE
MINAS GERAIS)**; CNPJ: 42.765.594/0001-71. Ave. Afonso
Pena, 578, 17 Andar; Belo Horizonte, Minas Gerais; CEP
30130-001.

SINDICATO DOS TRABALHADORES DA SAUDE DO ESTADO DO PARA,
CNPJ: 05.660.816/0001-65; Rua Santa Lucia, 02; Bairro
São Brás; Belém, Pará; CEP 66090-510.

SINDICATO DOS ENFERMEIROS NO ESTADO DA PARAÍBA, CNPJ:
07.227.878/0001-03; Praça da Independência, 18;
Empresarial Independência, Sala 312, 3o Andar; Centro;
João Pessoa, Paraíba; CEP 58020-544.

**SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE
SERVIÇOS DE SAÚDE DE APUCARANA E REGIÃO**, entidade
sindical de primeiro grau, pessoa jurídica de direito

privado, inscrita no CNPJ sob o nº 78.299.864/0001-43, sediada na Rua Oswaldo Cruz, 373, CEP 86800670, Centro, Apucarana, Paraná.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DE CAMPO MOURÃO E REGIÃO, entidade sindical de primeiro grau, pessoa jurídica de direito privado, inscrita no CNPJ sob o nº 80.888.845/0001-02, sediada na Avenida Capitão Índio Bandeira, 1400, CEP 87300000, Campo Mourão, Paraná.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DE CORNÉLIO PROCÓPIO E REGIÃO, entidade sindical de primeiro grau, pessoa jurídica de direito privado, inscrita no CNPJ sob o nº 78966710/0001-68, sediada na Rua Colombo, 909, CEP 80300000, Cornélio Procópio, Paraná.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DE CURITIBA E REGIÃO - SINDESC, entidade sindical de 1º Grau, pessoa jurídica de direito privado, sediada na Rua Candido Lopes, 289, Edifício Tijucas, 15º andar, conjunto 1521, CEP 80020-060, Curitiba, Paraná.

SINDICATO DOS TRABALHADORES EM ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DE FRANCISCO BELTRÃO E REGIÃO, entidade sindical de primeiro grau, pessoa jurídica de direito privado, inscrita no CNPJ sob o nº 76687134/0001-10, sediada na Rua Minas Gerais, 403, CEP Francisco Beltrão, Paraná.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DE IRATI, entidade sindical de primeiro grau, pessoa jurídica de direito privado, inscrita no CNPJ sob o nº 80058423/0001-00, sediada na Rua XV de novembro, 707, centro, CEP 84500000, Irati, Paraná.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DE PARANAVAÍ E REGIÃO - SINDESP, entidade sindical de primeiro grau, inscrita no CNPJ 77.934.966/0001-20, com sede na Rua Curitiba, 2409, Centro, Paranavaí, Paraná, CEP 87.702-070.

SINDICATO DOS TRABALHADORES EM ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DE PATO BRANCO, entidade sindical de

primeiro grau, pessoa jurídica de direito privado, inscrita no CNPJ sob o n.º 80870652/0001-16, sediada na Rua Ararigboia, 255, primeiro andar, sala 07, centro, CEP 85501260, Pato Branco, Paraná.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DE TOLEDO

CNPJ: 80.403.660/0001-52 AVENIDA MARIPA, número 5018, SALAS 02, TOLEDO, Paraná, CEP: 85901000.

SINDICATO DOS TÉCNICOS EM RADIOLOGIA DO PARANÁ

(SINTERPAR), pessoa jurídica de direito privado, inscrita no CNPJ sob o n.º 77.167.252/0001-34, sediado na Travessa Itararé, n.º 43, 2º andar, conjunto 25, Curitiba, Paraná, CEP 80060-040.

SINDICATO DOS SERVIDORES MUNICIPAIS DE ENFERMAGEM DE

CURITIBA, CNPJ: 23.786.802/0001-74; Rua Tabajaras, 637, Sobre loja; Vila Izabel; Curitiba, Paraná; CEP 80320-310.

SINDICATO DOS BIOMEDICOS DO ESTADO DE PERNAMBUCO; CNPJ:

11.867.512/0001-76; Avenida Norte, 1271; Santo Amaro; Recife, Pernambuco; CEP 50100-000.

SINDICATO DOS ENFERMEIROS NO ESTADO DO RIO GRANDE DO

SUL; CNPJ: 88.917.166/0001-18; Travessa Francisco de Leonardo Truda, N. 40, Sala 51; Centro; Porto Alegre, Rio Grande do Sul; CEP 90010-050.

SINDICATO DOS ENFERMEIROS DO RIO DE JANEIRO; CNPJ:

42.183.624/0001-31; Rua Sete de Setembro, 98 COB 05; Centro; Rio de Janeiro, RJ; CEP 20050-002.

SINDICATO DOS TRABALHADORES PÚBLICOS DA SAÚDE DO ESTADO

DE SÃO PAULO (SINDSAÚDE/SP), pessoa jurídica de direito privado, inscrito no CNPJ sob n.º 61.410.825/0001-79, com sede na cidade de São Paulo - SP, sito na Rua Paula Ney, n.º 546/550, Vila Mariana, São Paulo/SP, CEP 04107-021.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAÚDE DE ARAÇATUBA, CNPJ/MF n.

51.100.477/0001-80, rua Afonso Pena, 1.328 -Vl. Mendonça -Araçatuba/Sp, CEP 16015-060.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE

SERVIÇOS DE SAÚDE DE BAURU, CNPJ/MF n.

50.843.853/0001-63, rua Bandeirantes, 12-50 -Centro - Bauru/Sp. -CEP 17012-015.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE CAMPINAS/SP., CNPJ/MF n.

46.087.854/0001-58, rua Duque de Caxias, 368 -Centro - Campinas/Sp. -CEP 13015-310.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE FRANCA, CNPJ/MF n.

50.428.085/0001-81, rua Arthur Marangoni, 2.421 - Vl. Industrial -Franca/Sp. -CEP 14403-371.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE JAU, CNPJ/MF n.

49.895.444/0001-21, rua Sebastião Ribeiro, 501 -Centro - Jau/Sp., -CEP17201-180.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE PIRACICABA, CNPJ/MF n.

47.745.484/0001-61, rua Riachuelo, 1.111 -Piracicaba - CEP 13419-311.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE PRESIDENTE PRUDENTE, CNPJ/MF n.

51.395.630/0001-43, rua Djalma Dutra, 759 -Vl. Ocidental -Presidente Prudente/Sp. CEP 19015-040.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE RIBEIRÃO PRETO, CNPJ/MF n.

45.233.574/0001-48, rua Marques de Valença, 33 - Ribeirão Preto/Sp. -CEP 14025-490.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE RIO CLARO, CNPJ/MF n.

45.289.857/0001-01, rua 2, N° 432 -Bairro Saude -Rio Claro/Sp. CEP 13500-312.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE SANTOS, Av. Ana Costa, 70 -Vl. Matias -Santos/Sp. -CEP 11060-001.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE SÃO JOSE DO RIO PRETO, rua Rio Preto, 3.271 -Bairro Redentora -São Jose do Rio Preto/ Sp. -CEP 15015-760.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE SÃO JOSE DOS CAMPOS, CNPJ/MF n.

73.308.372/0001-90, Pça Londres, 47 -Jd. Augusta -São Jose dos Campos/Sp., CEP 12216-760.

SINDICATO DOS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE SOROCABA, rua Cel. Jose Prestes, 113 -Centro -Sorocaba/Sp. CEP 18035-625.

SINDICATO DOS PSICÓLOGOS NO ESTADO DE SÃO PAULO (SINPSI), pessoa jurídica de direito privado, inscrito no CNPJ sob o n° 43.140.789/0001-99, com sede na cidade de São Paulo - SP, sito na Rua Aimbere, n° 2.053, Perdizes, São Paulo/SP, CEP 01258-020.

SINDICATO DOS ENFERMEIROS DO ESTADO DE SAO PAULO; CNPJ: 52.169.117/0001-05; Rua Caramuru, 281; Saúde; São Paulo, SP; CEP 04138-001.

SIND SAUDE GUARULHOS E REGIAO - SINDICATO UNICO DOS AUXILIARES DE ENFERMAGEM, TECNICOS DE ENFERMAGEM E DEMAIS EMPREGADOS EM ESTABELECIMENTOS DE SERVIÇOS DE SAUDE DE GUARULHOS, ITAQUAQUECETUBA E MAIRIPORA; CNPJ: 59.650.665/0001-58; Rubens Guedes, 97; Vila Progresso; Guarulhos, São Paulo; CEP 07091-010.

SINDICATO DOS AUXILIARES DE ENFERMAGEM, TECNICOS DE ENFERMAGEM E DEMAIS EMPREGADOS EM ESTABELECIMENTOS PRIVADOS E FILANTROPICOS DE SAUDE E EMPRESAS QUE PRESTAM SERVIÇOS DE SAUDE, OSCIPS (ORGANIZAÇÃO DA SOCIEDADE CIVIL DE INTERESSE PUBLICO) DA AREA DA SAUDE, OSS (ORGANIZAÇÕES SOCIAIS DA AREA DA SAUDE), FUNDAÇÕES PRIVADAS DA AREA DA SAUDE E ATIVIDADES AFINS DE SAO BERNARDO DO CAMPO, SANTO ANDRE, SAO CAETANO DO SUL, DIADEMA, MAUA, RIBEIRAO PIRES E RIO GRANDE DA SERRA (SINDSAUDE ABC); CNPJ: 67.180.752/0001-52; Ave. Pereira Barreto, 1900; Paraíso; Santo André, SP; CEP 09190-210.

SINDICATO DOS ENFERMEIROS DO ESTADO DE SERGIPE; CNPJ: 86.887.312/0001-84; Rua Porto da Folha, 560 Getúlio Vargas; Aracaju, Sergipe; CEP 49055-540.

MOVIMENTO DOS TRABALHADORES RURAIS SEM TERRA; Alameda Barão de Limeira, 1232; Campos Elíseos; São Paulo, SP; CEP 01202-002.

COORDENAÇÃO NACIONAL DE ARTICULAÇÃO DAS COMUNIDADES NEGRAS RURAIS QUILOMBOLAS; QE 24, CJ A, Casa 2, Guará 2; Brasília, Distrito Federal; CEP 71060-010.

FRENTE NACIONAL EM DEFESA DOS TERRITORIOS SECAO RIO GRANDE DO SUL (FRENTE QUILOMBOLA RS); Rua Rocco Aloise, 1000; Porto Alegre, Rio Grande do Sul
COMISSAO GUARANI YVYRUPA; CNPJ: 21.860.293/0001-01.
Estrada João Lang, 153; Bairro Cipó do Meio; São Paulo, SP; CEP 04895-070.

by their legal representatives and attorneys who sign, with due respect to your presence and that of the Respected International Court of Justice, in accordance with the provisions of Article 7, paragraph "k" of the Statute of Rome, to bring this present

CRIMINAL COMPLAINT

against JAIR MESSIAS BOLSONARO, President of the Federative Republic of Brazil, with address at Praça dos Três Poderes, Palácio do Planalto, 4° floor, CEP 70.150-906, Brasília/DF, for committing a **CRIME AGAINST HUMANITY**, against the Brazilian people, through the facts described by law hereby stated:

1. Regarding the signatories:

The signatory entities of the present complaint, represent labor unions and community representations, and are authorized by their social statutes to sponsor the defense of the collective and individual interests of their members, in administrative and judicial levels.

Even at an international level, the signatory entities have territorial jurisdiction in Brazil, which enables them to promote actions aimed at defending the members they represent.

The signatories include unions that represent health workers who are currently the most affected by the pressure of the pandemic, given that they are in the front line to assist those affected by it.

2. Facts/CORONAVIRUS (SARS-CoV-2)

The world is suffering the largest pandemic in its history, that is decimating millions of people, most of them in an inferior economic and social position, without effective access to health systems, demanding positive and unified actions from the governments to reduce the effects of the epidemiological wave and to control the advance of contamination.

COVID-19 (SARS-COV-2)

The first case of the new coronavirus pandemic, **SARS-CoV2**, was identified in Wuhan, China, on December 31 of last year. Since then, the cases have begun to quickly spread around the world: first across the Asian continent, and then to other countries in Europe, extending to Africa and reaching the Americas.

The fast advance of contamination and deaths, from the transmission of **COVID-19 (SARS-CoV2)**, in Iran and Italy, began to call the attention of health authorities, prompting the World Health Organization (WHO) to define the outbreak of the disease as a **pandemic** on March 11, 2020.

2.1. Mobilization of Governments

The leaders of almost all the countries in the world were concerned with the consequences of the illness and, following international recommendations from the health authorities, they sought alternatives that could give a positive response against the advance of the **COVID-19**.

The diligent and responsible governments managed to control, through their actions, the advance of the predatory scale of the virus, reducing the epidemiological curve and deaths. They also sought to rescue small and medium-sized enterprises from the devastating economic effects of the pandemic, also protecting workers as well as the socially unattended and more vulnerable populations.

In the health sector, they sought to give unrestricted access to the infected patients, with the availability of intensive care hospital beds and guaranteeing access to medications, supplies, and structure for the best care and reduction of the risk of lethality and side effects.

The exact figures are not available but hundreds, if not thousands, of field hospitals were set up to relieve the health facilities and temporarily tend to victims on site before they were safely transferred to permanent facilities.

The governments that are conscious and aware of the seriousness of the disease have also provided hospitals with a structure of staff, doctors, nurses, aides, and skilled and trained nurse technicians, first responders, and intensive care experts, who are skilled and trained to deal with the virus.

They sought to test as many people as possible, thus managing to control the spread of COVID-19, slowing down the epidemiological curve and deaths.

Some government leaders have underestimated the seriousness of the pandemic, and one of them is the president of Brazil.

His attitude of contempt, neglect, and denial, has brought disastrous consequences, with the resulting intensification of the spread of the illness,

completely straining the health services, which were unable to meet the minimum conditions to assist the population, causing deaths without further controls.

The failure of the Brazilian government amounts to a **crime against humanity - genocide.**

2.2 The virus in Brazil and Legislative Support

The virus continued its fast circulation, starting in Asian and European countries, reaching South America, finding a favorable terrain to spread in Brazil, where all the federal states have cases of infection and deaths, with an initial incidence in the capitals from where it spread with force to the interior.

As soon as the virus arrived in the country, in February/March, Health Minister Doctor Luiz Henrique Mandetta expressed concern and began to act to combat the spread of the virus.

In the same manner, the National Congress expressed concern and, within its capacity, started to legislate to provide responses to the advance of the virus.

Thus, on March 20, 2020, the Ministry of Health declared through Provision No. 454/2020, the state of community transmission of the coronavirus throughout the national territory.

The National Congress began to make its contribution and, on March 20, 2020, issued Legislative Decree No. 06, recognizing the State of Public Calamity.

"It recognizes, for the purpose of Article 65 of Complementary Law No. 101 of May 4, 2000, the state of public calamity, within the terms of the petition made by the

***President of the Republic through Message
No. 93 of March 18 2020."***

The State of Public Calamity is defined in Annex VI, item IX, of the Normative Provision No. 02, of December 20 2016, of the then Ministry of National Integration, as an **"abnormal situation, caused by a disaster causing losses and damages that substantially impede the response capability of the public power of the affected federative unit."**

Countless other measures were approved in the National Congress, with the aim to give freedom to the President of the Republic to make the necessary decisions to combat **COVID-19** in the country.

On May 8, 2020, the National Congress proclaimed the

CONSTITUTIONAL AMENDMENT No. 106

That institutes an extraordinary fiscal, financial, and personnel hiring regime to face the national public emergency due to the pandemic.

The boards of directors of the House of Representatives and the Federal Senate, pursuant to § 3, art. 60 of the Federal Constitution, proclaim the following Amendment to the constitutional text:

Art. 1 During the validity of a state of national public calamity recognized by the National Congress due to a public health emergency of international importance resulting from a pandemic, the Union shall adopt an extraordinary fiscal, financial, and personnel hiring regime to meet the needs arising from it, only in those cases where the urgency is incompatible with the

regular regime, under the terms defined in this Constitutional Amendment.

(...)

With the proclamation of the mentioned Constitutional Amendment, the President of the National Congress, Senator Davi Alcolumbre has so expressed:

"Governments and legislators around the whole world have been adopting exceptional measures to contain the sharp drop in the economic activity and mitigate the social problems that have been generated. It could not be different in Brazil. In the end, in view of all the adverse circumstances, we have been able to advance here in Congress, with the approval of measures essential to confront this common enemy, which is the virus," he said.

The president of Congress said that the legislature has supported the federal government in its actions to combat the pandemic, without, however, depending on initiatives from the president of the Republic.

That the PEC (Constitutional Amendment Proposal) gives the government more flexibility to spend resources during the state of public calamity recognized by the federal government, by allowing the separation of these expenditures from the general budget of the Union.

The amendment authorizes the Union to disregard the so-called "golden rule," which is a constitutional mechanism that prevents the government from borrowing to

pay current expenses such as salaries and costs. The measure is valid throughout the duration of the state of national public calamity recognized by the National Congress and which is scheduled to end on December 31 2020."

This demonstrates that the Legislative Branch has been adopting the necessary and precise measures to allow the executive branch deal with the pandemic with freedom and without budgetary and bureaucratic impediments.

2.3. Judicial Branch Support

In the same manner, the Judicial branch, through its highest organization, the STF - Federal Supreme Court - acted to provide a legal basis to the acts of the Federal Government to focus on the combat against the virus.

So, when asked about the need of complying with the entrenchment rules established by the LRF -Fiscal Responsibility Law- and LDO -Budget Guidance Law- on May 13 2020, confirming the injunction granted by Justice Alexandre de Moraes in the ADI/DF (Petition of Declaration of Unconstitutionality) No. 6357, the text of the decision includes:

"(...)

"The emergence of the COVID-19 pandemic represents a totally unforeseeable supervening condition with serious consequences that will drastically affect the execution of the previously planned budget, requiring the urgent, lasting, and coordinated action of all the federal, state, and municipal authorities in defense of the life, health, and the economic subsistence of a considerable portion of Brazilian society, for which it

is logically and juridically impossible to comply with certain legal requisites compatible with moments of normality."

It is thus observed that both, the National Congress and the Federal Supreme Court -STF- have eased rigid standards, authorizing the President of the Republic to issue immediate and safe responses to the combat to the **COVID-19**.

2.4. Social Isolation

There is no medication that can be safely prescribed to combat the disease. There are still no approved vaccines.

Therefore, the health authorities around the world, as endorsed by the WHO - World Health Organization -, recommend **social isolation** and voluntary quarantine as preventive and precautionary measures to reduce the speed at which COVID-19 spreads.

The Director-General of the World Health Organization (WHO), Tedros Adhanom Ghebreyesus, as he did in a declaration on 26 March 2020 at the G20 (a group of rich countries, of which Brazil is a member), has repeatedly upheld the need for social isolation as a means to combat the coronavirus.

In Brazil, while he was Minister of Health, Dr. Luiz Henrique Mandetta, upheld the need for social isolation as a means of stop the spreading of the virus, which is something that the most renowned infectious disease and collective health entities and medical associations have always observed.

Contrary to the international recommendation and, even of the Minister of Health at the time, the President of the Republic spoke out publicly against **social**

isolation and continued to carry out public activities as a way of showing that he did not agree with the measure.

The contradictory stance regarding **social isolation between** Luiz Henrique Mandetta and President Jair Bolsonaro, in addition to the adamant insistence that the drugs "**chloroquine and hydroxychloroquine**" be included in the protocols of the Ministry of Health for the treatment of all and any cases of the coronavirus, even though there are no scientific studies proving the positive result in the treatment, resulted in the resignation of the Minister on 16 April 2020.

Nelson Teich, who is also a physician, replaced Mandetta in the Ministry of Health. While in office, he announced that he would propose a Plan for the Flexibilization of the Economy, although he favored the technical recommendations that also included social isolation as one of the measures to combat the virus.

He also voiced his opposition to including "**chloroquine and hydroxychloroquine**" in the Protocol of the Ministry of Health **for treating the disease**. He remained in office for only 30 (thirty) days.

The social isolation recommended by the health authorities, in fact, allowed essential activities such as those at grocery stores, pharmacies, butcher shops, transportation, health, bakeries, as long as the specific protocols and care to prevent the contagion and the spreading of the virus were observed. Thus, the specific recommendation has always been that, when it becomes necessary to leave the house, people should keep their distance one from another, avoid crowds, and be mandated to **use face masks**.

2.5. Ministry of Health - Acting Minister

On 3 June 2020, the President of the Republic confirmed General Eduardo Pazuello as **"acting health minister."** Pazuello **did not endorse a more rigid social distancing and started recommending treatments for Covid-19 without the approval of medical and scientific entities,** such as the use of **"chloroquine and hydroxychloroquine."** Moreover, the ministry also lost technicians with decades of experience in the SUS [Single Health System] and appointed members of the Armed Forces to strategic positions.

With an acting Minister of Health, management of the effort to combat the advancement of the pandemic appears to be totally abandoned, forcing the governors and mayors to adopt measures that should necessarily be headed by the Executive Branch.

In 53 (fifty-three) years, this is the first time that Brazil has been without an appointed Minister of Health.

As soon as the Acting Minister was appointed to take charge of public health policies in Brazil, the President of the Republic, in a clear attempt to exempt the new minister of liabilities because, as "a military officer on active duty," he was a layman in the field, the President of the Republic issued Provisional Measure 966/2020.

The content of the legal initiative was so crude that it was taken before the STF - Federal Supreme Court - through ADI (Petition for Declaration of Unconstitutionality) No.6421 MC/DF. In his vote in this case, Justice **GILMAR MENDES** ruled that:

"(...)

I believe that, if a public servant deliberately adopts a stance contrary to

the technical recommendations of the WHO, this could constitute a real case of malpractice by the public servant, which could constitute a gross error in accordance with the terms of article 2 of the very MP [Provisional Measure]. I have already stated - and I am stating it again here - that the Federal Constitution does not authorize the President of the Republic or any other public servant to implement a genocidal policy for the administration of health. Thus, in keeping with the interpretation as conveyed by the rapporteur, I partially grant the injunction only to establish that, in the characterization of gross error foreseen in MP 966/020, we must take into consideration whether the authorities complied with (i) scientific and technical standards, norms, and guidelines, with special emphasis on the guidelines of the World Health Organization; and (ii) the constitutional principles of precaution and prevention.
(...)" (gn)

On 11 July, the same Justice **GILMAR MENDES**, of the Brazilian Federal Supreme Court, considering the fact that more than **two dozen technical positions in the Ministry of Health** are occupied by **military personnel without any training in the health area**, stated the following:

"This is terrible for the image of the Armed Forces. It must be stated very clearly that: the Army is associating itself with this genocide, it is not reasonable. This must end."

So, once again, a member of the Federal Supreme Court, **associates public health policies with "genocide."**

2.6.Actions and Omissions of the Offender - President of the Republic

However, the President of the Republic, **Jair Messias Bolsonaro**, has never paid heed to the technical, medical, and health recommendations of his own Minister of Health.

He has constantly tried to challenge what was logic and appear in public with supporters and journalists, at stores, bakeries, events, promoting gatherings, greeting people with handshakes and hugs, having his photograph taken, without the mandatory use of a face mask.

He also repeatedly makes speeches minimizing the seriousness of the disease, the ease of its contagion, challenging all the recommendations of national and international health authorities.

He constantly upholds the unrestricted opening of stores, schools, religious temples, gymnasiums, restaurants, squares, and public parks. In his statements he criticizes governors and mayors for the measures restricting the circulation of people and the opening of stores.

He is rude when asked about the serious consequences of the pandemic, recalling that the first confirmed case in the country was registered on 26/02/2020.

On some occasions he reacted and made comments such as the following:

15/03 - (162 confirmed cases) - the president participates in several coup mongering rallies, with

public gatherings, greetings, photographs without wearing a mask;

17/03 - (1 death) - even with the news of the first victim, he promises to organize a birthday party;

20/03 - (11 deaths) - he comments: *"after the stabbing, a petty flu is not going to bring me down;"*

24/03 - (46 deaths) - he claims to have the physique of an athlete and that he is allegedly protected against the "petty flu;"

24/03 - (46 deaths) -- in a nationwide simulcast he asserts that the country cannot stop, that schools have no reason to remain closed and that commercial activities should continue;

25/03 - (59 deaths) - he issues Decree 10,292/20, which includes among the "essential services" the functioning of churches and lottery stores.

25/03 - The Social Communication Secretariat of Planalto Palace, started a publicity campaign and measures against social isolation, encouraging people to go out to the streets and return to work - "#oBrasilNãopodeParar" [BrazilCannotStop].

29/03 - (159 deaths) - he went out to the streets of the city of Brasilia/DF [Federal District], greeting people, going into hospitals and snack bars, causing gatherings, without a mask and, contrary to what the Minister of Health himself recommended;

01/04 (240 deaths) - he shares fake video about shortages;

02/04 - (324 deaths) - he said that the Governors were a "little afraid" and that the peoples' support was all

that was missing to sign a decree against social isolation;

13/04 - (1,924 deaths) - he vetoes the use of cell phone data in mapping social isolation;

17/04 - (2,141 deaths) - once again he upholds the resumption of commercial activities and asks the Minister of Justice, to reopen the borders;

19/04 - (2,642 deaths) - together with the Minister of Education, he promises to reward universities that sabotage social isolation;

20/04 - (2,906 deaths) - when asked about the number of deaths, he said: *"I am not a gravedigger, right?"*

28/04 - (5,083 deaths) - upon hearing a report that Brazil had outnumbered China in the number of deaths, he said: *"So what? I'm sorry. What do you want me to do? I am Messias, but I do not perform miracles;"*

13/05 - (13,240 deaths) - in response to a court action, he submitted the negative results of a test for COVID-19 issued to fictitious names;

14/05 - (13,999 deaths) - he issued a Provisional Measure exempting public servants of the responsibility for actions or omissions in acts related to the pandemic;

16/05 - (15,662 deaths) - he had sent only 3% (three percent) of the promised respirators to the states;

25/05 - (25,598 deaths) - Brazil was the country, in the whole world, with the largest number of deaths in 24 (twenty four) hours;

27/05 - (25,598 deaths) - he had made available only 7% (seven percent) of the R\$ 11.74 billion earmarked for immediate use to combat the pandemic;

03/06 - (32,548 deaths) - he vetoed the use of R\$ 8.6 billion - of a fund that no longer existed -- in the fight against the pandemic;

05/06 - (35,026 deaths) - The Ministry of Health started to obstruct the media and the people's access to statistics on the progress of the pandemic;

11/06 - (49,919 deaths) - he encourages supporters to force their way into field hospitals in search of evidence of low occupation;

19/06 - (48,954 deaths) - the country surpasses 1 million cases and the President was concerned about resuming commercial activities and about the three-prong power plug;

22/06 - (51,407 deaths) - the President, upholding the return to the total opening of businesses, states: *"because of the information coming from the entire world, from the WHO through the mistakes it made, it is probable that this issue was handled with some exaggeration."*

24/06 - (53,874 deaths) - Bolsonaro is summoned by the 9th Federal Court of Brasilia/DF, concerning the compulsory use of the face mask and the AGU [Council General's Office], defends the President, seeking to free him of the need to use the protector.

30/06 - (58,927 deaths) - the court injunction ordering Bolsonaro to wear a mask is overturned by the TRF 1 [First Regional Federal Court], at the request of the AGU - Council General's Office.

03/07 - (63,254 deaths) - The National Congress had approved Law No. 14,019/20, making the use of a face mask mandatory throughout the country. However, on 3 July, the text published in the Federal Official Gazette (Law 14,019/20) was sanctioned by President Jair Bolsonaro with 17 vetoes. Among the vetoed paragraphs is the one that forced the people to keep their mouth and nose covered by an individual protection mask in commercial establishments, such as shopping malls and stores, industrial facilities, religious temples, educational establishments, and other closed places where people gather.

3. Some vetoes in recent laws:

We briefly want to mention two laws that were vetoed by the President of the Republic and that deserve to be highlighted here.

3.1 Law No. 14,019/20 dated 2 July 2020.

"Article 1. This Law amends Law no. 13,979, dated 6 February 2020, providing for the mandatory use of personal protective masks for circulation in public and private areas accessible to the public, on public roads, and public means of transportation, for the adoption of asepsis measures for areas of public access, including public transportation, and about making sanitation products available to users while the measures to face the public health emergency of international importance resulting from the Covid-19 pandemic are in force.

Article 2. The main section of Article 3 of Law No. 13,979, dated 6 February 2020, becomes effective with the addition of the following clause III-A:

"Art. 3

.....

III-A - mandatory use of personal protective masks;

....." (NR)

Art. 3. Law No. 13,979, dated 6 February 2020, becomes effective with the addition of the following Articles 3-A to 3-I:

"Art. 3-A. It is mandatory to keep mouth and nose covered by an individual protection mask, according to the sanitary legislation and according to the regulation established by the Federal Executive Branch, to circulate in public and private areas accessible to the public, on public roads and means of public transportation, as well as in:

I - paid private individual passenger transport vehicles by means of an application or by taxi;

II - buses, aircraft or vessels chartered for collective use;

III - (VETOED). "III - commercial and industrial establishments, religious temples, educational establishments, and other closed places for peoples' gatherings."

(...)

"Art. 3-B. (VETOED). 'Art. 3-B. It is mandatory for establishments operating during the Covid-19 pandemic to provide their employees and collaborators with personal protective masks free of charge, even if handmade, regardless of other personal protective equipment established by occupational health and safety standards.'

"Art. 3-F. (VETOED)." 'Art. 3-F. It is mandatory to wear individual protection masks in prisons and in establishments for the fulfillment of socio-educational measures, observing what is established in the main portion of art. 3-B of this Law.'
(...)

The use of masks for collective protection is highly recommended. The National Congress, aware that the Brazilian population, due to the actions of the President of the Republic, was disregarding the importance of the use of protection equipment, approved a specific law, making the use of masks mandatory.

However, the President, exercising his power, **VETOED** the provisions of the law in a completely unreasonable manner, lifting the need to use them in stores, the industrial sector, religious temples, closed areas, and even in prisons.

Nothing justifies the vetoes. To dispense with the use of masks in stores, the industrial sector, religious temples, closed areas, means disregarding the danger of the proliferation and puts the Brazilian people at the edge of the abyss.

The penitentiary system is also being handled in an absurd manner. Brazil has the third largest prison population in the world, with about 800,000 prisoners, locked up, in totally unhealthy premises, with countless infectious and contagious diseases, and a high risk of being contaminated by the coronavirus, cases of which have already been detected.

The authorities of the penitentiary system are highly exposed and the elimination of the mandatory use of masks in prison units means granting the virus freedom to transit without regard for human lives.

3.2 Law n. 14,021/2020, dated 7 July 2020:

"Art. 1. This Law establishes sanitary and epidemiological surveillance measures to prevent the contagion and dissemination of Covid-19 in indigenous territories, creates the Emergency Plan to Confront Covid-19 in indigenous territories, provides for actions to guarantee food security, provides for actions related to isolated indigenous peoples and of recent contact during the period of public calamity caused by Covid-19, stipulates support measures for quilombola [descendants of Afro-Brazilian slaves] communities, small-scale fishermen and the other traditional peoples and communities to confront Covid-19 and amends Law No. 8,080, dated 19 September 1990, in order to ensure the provision of additional resources in emergency and public calamity situations.

(...)

Art. 5. It is the Government's responsibility to coordinate the Emergency Plan and, together with the states, the Federal District, the cities and the other public institutions that act in the execution of the policy for indigenous communities and with the effective participation of the indigenous peoples through their representative entities, to execute specific actions to guarantee, urgently and in a gratuitously and periodical way, the following measures, among others:

I - (VETOED); "I - universal access to drinking water;"

II - (VETOED); "II - free distribution of hygiene, cleaning and disinfecting materials to villages or indigenous communities, whether officially recognized or not, including in urban areas;"

(...)

V - medium and high complexity care organizations in urban centers and differentiated monitoring of cases involving indigenous people, with structured planning according to the needs of the people, which includes:

a) (VETOED); "a) emergency hospital and intensive care unit (ICU) beds;

b) (VETOED); b) acquisition or supply of ventilators and blood oxygenation machines;"

(...)

Art. 7° (VETOED).

Art. 7°

"Art. 7° The Federal Government will immediately make available an emergency budget allocation, which cannot be lower than the budget of the referred body in the current fiscal year, with the objective of prioritizing indigenous health due to the public health emergency arising from Covid-19, referred to in Law No. 13,979, of February 6, 2020, and the implementation of the Emergency Plan referred to in this Chapter.

§ 1° The expenses of the Emergency Plan will be borne by the Federal Government, through the establishment of special credits.

§ 2° The Federal Government will transfer funds to the states to provide financial support for the implementation of the Emergency Plan."

(...)

Art. 9° Considering the scope provided for in § 1° of art. 1 of this Law, the guarantee of food and nutritional security to indigenous peoples, quilombola communities, subsistence fishermen and other traditional peoples and communities is hereby instituted while the state of emergency resulting from the Covid-19 pandemic persists.

§ 1° (VETOED). "§ 1° The Federal Government will ensure the distribution of basic market baskets, seeds and agricultural tools directly to indigenous, quilombola families, subsistence fishermen and other traditional peoples and communities, according to the needs of those assisted."

(...)

Art. 10. The documentary requirements for access to public policies that aim to create conditions to guarantee food security for indigenous peoples, quilombola communities, subsistence fishermen and other peoples and

traditional communities will be simplified to face Covid-19.

§ 5° (VETOED). "§ 5° The inclusion of quilombola communities certified by the Palmares Cultural Foundation as beneficiaries under the National Agrarian Reform Program (PNRA) will be guaranteed, ensuring the registration of families in the List of Beneficiaries (RB), for access to public policies."

(...)

Article 19. (VETOED). "Art. 19. In remote areas, the Federal Government will adopt mechanisms that facilitate access to emergency assistance instituted by art. 2° of Law No. 13,982, of April 2, 2020, as well as social security benefits, in order to allow indigenous peoples, quilombola communities, subsistence fishermen and other traditional peoples and communities to remain in their own communities."

(...)

As can be seen, the **VETOES** of the President of the Republic to the law protecting indigenous and quilombola peoples, show a policy of exclusion of minorities, barring the above peoples from any and every public policy.

Vetoed take away access to dignified health treatment, at this time of pandemic, take away access to drinking water, access to emergency aid, basic food baskets.

These are criminal actions to which Brazilian society is exposed and, without the necessary protection of the

national judiciary, which leads them, through the established entities, to resort to international aid.

4.Regarding the President becoming infected:

On July 7, 2020, the President reported he had, tested positive for coronavirus.

Even so, he brought together journalists outside the Alvorada Palace [official residence of the President of Brazil] to communicate the news. Downplaying the situation, he removed the mask he wore, despite the medical, scientific, administrative recommendations of his Ministry of Health and, of the WHO - World Health Organization.

The fact of removing the mask in a public place, after having tested positive for covid-19, is yet another criminal act, under the Brazilian Penal Code.

4.1.Use of chloroquine and hydroxochloroquine:

The most renowned health authorities in the world, have ruled out the effectiveness of any medication in the treatment of COVID-19.

Internal studies in Brazil, from the most respected entities, along with international studies, do not recommend the use of chloroquine or hydrochloroquine in the treatment of coronavirus infection.

On **05/06/2020**, PAHO/WHO clarified an updated position on the use of hydroxychloroquine. *"Evidence on the benefits of using chloroquine or hydroxychloroquine is insufficient against covid-19 and warnings about side effects have already been issued. Our recommendation is that they be used only in the context of registered, approved and ethically acceptable studies."*

On **June 30**, the Brazilian Society of Infectious Diseases (SBI) released a note to warn about the risks of these early treatments. *"In recent days, a lot has been disclosed on social media about the use of medicines for covid-19. Several of these disclosures that circulate on social media are inadequate, without scientific evidence and misinform the public,"*

The FDA (American equivalent to Anvisa), the American Society of Infectious Diseases (IDSA) and the North American National Institute of Health (NIH) recommended, in mid-June, **that health professionals not use chloroquine or hydroxychloroquine in patients with covid-19**, except in clinical trials.

However, the President of the Republic became the **"poster boy"** for the drug:

"It started on Sunday, with a certain indisposition, it got worse on Monday, with discomfort, tiredness and a fever of 38 degrees. The presidential doctor, suggesting possible covid-19 contamination, made me do a CT scan at the hospital. The medical team decided to administer hydroxychloroquine and azithromycin. Since I wake up a lot during the night, after midnight I felt an improvement, at 5 am I took the second dose and I'm feeling good," said Bolsonaro....- See more at <https://noticias.uol.com.br/politica/ultimas-noticias/2020/07/07/jair-bolsonaro-testa-positivo-para-covid-19.htm?cmpid=copiaecola>

In a tweet posted on July 8, Bolsonaro mocked people who are skeptical about the use of hydroxychloroquine to treat covid-19 and said he will still live **"for a long time"** after using the drug.... - See more at <https://noticias.uol.com.br/politica/ultimas-noticias/2020/07/08/bolsonaro-hidroxiclороquina.htm?cmpid=copiaecola>

"I'm taking the third dose of hydroxychloroquine here. I am feeling very well. I had a discomfort on Sunday, I felt bad on Monday... But today, Tuesday, I am much better than Saturday. So... Certainly, this is working," said the president while showing the tablet to the camera.... - See more at <https://noticias.uol.com.br/politica/ultimas-noticias/2020/07/07/bolsonaro-diz-ter-tomado-3-dose-de-hidroxiclороquina-esta-dando-certo.htm?cmpid=copiaecola>

Now, this is a total disservice to information. The President's position to "**prescribe**" a medication that is not recommended by medical authorities and, with recognized side effect, is very serious.

It is tantamount to putting society and health professionals at risk, by pressuring them to use the drug in an indiscriminate way and without scientific proof.

It is a crime.

4.2. Removal of public servants from Alvorada Palace:

The President has indeed tested positive for coronavirus.

The recommendations from doctors, scientists, the WHO and authorities from the Brazilian Executive Branch are that those who were close to an infected person, must be removed, and go into social isolation.

Thus, on June 19, 2020, the following provision was published:

JOINT ORDINANCE No. 19, OF JUNE 18, 2020

It establishes the measures to be observed aiming at the prevention, control and mitigation of the transmission risks of

COVID-19 in the activities developed in the slaughter and processing industry of meat and meat byproducts intended for human consumption and dairy products. (Process No. 19966.100565/2020-68).

THE SPECIAL SECRETARY OF SOCIAL SECURITY AND LABOR OF THE MINISTRY OF ECONOMY and the FEDERAL MINISTERS OF HEALTH (INTERIM) and AGRICULTURE, LIVESTOCK AND SUPPLY, by the powers conferred on them by art. 71 of Decree No. 9,745, of April 8, 2020, and items I and II of the sole paragraph of art. 87 of the Constitution, respectively, and taking into account the provisions of Law No. 13.979, of February 6, 2020, which provides for measures to deal with the public health emergency of international importance resulting from the coronavirus (COVID-19) responsible for the 2019 outbreak, resolves:

(...)

Art. 4° The provisions contained in this Ordinance are mandatory by the bodies that are part of the organizational structure of the Special Secretariat for Social Security and Labor of the Ministry of Economy and the signatory Ministries, by the entities of the indirect federal public administration linked to them, under the terms of Decree n° 9.960, of January 1, 2019, and by their respective public agents, while the state faces the public calamity recognized by Legislative Decree n° 6, of March 20, 2020, and of the public health emergency of international importance arising from coronavirus (COVID-19), decreed by the Minister of State for Health, on February 3, 2020, under the terms of Law n° 13,979, of

February 6, 2020, for the purpose of preventing COVID-19.

ANNEX I

(...)

2.5 The organization must immediately remove workers from on-site work activities, for fourteen days, in the following situations:

- a) confirmed cases of COVID-19;*
- b) suspected cases of COVID-19; or*
- c) contacts of confirmed cases of COVID-19.*

2.5.1 The period of separation of contacts of a confirmed case of COVID-19 must be counted from the last day of contact between the contacts and the confirmed case.

Planalto Palace has 3,400 civil servants and they were not allowed to be separated from work by order of **CASAU - Health Coordination Office of the Presidency of the Republic**, which, when questioned, issued the following note:

" NOTE TO THE PRESS

Brasilia, 07/07 - In response to questions about the procedures adopted by the Presidency of the Republic during the Covid-19 pandemic, we inform:

The Health Coordination Office of the Presidency of the Republic (COSAU) reaffirms that there is no medical protocol that recommends an isolation measure for the simple contact with positive cases of Covid-19 and reiterates the guidelines that have been disclosed within the scope of the Presidency of the Republic, among them the washing of hands,

social distancing and the correct use of facemasks.

(...)"

It is a crime. Public servants are being put at obvious risk and their families are being exposed.

5.Right to Health and State Obligation:

"LAW N° 8.080, OF SEPTEMBER 19, 1990.

THE PRESIDENT OF THE REPUBLIC, I hereby inform that the National Congress decrees and I sanction the following law:

Art. 1° This law regulates, throughout the national territory, health actions and services, carried out separately or jointly, on a permanent or occasional basis, by individuals or corporations under public or private law.

Art. 2° Health is a fundamental human right, and the State must provide the conditions necessary for its full exercise.

§ 1° The State's duty to guarantee health consists in the formulation and execution of economic and social policies aimed at reducing the risks of diseases and other ailments and in establishing conditions that ensure universal and equal access to

***actions and services for health promotion,
protection and recovery.***

(...)

The Federal Constitution guarantees, in a greater way, the right to health and the obligation of the State in its promotion:

Art. 196. Health is the right of everyone and the duty of the State, guaranteed through social and economic policies aimed at reducing the risk of disease and other ailments and universal and equal access to actions and services for health promotion, protection and recovery.

With this, the Brazilian Government is obliged, by constitutional rule to guarantee to the Brazilian people, everything in terms of health assistance and protection.

What was demonstrated in the exhibitions previously mentioned, **reveals only part** of the President of the Republic's **actions and/or omissions** against the fight against coronavirus, evidencing, even in a summarized way, that Brazil has, at the present moment, a head of state and government whose acts are clearly irresponsible and who exposes the life of the population to high risk of health and death.

His actions and omissions are criminal and require that this International Criminal Court take action to protect the lives of 220 million people.

At this time, Brazil has almost **2 million people infected and almost 100 thousand dead. (07/2020).**

This outcome is the result of the evil acts, irresponsibility, and denial of the President of the Republic of Brazil.

6. Regarding the consequences of the President's actions and omissions in increasing infection among the population

The high number of infected and dead people in Brazil is related to the behavior of the President.

6.1. Poor communities

The poorest communities are the hardest hit. This reality has been observed and even alerted at the UN - United Nations:

"Bachelet denounces that in Brazil black people are 62% more likely to die from Covid-19 than white people

The way in which the Covid-19 pandemic is affecting communities, and "the disproportionate impact it is having on racial and ethnic minorities, including people of African descent, have exposed alarming inequalities in our societies," said the United Nations High Commissioner for Human Rights, Michelle Bachelet, on Friday 5.

"The data tells us of the devastating impact of Covid-19 on people of African descent, as well as ethnic minorities in some countries, such as Brazil, France, the United Kingdom and the United States. In many other places similar patterns may be generating, but we cannot say this with certainty because the data by race and

ethnic origin are simply not compiled or reported." (...) "

The risk of dying from coronavirus can be ten times greater for people living in regions with the worst indicators of quality of life and human development.

Epidemiological bulletins have indicated that, from the analysis of confirmed and suspected deaths by covid-19, blacks are 62% more likely to be victims of the virus than whites. In relation to mixed race individuals, the danger is 23% greater. The mortality rate for whites was 9.67 for each group of 100 thousand people, while among blacks it reached 15.64 for every 100 thousand inhabitants and 11.88 for mixed race individuals for every 100 thousand people.

Thus, social inequality shows that the least favored, the most vulnerable, are more exposed and at greater risk of death by infection.

Both social inequality and the impact on these communities are consequences of irresponsible acts by the President of the Republic.

6.2. Indigenous peoples

Another community that has been brutally affected and, due to the negligence of the Executive Branch, by its president, is that of indigenous peoples.

The actions and omissions of the public authorities in combating the disease in these communities are causing a **"true genocide, which may result in the extermination of entire ethnic groups."** The mortality rate for Covid-19 among indigenous people is 9.6%, compared to 5.6% among the Brazilian population in general.

It is the obligation of the Federal Government to take all necessary measures for the installation and

maintenance of health barriers to protect the indigenous lands in which isolated and recently contacted indigenous people are located, as well as tending to all indigenous peoples, including those who live in areas not yet definitively demarcated.

However, the president remains inactive and, even though he has the opportunity to sign Law n. 14.201/20, giving better protection to this community, in a totally adverse way, he vetoed numerous articles of the legislative initiative approved by the National Congress, exposing these people to a situation of fragility.

The concern with a stark situation of exposure to the risks of contracting the disease for indigenous peoples was brought to the attention of the STF - Supreme Federal Court, through the ADPF - Injunction for Claim of Noncompliance with Fundamental Provision n. 709, petitioned by the Movement of Indigenous Peoples of Brazil (APIB) and others and, through its Minister Luiz Roberto Barroso, an injunction was granted as follows:

"Summary: FUNDAMENTAL RIGHTS. INDIGENOUS PEOPLES. COMPLAINT OF NON-COMPLIANCE WITH A FUNDAMENTAL PRECEPT. ORDER FOR THE PROTECTION OF THE RIGHT TO LIFE AND HEALTH OF INDIGENOUS PEOPLES IN THE FACE OF THE COVID-19 PANDEMIC. PARTIALLY DEFERRED ORDER OF PROTECTION. 1. Action that targets failures and omissions of Government Authorities in the fight against the COVID-19 pandemic among the Indigenous Peoples, at high risk of infection and even of the extermination of ethnic groups. 2. The Articulation of Indigenous Peoples of Brazil - APIB has the legal standing to propose direct action before the Supreme Federal Court and thus, before the political

parties that will sign the initial petition. PREMISES OF THE DECISION 3. Indigenous Peoples are especially vulnerable to infectious and contagious diseases, toward which they show low immunity and a mortality rate that exceeds the national average. There are signs of the accelerated expansion of COVID-19 infection among its members and allegations of insufficient actions promoted by the Union for its containment. 4. Indigenous Peoples have the right to participate in the formulation and execution of healthcare actions which are meant for them. This right is guaranteed by the 1988 Constitution and by ILO Convention 169, which is a domestic regulation in Brazil. 5. The analysis herein expounded followed three guidelines: (i) the principles of precaution and prevention, in terms of the protection of life and health; (ii) the need for institutional dialogue between the Judiciary and Executive Branches in matters of public policy that arise from the Constitution; and (iii) the indispensability of intercultural dialogue in all issues that involve the rights of indigenous peoples. REQUESTS MADE 6. The action incorporates specific requests pertaining to indigenous peoples in isolation or with whom contact was established recently, as well as requests directed to indigenous peoples in general. These requests include the creation of sanitary

barriers, the installation of a situation room, the withdrawal of invaders from indigenous lands, access by all indigenous peoples to the Indigenous Healthcare Subsystem, and the development of a plan to fight and monitor COVID-19. 7. All of the requests are relevant and pertinent. Unfortunately, not all of them could be fully integrated within the precarious scope of an order of protection and mainly, not all of them can be fulfilled through a simple act of goodwill, pen and ink. On the contrary, they demand adequate planning and institutional dialogue among the Branches of Power. ORDER OF PROTECTION. Regarding the requests of indigenous peoples in isolation or with whom contact was established recently. 8. Decision to establish sanitary barriers in accordance with the plan to be submitted by the Union after having heard from the members of the Situation Room, within a term of 10 days, beginning on the date of the notification of this decision. 9. Decision to install the Situation Room as stipulated by the regulations in effect, for the management of actions to fight the pandemic in regard to indigenous peoples in isolation or with whom contact has been established recently, with the participation of representatives of the indigenous communities, the Public Prosecutor's Office of the Republic and the Public Defender's Office of the Union, in compliance with the terms and specifications

detailed in the decision. Regarding indigenous peoples in general. 10. The withdrawal of invaders from indigenous lands is an imperative and indispensable measure. However, it is not a new issue nor one associated with the COVID-19 pandemic. The removal of tens of thousands of individuals must take into account: a) the risk of conflicts; and b) the need to have police and military forces enter indigenous lands, aggravating the danger of infection. Therefore, without prejudice to the duty of the Union to analyze the problem and develop a plan to remove the invaders, it is determined for now that an emergency measure for the containment and isolation of the invaders in relation to the indigenous community, or an alternative measure capable of preventing contact, be included in the Plan for Fighting and Monitoring COVID-19 in Indigenous Peoples, which is referred to below.

11. Decision that the services of the Indigenous Healthcare Subsystem be accessible to all indigenous villagers, independently of whether their reservations have been officially recognized or not. As for non-villagers, for now, access to the Indigenous Healthcare Subsystem will only be granted if the general SUS is unavailable. 12. Decision regarding the development and supervision of a Plan for Fighting COVID-19 for Brazilian Indigenous Peoples, by mutual agreement with the Union and

the National Council for Human Rights, with the participation of indigenous communities, in accordance with the terms and conditions stipulated in the decision. 13. Partially deferred order of protection."

The ruling is of a preliminary nature and will be adjudged by the Plenary of the STF; in the meantime, it obliges the Brazilian Government to promote specific health measures for the protection of the indigenous community during this time of pandemic.

Its pursuit through the Judiciary by representatives of indigenous peoples shows their total concern with the situation of vulnerability to which they are exposed due to the negligence of Government Authorities.

7. Regarding the consequences to the Healthcare system of the Country

The lack of attention shown by the accused, the President of the Republic, coupled with the growth of infection with the virus has brought about the collapse of the public health system.

It is the obligation of the State to provide healthcare to the population (Law no. 8.080/90 and art. 196, CF).

The State has the legal and constitutional duty to supply the SUS - Single Health System, with the required capacity of hospitals, ICU beds, hospital beds, supplies, medications, respirators, staff in adequate numbers to meet demand for care and cover shift rotations, trained staff, and the sufficient quantity of tests needed to control the pandemic.

However, what one saw and is seeing, is the desperation of Governors, Mayors, and hospital managers caused by the lack of resources and care.

There is a lack of everything.

There has been a moderate stabilization in some regions of the Country, but in some States of the federation, the situation continues to be critical, with waiting times of close to 5 (five) days for ICU beds in some of them.

States such as Mato Grosso, Minas Gerais, Acre, Rondônia, Espírito Santo, Rio Grande do Norte, Bahia, Sergipe have an ICU bed occupancy rate that is higher than 80% (eighty percent), which is generating great concern among their populations.

Besides the difficulty of increasing the number of ICU beds and respirators, Brazilian states now face a shortage of the sedatives and muscle relaxants used to intubate critical COVID-19 patients. Without these medications, mechanical ventilation cannot be performed properly and the patient faces a higher risk of death.

The majority of the population continues to be bereft of care and at risk due to the omission of the Central Government.

8. Regarding the latest International developments

Brazil, due to the lack of focus of the Federal Government regarding the actions needed to combat the virus, has become the Country with the second highest number of cases and deaths in the world. It only ranks behind the United States.

In addition, the lack of notification which stems from a shortage of tests is visible, which leads one to

think that the number of infected people in Brazil is much higher than officially reported.

This has drawn the attention of international authorities.

8.1. UN High Commissioner/Human Rights

UN High Commissioner for Human Rights Michelle Bachelet stated last 14/06 that the situation of the Covid-19 pandemic in Brazil has worsened due to the denial by key political leaders at the beginning of the outbreak, and that despite the presence of strong institutions, there are signs of political groups who pose a threat to democracy.

8.2. Regarding remarks by WHO and PAHO

The executive director of the World Health Organization (WHO), Michael Ryan, said that Brazil has experienced "jumps" in new cases of the disease, which according to him are under evaluation by the organization in collaboration with its regional arm, the Pan American Health Organization (PAHO).

Ryan also stated that the Country has performed few tests in proportion to its population, with a high rate of positive cases. "This suggests that the total number of covid-19 cases is probably underestimated" in Brazilian territory, he cautioned.

9. Regarding the consequences for healthcare workers

The alarming situation in which the lack of action by the federal government placed the Country has impacted the healthcare system, with subsequent damage to the healthcare worker, a professional who carries out front-line work by caring for those who are infected.

Hospitals were unprepared to receive rapidly increasing cases, and the Federal Government did not give an immediate answer by providing solutions to the problems that were being experienced.

Healthcare sector workers found themselves without:

9.1. PPE (face masks, gloves, caps, face shields, goggles, gowns); It was confirmed that the supply of face masks was made with material of the worst possible quality, which did not protect healthcare workers properly, in addition to requirements for the use of equipment that were totally non-compliant with technical recommendations, including usage time;

9.2. Lack of testing - healthcare workers have not had access to testing. They are not tested upon arrival, they are not tested during the period of service, and they are not tested at dismissal. They are effective vectors and, due to the lack of testing, asymptomatic cases could be transmitting the illness to colleagues at work, family members, and to society at large;

9.3. Sanitizing supplies (alcohol-based gel, soap, paper towels);

9.4. Shortage of employees - the number of employees is insufficient to meet the high demand for care and to cover shift rotations;

9.5. Shortage of qualified (trained) employees - employees have always been distributed according to their areas of specialization within the hospitals but due to the high demand, there was a need to reassign staff to other areas, and the employees did not have the required level of specialization for intensive care or ICU;

9.6. Shortage of Hospital Structures - the high demand for care took hospitals by surprise, forcing them to

restructure their physical facilities by readapting areas and beds. The lack of mechanical ventilators, which are necessary to treat chronic patients, is being felt.

9.7. Shortages of medications and supplies - there is a shortage of medications and supplies such as anesthetics, muscle relaxants, beta blockers.

9.8. Illness due to infection with COVID-19 - due to the many reasons mentioned herein, healthcare workers are falling victim to the disease, with a high rate of infection.

9.9. Deaths due to COVID-19 - The high mortality rate for healthcare workers is surprising, it exceeds the upper limit of normal;

9.10. Absence of CATs - hospitals refuse to file a Workplace Incident Notification or CAT despite the high degree of risk involved and increased numbers of suspected or confirmed leaves of absence;

9.11. Lack of a separate place to eat meals - employees who treat infected patients do not have access to separate places to eat their meals, even at the risk of being carriers of the virus;

9.12. The inclusion of CPE (Collective Protective Equipment) used by healthcare professionals - The Collective Protective Equipment is stipulated in Regulatory Standards number 4 (NR 4) and number 9 (NR 9) of the Ministry of Labor and Employment. According to NR 4, the Safety Engineering and Occupational Medicine Specialized Service is responsible for eliminating or reducing risk in workplace environments by implementing technical standards focused on worker health and safety, in addition to detailing the appropriate CPE for each sector and function. Regulatory Standard 9, in turn, provides for the

Environmental Risks Prevention Program (PPRA), and offers guidelines on the use of CPE and PPE. In hospital areas, the main indications for use are: a) **Chemical area booth**: the design must provide air circulation to prevent the inhalation of contaminants; b) **Container with sand**: to neutralize spills of specific substances; c) **Disposable transfer handle**: to be used when transferring potentially contaminating materials due to the presence of microorganisms; d) **Emergency eye wash and shower station**: for immediate use in case of contact with chemical products and contaminating agents; e) **Cleaning kit**; f) **First Aid Kit**: this kit must contain antidotes for cyanide and other hazardous chemical compounds.

9.13. Ineffective maintenance of hospital elevators and their subsequent insufficient number for the proper isolation of COVID-19 patients and healthcare workers - in the current situation, hospitals need to exercise special care when transporting patients, which includes the use of elevators when needed;

9.14. Maximum degree of additional insalubrity. The COVID-19 pandemic requires a review of the Unhealthiness Reports. The maximum degree (40%) is to be considered due to the high infection and mortality risk rates of the virus.

9.15. Lack of a place for healthcare professionals to rest - one of the greatest problems that healthcare professionals currently face is the risk of infecting family members. Hospitals would need to provide adequate resting facilities for workers during shift breaks.

9.16. Lack of a suitable place to store the clothes used by healthcare workers - despite the provisions contained in NR-32, hospitals do not provide suitable places for disposing of and washing the clothes and shoes used while working, thereby forcing employees to

clean them at home, which poses a risk to their family members.

9.17. After being tested for COVID-19, the employee returns to work suffering from sequelae and does not receive adequate support - The physical and emotional aftereffects of infection are serious and when infected employees return to their workplaces, they do not receive adequate support.

There are countless other situations that could be mentioned to show that healthcare sector employees have been completely neglected by their employers and the public authorities.

The state is obliged to provide the equipment and facilities and to require that a hospital system be in decent and capable conditions for the exercise of the noble profession of healthcare.

It is up to the State to legislate and impose measures for the protection of workers and to supervise compliance with them by the authorities of the sector.

To expose an employee to risk during the exercise of professional activity is a criminal action committed by the employer and one of omission on the part of Government Authorities.

One of the first actions taken by the current Government was the **abolition of the Ministry of Labor**, which was responsible for **supervising compliance with health and safety regulations**.

With the abolition of this institution, supervisory responsibility shifted to the Ministry of the Economy, **without making it a priority**.

There is very little interest on the part of the Government to guarantee the health of workers. On 22

March 2020, the government modified **Provisional Measure no. 927**, which waives admissions and periodic examinations of workers, among them for those who belong to the healthcare sector:

"(...)

Art. 15. During the state of public calamity referred to in art. 1, the obligation to perform occupational, clinical and complementary medical examinations is suspended, except for dismissal examinations."

The same Provisional Measure stipulates that during the "**state of calamity**" period, labor auditors will act only as "**guides**," that is, they will not carry out audits or apply penalties.

"(...)

Art. 31. During a period of one hundred and eighty days, beginning on the date of entry into force of this Provisional Measure, the Labor Auditors of the Ministry of Economy shall act in a guiding manner, except in regard to the following irregularities

I - lack of employee registration, based on complaints;

II - situations of serious and imminent risk, only for those irregularities immediately related to the configuration of the situation;

III - occurrence of a fatal occupational accident ascertained by a fiscal process of analysis of the accident, only for the irregularities immediately related to the causes of the accident; and

IV - work performed in conditions which are analogous to slave or child labor. (...)"

It is the duty of the State to supervise and prosecute failures to comply with occupational health and safety standards. And, as it happens, Government Authorities edit the regulations to make compliance with legal and normative rules more flexible, putting the life and health of workers at risk.

2. Difficulties in providing judicial assistance (Local Courts)

Labor union entities, grassroots workers' representatives, have sought the necessary judicial assistance for the protection of workers, **such as the removal of members of the risk group (the elderly, pregnant women, people with comorbidities), and supplying Personal Protective Equipment, sanitation material, tests, and adequate number of employees per bed as well as other demands.**

In the conciliatory sphere positive results have been few at the Federal Labor Prosecutor's Office. Most employers allege financial difficulties in fulfilling obligations and there is no progress.

In the Judiciary sphere, some entities have had positive results in first instance with the granting of injunctions and urgent protection measures, however, **at the Regional Labor Courts, protection measures are reversed and workers have left without the necessary life and health protection.**

3. Psychological Illness

A highly relevant issue, too, is the psychological illness of health workers.

They are used to illness and death, however not with the intensity of this pandemic and, with the difficulties imposed on them by the lack of structure, protective equipment, sufficient number of workers to care for patients and proper shift rotation.

Being overworked without the necessary structure and protection leads to psychological illness.

This situation is aggravated with the health worker, who has always devoted himself to treating and saving lives, is faced with situations of not having medication, without respirators **and having to choose between those who will receive treatment or those who will be lucky enough to have the option to live or die.**

This makes the worker sick, adversely affects his psychological health.

This concern has not been considered by employers and public authorities. Certainly, the consequences of this illness will be serious, with the possibility, even of increasing the number of suicides already existing in the sector.

4. About the Law

4.3 The Court's Legitimacy and Jurisdiction

It is known that the International Criminal Court should only take action when the possibilities for a solution at the domestic level are exhausted.

According to Article 1 of the Rome Statute of the International Criminal Court, the jurisdiction of the ICC shall be given in the event that **a member state remains silent regarding its obligation to issue a punishment.**

Regarding the complaint made, there were several attempts by constituted entities to get the President of the Republic to take action to meet the population's right to life and health.

The president's omission in terms of actions, with the characteristics of a crime committed against his population, has already been the subject of a Memorandum signed by five deputy prosecutor generals (coordinators of the 2d, 4th, 6th, and 7th Chambers and the Federal Prosecutor's Office for Citizens' Rights - PFDC, of the Federal Prosecutor General's Office) and forwarded to Prosecutor General Augusto Aras with a proposal that he issue a recommendation for President Bolsonaro to respect the rules for fighting the coronavirus, both in government actions and in his statements:

"The Coordination and Review Chambers of the Federal Prosecutor General's Office and the Federal Prosecutor's Office for Citizens' Rights, by their undersigned representatives, have come to present to Your Excellency a proposal for a recommendation to the federal government, in the person of the President of the Republic, Jair Bolsonaro, in the sense that the implementation and execution of health actions as well as the broadcasting of statements and related information by any and every authority of the Federal Executive Branch, be conducted in a coherent manner and in line with the guidelines issued by national health authorities and the World Health Organization as well as in line with the National Contingency Plan for Human Infection by the new coronavirus COVID-19, from the Health Ministry, duly compatible with the state of Emergency of Public

***Health of International Importance -
ESP II, declared by the WHO."***

However, Prosecutor General Augusto Aras filed away the request without forwarding it.

The president of the Republic enjoys prerogatives and immunities in the national legal system and, in the case of committing a common crime, it is the exclusive responsibility of the Prosecutor General to initiate criminal proceedings, ex vi:

Law No. 8.038/90:

"Art. 1 - In violations involving public criminal action, the Public Prosecutor's Office shall have a period of 15 days to file a complaint or request the shelving of the investigation or the pieces of information."

Even so,

Internal Regulation at the STF:

"Art. 230-b. The Court shall not process a crime report, forwarding it to the Prosecutor General's Office. (Included by Regimen Amendment No. 44 of 2 June 2011)"

On 18 June 2020, the Prosecutor General's Office clearly showed that it is not in the interest of the agency to prosecute and punish public officials who take measures that contradict scientific guidelines in the health area during the pandemic.

It edited the **PRESI-CN No. 02 Joint Recommendation**, as shown:

NATIONAL COUNCIL OF THE PUBLIC
PROSECUTOR'S OFFICE

JOINT PRESI-CN RECOMMENDATION NO. 2 OF 18
JUNE 2020.

It recommends to the branches and units of the Brazilian Public Prosecutor's Office the criteria for public policy oversight.

THE NATIONAL COUNCIL OF THE PUBLIC PROSECUTOR'S OFFICE, through its PRESIDENT, in the exercise of the powers conferred by articles 130-A, Section 2 of the Federal Constitution and 12, XXVIII, of the Internal Regulation of the National Council of the Public Prosecutor's Office, and through the NATIONAL PUBLIC PROSECUTOR'S OFFICE MAGISTRATE, in the exercise of the powers conferred by articles 130-A, Section 3 of the Constitution of the Republic and 18, X, of the Internal Regulations of the National Council of the Public Prosecutor's Office; (...)

Art. 2 To recommend to members of the Brazilian Public Prosecutor General's Office that, in the inspection of actions during the implementation of public policies the administrative autonomy of the official is respected and the limit of objective analysis of its formal and material legality is observed.

Single paragraph. In view of the lack of scientific consensus on a fundamental issue for the implementation of public policy, it is the legitimate attribution of the official to choose one of the

contrasting and / or antagonistic positions and the Public Prosecution Service is not responsible for adopting judicial or extrajudicial measures designed to modify the merit of those choices.

Thus, attempts at internal solutions are difficult and those that have been tried have been frustrated, since the Prosecutor General's Office, the competent authority to prosecute the President of the Republic is opposed to taking the necessary procedural measures.

Decree No. 4.388, of 25 September 2002, inserted in the context of the national legal system, the Rome Statute, which regulates actions of this worthy International Criminal Court, and the Federal Constitution, in its article 5, Section 4, thus provides:

"Art.5 -

(...)

Section 4. Brazil submits itself to the jurisdiction of the International Criminal Court to the creation of which it has expressed its adherence."

(NR)

Thus, we have the legitimacy and competence of this court to assess and judge the present case.

4.4. Regarding crimes against humanity

The Rome Statute provides:

"Article 7:

For the purposes of the present statute, "crime against humanity" means any of the following acts, when committed in the

context of an attack, generalized or systematic, against any civilian population, with knowledge of that attack:

(...)

k) Other inhumane acts of a similar nature, which intentionally inflict great suffering or seriously affect physical integrity or physical or mental health."

The actual commission of the crimes is duly confirmed, since it is shown that the actions and omissions of the President of the Republic have a serious effect on the physical and mental health of the population, placing them at risk for a highly-lethal virus, and with uncontrolled dissemination capacity with risk of death or irreversible consequences. This irresponsible and outrageous behavior not in keeping with guidelines of international health authorities, with the exposure of millions of people, is **a crime against humanity**.

"Crime against humanity must be understood as an attack, by any State agent, in the exercise of its public functions, or under the pretext of its official competence in the human freedoms listed in Art. 3 to Art. 21 of the Universal Declaration of Human Rights." (DROST, Pieter. "The Crime of State". New York: Sythoff, 1959. Vol. I, pp. 347/348.)

The first time that this crime type was foreseen -- in a minimal satisfactory way - in the international legal order was in the London Agreement signed on 8 August 1945, which instituted the Nuremberg Court, whose statute provided for them in Art. 6, "c"; and had the following wording:

"Article 6

"The Court established by the Agreement mentioned in Article 1 above, for the trial and punishment of the main war criminals of the countries of the European Axis, is competent to judge and punish people who, acting in the interests of the countries of the European Axis, have committed, either individually or as members of organizations, any of the following crimes:

- c) Crimes against humanity: namely, murder, extermination, reduction to slavery, deportation, or other inhumane acts committed against any civilian population, before or during the war; or persecution for political, racial, or religious reasons, when these acts or persecutions are committed or are related to any crime falling within the jurisdiction of this Court, whether or not they violate the domestic law of the country where they were perpetrated."**

It is also important to note that in the Statute of the International Criminal Court, this category of crimes is **autonomous**, that is, it is possible for someone to be tried only for committing one of the conducts described in Article 7, however, there are some requirements for the recognition of the occurrence of these crimes, namely: a) it requires special intentionality - the "mens rea" is characterized not only by deceit but also by the potential awareness and illegality and, "in casu," the agent's omission; b) the attack must be directed at a civilian population.

The absence of this last element precludes the recognition of the crime of injury to humanity, which

is not the case in the legal action because the **offense against the entire Brazilian civilian population is well characterized.**

Brazilian criminal law brings numerous situations of criminal framing to those who commit crimes against public health. Among them:

Penal Code - Decree-Law No. 2.848, of 7 December 1940.

Danger of contagion from serious illness

Art. 131 - To practice, in order to transmit to others a serious illness with which he is contaminated, an act capable of producing the contagion:

Penalty - imprisonment, from one to four years, and a fine.

Danger to the life or health of others

Art. 132 - Exposing the life or health of others to direct and imminent danger:

Penalty - detention, from three months to a year, if the fact does not constitute a more serious crime.

Single paragraph. The penalty is increased from one sixth to one third if the exposure of the life or health of others to danger arises from the transportation of people for the provision of services in establishments of any nature, not in keeping with legal norms. (Included by Law No. 9.777, of 1998)

Epidemic

Art. 267 - To cause an epidemic, through the spread of pathogenic germs: Penalty - imprisonment, from ten to fifteen years. (Wording according to Law No.8.072, of 25 July 1990)§1 - If the incident results in death, the penalty is doubled. §2 - In the case of guilt, the penalty is imprisonment, from one to two years, or, if death results, from two to four years.

Infringement of a preventive health measure

Art. 268 - Infringing the determination of public government, aimed at preventing the introduction or spread of a contagious disease:

Penalty - imprisonment, from a month to a year, and a fine.

Single paragraph - The penalty is increased by one third, if the agent is a public health worker or exercises the profession of doctor, pharmacist, dentist or nurse."

: ataap,uan:nm. Law No. 13.979, of 6 February 2020, approved to specifically address the COVID-19 emergency, in support of Art. 268 of the Penal Code, authorizing, in its Art. 3, the determination of measures such as isolation, quarantine, and compulsory medical exams and in Art. 5 and 6, the communication duties.

In addition, Inter-ministerial Ordinance No. 05, of 17 March 2020 (Ministry of Health and Ministry of Justice and Public Security), in its Art. 3 and 4, indicates

that non-compliance with isolation and quarantine measures as well as resistance to undergo medical examinations, laboratory tests, and specific medical treatments, entails punishment based on Art. 268 and 330 of the Penal Code.

In addition, Penal Code, Art. 330:

"Art. 330 - To disobey a legal order of a civil servant:

Penalty - detention, from fifteen days to six months, and a fine."

Brazilian federal states, including the Federal District, have specific laws regarding the mandatory use of masks and, however, the President repeatedly fails to comply with the obligation, typifying the criminal conduct of Article 330 - **"disobedience of a public order."**

As already stated, it is up to the Prosecutor General of the Republic to take the initiative to take legal action against the President of the Republic, which he does not do.

In light of the inertia of the competent local authorities, the signatory entities of this request for procedure, resort to the International Criminal Court, in the search for urgent measures.

The facts exposed show the seriousness and extent of the crimes against humanity perpetrated in the country. The actions and omissions of the President of the Republic, bring untold consequences.

Brazil has around 2 million people infected and is approaching 100,000 deaths. The health sector is totally unassisted and strangled.

The search for internal solutions proves to be impossible and unattainable.

It is urgent to open an investigative process at the International Criminal Court to allow a portion of the 210 million Brazilians to be saved from the disastrous consequences of the irresponsible acts of the President of the Republic.

5. The Evidence

It is required to produce evidence by every means admitted by the International Criminal Court, without excluding any. The requesting entities are available to testify, list witnesses, and gather documents.

6. Notifications

1.

It is required that the notifications related to the present procedure are given **on behalf of the first entity that heads the request and its lawyers** at the indicated electronic addresses.

15. About the request

Ex positis, requires:

a) The present Representation is to be received and processed for the normal initiation of an investigative procedure for the commission of a crime against humanity by Mr. **Jair Messias Bolsonaro** and the consequent establishment of the competent criminal procedure;

b) The Federal Government is asked to provide the necessary information regarding the complaints formulated herein;

c) The accused **Jair Messias Bolsonaro**, is called to personally testify under penalty of having been deemed to have confessed if he refuses;

d) and finally, after the regular process takes place, may the criminal action be deemed **APPROPRIATE**, for the purpose of **CONDEMNING**, for the crimes that this Court deems appropriate, Mr. **Jair Messias Bolsonaro** for the **crime against humanity (genocide)**, for acting in an offensive manner and contrary to all guidance issued by health authorities, international and local, exposing Brazilian citizens irresponsibly to the contagion of **COVID-19**, with the possibility and risk of death or of incurable consequences, adversely affecting those who are more sensitive in condition of vulnerability (poor and black), indigenous peoples, people in the custody of and employees of the prison system and, **with greater rigor and suffering, the health workers**, with the evident possibility of facing the risk of death or other irreversible consequences.

Terms under which grant is requested

São Paulo/Brazil, 27 July 2020

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