

Your Excellency Mrs ESMERALDA AROSEMENA DE TROITIÑO, President of the Inter-American Commission on Human Rights - IACHR

**Complaint:** Brazil. Coronavirus pandemic (COVID-19). Non-compliance with recommendations of the national health authorities and the World Health Organization. Violation Human Right: Health and life. Potential genocide.

**PLAINTIFFS, the** Former Brazil' Health Ministers: **ADEMAR ARTHUR CHIORO DOS REIS** Brazilian, married, medical doctor, University Professor, email address [arthur.chioro@unifesp.br](mailto:arthur.chioro@unifesp.br); **ALEXANDRE ROCHA SANTOS PADILHA**, Brazilian, medical doctor specialized in Infectious diseases, Congressman (PT/SP), address in Câmara dos Deputados, Anexo IV, Gabinete 956 - Palácio do Congresso Nacional - Praça dos Três Poderes - CEP 70160-900, Brasília – DF, Brazil e-mail address [dep.alexandrepadilha@camara.leg.br](mailto:dep.alexandrepadilha@camara.leg.br); **HUMBERTO SÉRGIO COSTA LIMA**, Brazilian, married, Senator of the Republic (PT/PE), address in Praça dos Três Poderes, Senado Federal, Anexo II, Ala Ruy Carneiro, Gabinete 01, CEP 70.165-900, e-mail address [sen.humbertocosta@senado.leg.br](mailto:sen.humbertocosta@senado.leg.br)

**DENOUNCED: JAIR MESSIAS BOLSONARO**, Brazilian, married, retired military, currently in the Office of President of the Federative Republic of Brazil, with address in the Palácio do Planalto – Praça dos Três Poderes – Brasília/DF, Brazil, CEP 70,150-904.

With our deepest regards, as public authorities with representation in Parliament, ex-public health authorities, members of various civil society, academic and scientific representations and as citizens, worried and angered by the attitude of the President of the Federative Republic of Brazil in the fight against the pandemic coronavirus covid-19 in our country - with wide resonance in the media around the world - we **denounce** the violation of the duty to protect the health and life of the Brazilian population. We call for the intervention of this Inter-American Commission on Human Rights, in alignment to the

World Health Organization and the Brazilian and international health scientific community guidelines for health, taking into account the Commission's commitment of monitoring the situation of human rights in the member states, and of paying attention to main subjects.

## **1. CIRCUMSTANCES THAT INDICATE VIOLATION OF THE DUTY TO PROTECT THE HEALTH AND LIFE OF THE BRAZILIAN POPULATION.**

From January 30th, 2020, when the World Health Organization has declared a Public Health Emergency of International Concern as a result of an outbreak of human infection with the new Coronavirus (COVID-19), the Brazilian Ministry of Health established a Public Health Centre of Emergency Operations, taking steps to deal with such this emergency crisis, including the co-ordination with the Pan American Health Organization - PAHO, the WHO Regional Office for the Americas for the adoption of appropriate measures for the protection of public health.

The coronavirus has been recognized as pandemic by the WHO in March 11, 2020, leading to the necessity to adopt a strengthening of the public health system and measures to support the Brazilian population, with inevitable budgetary impacts, which led, thus, to the recognition by the National Congress, through Decree No.6 of March 20, 2020, the state of public calamity in Brazil.

Aware of this institutional panorama, Jair Messias Bolsonaro, now denounced, the main leader of the Federal Executive of Brazil, has been, systematically and repeatedly, denying the scientific evidence that has been basing government actions of the health authorities against the COVID-19 pandemic worldwide and that recommend social isolation as an action of unquestionable relevance to confront the evolution of the coronavirus COVID-19 infection, reduce the number of infected, flattening out of the curve of the spread, and, with this, make it possible to gain effectiveness in the organization of the health care network to and ensure the care of the most serious cases and consequent reduction of the number of deaths.

The President of Brazil, speaking on national television on the 03/24/2020 (which can be accessed through the link [https://www.youtube.com/watch?v=VI\\_DYb-XaAE](https://www.youtube.com/watch?v=VI_DYb-XaAE)) as he have been repeating in a variety of media, stated that the coronavirus COVID-19 causes only a “mild flu”, and that “although the contamination can be massive, and rapidly progressive, the virus lethality data on is little representative for Brazil, compared with data on death by violence, disease and severe economic downturn” and that

“the population of Brazil is largely young, so it doesn't fit in with the group of high risk, therefore it is not a reasonable the guideline for isolation for people (with the exception of the at-risk groups), with a consequent restriction on the operation of commerce and production, which will inevitably have an impact on the economy.

President Bolsonaro also said that given his past as an "athlete", if he eventually were contaminated by coronavirus, he would not be in any trouble, thus, deluding millions of Brazilians. According to the President, recommended caution by science in the face of the pandemic would be nothing more than press-fuelled “hysteria”.

The statements of the President of Brazil - including the convening to all Brazilians, with the exception of those noted in at-risk groups and who have symptoms of a contamination, to re-launch their activities normally - will lead to agglomeration of people in a variety of environments (such as in public transportation, lecture halls, shopping malls, transportation terminals– road, air, sea), which, as already scientifically shown, is the single most effective way of accelerating the spread of the virus, and contagion.

Even more seriously, in social networks, an announced Federal Government institutional advertising campaign was anticipated, advocating for the adoption only of vertical isolation (accessible in <https://www.youtube.com/watch?v=sgMRYyJsD8w>). In it, the return to work including containment regimes was stimulated, which contradicts the international organizations and of Brazilian and international scientific entities guidelines on the subject.

The Supremo Tribunal Federal (STF, the Brazilian Supreme Court) intervention was necessary to prevent the publicity of said advertising, which would certainly cause a tragic aggravation of what is already foreshadowed as a calamity. For this reason, Justice Luís Roberto Barroso, from STF, granted a provisional remedy to prohibit the production and circulation, by any means, of campaigns that suggest that the population should return to its full activities or minimize the severity of the Coronavirus pandemic and also determined the interruption of the hiring of any government advertising campaign aimed at the same purpose.

In granting the preliminary injunction, the Justice understood that the case presents the requirements of danger of irreparable damage or difficult to repair, due to the difficulty of controlling the circulation of video on social networks and messaging applications and the indications of preparation of broader campaign with the same bias. "The current health situation and the convincing of the population to remain at home already required considerable efforts. The dissemination of the campaign in the

opposite direction may compromise the ability of institutions to explain to the population the challenges faced and to promote their engagement in the harsh measures that need to be adopted," he said.

The Justice's decision was based on the constitutional principles of right to life, health and information of the population, as well as prevention and precaution, which determine, based on the STF jurisprudence, that the choice that offers broader health protection should prevail (here, link to the full decision: <http://www.stf.jus.br/arquivo/cms/noticiaNoticiaStf/anexo/ADPF669cautelar.pdf>).

Similarly, the President of Brazil, through interviews, statements and acts, has given irresponsible personal and institutional demonstrations of non-compliance which are contradictory to those of the health authorities of Brazil, including the authorities of the Ministry of Health itself, regarding the actions to combat the spread of COVID-19. Provocatively, the President has flouted the recommended rules of social isolation and carried out, for example, public visits to local stores, which - at least their promotion - were not commonplace, before the pandemic. These acts are widely disseminated in his social networks and in the media. As an example, we cite the following reports from the Brazilian media:

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<https://brasil.elpais.com/politica/2020-04-05/bolsonaro-participa-de-roda-de-oracao-e-expoe-novamente-conflitos-com-membros-de-seu-governo.html>

The President's own behaviour - contrary to the duty personal hygiene care and contact with the public - is notorious and reiterated, demonstrating disregard for the risks of contamination and the duty to inform, protect, prevent and act as an example to the population. It is clearly seen such a posture in the link [https://www.em.com.br/app/noticia/politica/2020/04/10/interna\\_politica,1137506/em-brasilia-bolsonaro-limpa-nariz-e-aperta-maos-de-apoiadores.shtml](https://www.em.com.br/app/noticia/politica/2020/04/10/interna_politica,1137506/em-brasilia-bolsonaro-limpa-nariz-e-aperta-maos-de-apoiadores.shtml).

This attitude, besides demobilizing the population that has been doing its part by following the WHO, the Ministry of Health itself, Governors, Mayors, press and leaders of Parliament guidelines, also hurts, in an irreconcilable way, the Federative pact and the autonomy of its entities, by deliberately failing

to comply with Governors' decrees that stimulate horizontal isolation. Thus, resulting in an environment of insecurity and fear in the population, with negative repercussions in coping with the crisis, with serious and serious repercussions on the Brazilian population fundamental rights.

The then Brazilian Minister of Health, based on scientific evidence and other countries primarily affected by contamination experience (notably China, Italy, Korea, Iran), has pointed out that although the Sistema Único de Saúde (Unified Health System - SUS) and the private health network have a considerable structure, it is insufficient for the demand in the face of the potential for coronavirus COVID-19 contamination. Several Brazilian states already show failure in their health structures, which is the reason for the admitted by the Health Minister and Secretaries need that the pace of contamination be as slow as possible, in order to reduce the lethality rate.

We note that President Bolsonaro strongly pressured the aforementioned Minister to abandon the prudential measures recommended by the WHO, even with the worsening of the epidemic in Brazil. Finally, on April 16, the then Minister of Health, who had acted in this direction, was dismissed.

It should be noted that even far from the epidemic peak, in Brazil materials and equipment are already lacking, either for the protection of health professionals or for the recommended and necessary health care protocols for the help of the contaminated ones. There are no longer enough test inputs for the diagnosis of contamination, which also relativizes the statistical data and a clearer assessment of the progressivity of the virus. In this scenario, health authorities and sub national governments have considered that the most effective containment mechanisms have been shown to be population horizontal isolation, and sharp personal hygiene practices.

These guidelines are placed in a systemic perspective, as of global consensus in the face of the performance of COVID-19, aiming to possibility greater protection and rear of health professionals, reducing risks of contamination to this category, in the face of the situation of deficit of materials and health equipment. Also, the guidelines aim to protect the labour force in the areas of production and provision of essential services, which need to continue acting, because, in fact, the country cannot stop, even to meet the confrontation demand. This is also the case with the International Health Regulations.

By advocating vertical isolation, restricted to the elderly and population with comorbidities, the head of State of Brazil considers it feasible to lock them away at home, without any contact with relatives and caregivers, who would move freely in an environment totally favourable to the spread of the COVID-19 virus. We remind that Brazil is a continental country and that the living conditions of the population

are very differentiated in the various regions and very precarious in several places, with an average of more than three residents per residence. In urban agglomerates this number is very high, and it is impossible to isolate the elderly or the ones with comorbidities. In other words: The President of Brazil does not hesitate to expose to health risks the entire Brazilian population that is already mostly vulnerable, in situations of worsening symptoms, since the health care network is already insufficient to provide full assistance.

We point out that, currently, President Bolsonaro might be the only head of State who openly advocates abandoning the measures recommended by the WHO and medical science, thereby contradicting international public opinion and putting at risk the global effort to combat the pandemic.

The measures implemented by the Ministry of Health, Health managers, SUS technicians and professionals cannot be disregarded and need to be defended. The lives of health workers, currently exposed to save our population, cannot be relativized according to the interests of the economy. Prevention therapy should never be declined. Rather, in such a scenario, it is an essential guideline, in order to make viable the possible assistance.

Brazil records until April 22, 2020 the following data on COVID-19 contamination: 43,049 contaminated persons, 2,741 deaths and a lethality rate of 6,4% (by March 26 the data were 2,915 contaminated) - <https://covid.saude.gov.br>. Yesterday alone there were 2,398 new cases, and 166 deaths. And, according to the health authorities, the summit of the spread will still take place from April, expanding to May, being these periods in which temperatures decrease in many regions of the country, due to the proximity of winter, which is a facilitating factor to the contamination.

According to the Brazilian Minister of Economy's own statement, in a press interview (Folha de São Paulo newspaper, link: <https://www1.folha.uol.com.br/mercado/2020/03/dados-do-bc-mostram-que-contagio-e-mais-rapido-no-brasil-diz-paulo-guedes.shtml>), data projected by the Banco Central do Brasil (Central Bank of Brazil) show that the contagion rate in Brazil of coronavirus is faster than in other countries, including China.

That is, to follow the guidance of the President of Brazil, and in the opposite direction from that recommended by the national health authorities, the World Health Organization and the experience acquired by countries that are already steps ahead in the fight against the contamination, what will happen in Brazil, is the denial of the right to health, on the prospects for the prevention, and protection. Considering the contingents of the Brazilian population that are exposed to agglomerating environments

in their routines – students, workers (formal and informal) and the extreme vulnerable population - such guidelines of the head of government foreshadow a genocide, given that the health system is insufficient for the size of the pandemic.

The attitude of the President indicates epidemic crimes, defined as crime in Article 267 of the Brazilian Penal Code - which is even characterized as a heinous crime under law no. 8,072, from 1990 -, and infraction to preventive health measure, also criminalised in the Penal Code, Article 268. In addition, it violates legislation to confront the pandemic of COVID-19 edited by himself-Law No. 13,979 of February 6, 2020 and Portaria Interministerial (Inter ministerial Ordinance) No. 5 of March 17, 2020 of the Ministry of Health and the Ministry of Justice - which advocate isolation and quarantine as preventive measures and determine that the non-compliance of the confrontations of COVID-19 measures characterizes criminal types of attack on public health.

Concerned to meet strictly economic interests, President Jair Bolsonaro proposes a false dichotomy between addressing the crisis in health and in the economy. However, the countries that have achieved the best results are those that have made social isolation, ensured the health care of the population and took measures to maintain income and activate the economy. Therefore, there is no dichotomy between maintaining economic activity and saving lives.

It should be noted that instances related to the protection of the health care and citizenship rights - within the Federal Public Prosecutor's office, the Chamber of Coordination and Revision of the Public Prosecutor's office and the Federal Prosecutor's office on the Citizen Rights - have already officiated to the Federal Attorney General, asking him to recommend to the President of Brazil, regarding the implementation and enforcement of health, as well as the number of accounting pronouncements and related information, for any and all of the authority of the Executive branch of the Federal, that they are carried out in a consistent manner and in accordance with the guidelines laid down by the national health authorities and the World Health Organization, as well as in line with the National Human Infection Plan of Contingency by the new Coronavirus COVID-19, from the department of Health, adequately compatible with the state of Public Health Emergency of International Importance (the document is available on the <http://www.mpf.mp.br/pfdc/manifestacoes-pfdc/recomendacoes/memorando-conjunto-38-2020-pfdc-2ccr-4ccr-6ccr-7ccr-mpf/view>).

This plea, unfortunately, was not accepted by the head of the Federal Public Ministry, under the understanding that the conduction of the measures to confront the pandemic by the head of the Executive

Branch is discretionary, which reinforces the situation of helplessness of the Brazilian population also by instances of government control. This is an important aspect to be highlighted in this petition. As a result, Brazil has a situation that aggravates the risks of loss of control. In our constitutional system, it is up to the Federal Attorney General - who is the Head of the Federal Prosecution Office in Brazil - as a guardian of the law, the initiative of important actions before the STF capable of preventing the illegal and irresponsible action of the President of Brazil.

In the Brazilian constitutional system, only the Federal Attorney General's office acts before STF (Supreme Court), which is the competent court to judge the acts of the President of Brazil (art. 102 of the Constitution of the Republic, in particular its paragraph I, sub-paragraphs "a" through "d") in the exercise of its constitutional duties in the Prosecution Office, including the ones that have to be taken concerning the harmful actions of the President of Brazil, Jair Bolsonaro, according to the terms of art. 129 of the Constitution, which we quote:

Article 129. The following are institutional functions of the Public Prosecution:

I – to initiate, exclusively, public criminal prosecution, under the terms of the law;

II – to ensure effective respect by the Public Authorities and by the services of public relevance for the rights guaranteed in this Constitution, taking the action required to guarantee such rights;

III – to institute civil investigation and public civil suit to protect public and social property, the environment and other diffuse and collective interests;

...

However, it appears that the current Federal Attorney General has purposely omitted to act in order to restrict actions of the President of Brazil that may harm the rights of the population. Because of that, Federal Prosecutors of the Federal Prosecution Office has been demonstrating, including with disciplinary representations, against the Federal Attorney General posture. (<https://oglobo.globo.com/brasil/procuradores-de-grupo-especial-da-pgr-soltam-nota-contra-blindagem-de-aras-governo-bolsonaro-24371089>).

Finally, we emphasize that President Bolsonaro's deleterious and irresponsible actions in combating the coronavirus epidemic in Brazil put at risk not only the Brazilian population, but also the world population and all the effort by WHO to restrict the reach and duration of the pandemic. Brazil is a gigantic country with a population of 210 million. Should President Jair Bolsonaro's irresponsible



guidelines be effectively implemented, our country will become a major uncontrolled focus of coronavirus propagation, threatening the entire planet, starting with the American continent.

## **2. NECESSARY PREVALENCE OF THE SYSTEM OF PROTECTION OF HUMAN RIGHTS.**

Brazil is a state party to the American Convention on Human Rights – Pact of San José, Costa Rica, and of the first Additional Protocol to the American Convention on Human Rights in the area of Economic, Social, and Cultural Rights, the Protocol of San Salvador - and, therefore, is under the legal guidance of the Commission and of the Organization of American States. In the field of health care, as a basic human right and aspect of the right to life, as well as in cross-cutting areas, the Federal Republic of Brazil, not only is signatory to several agreements and treaties but also Brazil have always had the System for the Protection of Human Rights precepts as guidelines of public policies of the Government, which are one of the cornerstones of the SUS (Unified Health System), enshrined as a fundamental guarantee in our 1988 Constitution.

Whereas the work of the Inter-American Commission on Human Rights and the Organization of American States (OAS), regarding the right to health (Art. 4, of the Pact of San José, Costa Rica) and health (Art. 10 of the Pact of San Salvador), it is essential and urgent the awareness of the circumstances that are reported, which characterize a direct violation, by the Head of the State-of-the Federative Republic of Brazil, to promote the right to health and the right to life, in breach of the guarantees of the Universal Declaration of Human Rights, in particular under articles III, XXVIII, and XXX, as well as the International Covenant of Economic, Social and Cultural rights, article 12., items 1 and 2, point 'a', and also the Rules of Procedure of the Inter-American Commission on Human Rights, articles 23, 25, 30 (4) and 39 (1).

The Brazilian population is subject to serious risks of suffering from health problems, threat to life, and is confused about the best care and prevention measurements to take in the face of the spread of coronavirus.

We call for the intervention of this International Organization, according to the provisions of art. 27 of the Rules of Procedure of the Commission, and in particular in articles 10, 23, 25, 30 number 4, and 39 number 1, **urgently** (article 30 number 4), in order to recommend to the Government of Brazil to implement and execute preventive and protective health care to combat the human infection by the Coronavirus (COVID-19) in accordance with the guidelines laid down by the national health authorities and the World Health Organization, as well as, in line with the National Plan of Human Infection

Contingency by the new Coronavirus COVID-19, the department of Health, adequately supported by the state of Public Health Emergency of International Importance, especially regarding the distance from infected individuals, or those who can act as a vector, as well as the social isolation, demonstrated to be the more effective provision - as the means of immediate curing, and effective preventive vaccine are still not reached - to slow the spread of the virus, enforcing the guidelines of [Resolution No. 1 of 2020](#) of this Commission - Pandemic and Human Rights in the Americas.

It is also requested the monitoring of the actions to confront this pandemic by Brazil, specifically in relation to actions that may harm people's health, sending the necessary alerts and communications.

We trust in the collaboration of this Commission, as an organ of the Organization of American States, to direct Brazil on the path of "a fine balance between protecting health, minimizing economic and social disruption, and respecting human rights" - as stated by WHO - in the face of this emergency.

We inform, as appropriate, that this complaint has also been presented to the United Nations High Commissioner for Human Rights and to the United Nations Special Rapporteur on the right to health.

**ADEMAR ARTHUR CHIORO DOS REIS**

**ALEXANDRE ROCHA SANTOS PADILHA**

**HUMBERTO SÉRGIO COSTA LIMA**

Mrs. BACHELET, United Nations High Commissioner for Human Rights

UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

Mr. DANIUS PÔRAS, United Nations Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

UNITED NATIONS SPECIAL REPORT ON THE RIGHT TO HEALTH

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[https://www.correiobraziliense.com.br/app/noticia/politica/2020/03/16/interna\\_politica,834597/bolsonaro-volta-a-descumprir-quarentena-ha-superdimensionamento.shtml](https://www.correiobraziliense.com.br/app/noticia/politica/2020/03/16/interna_politica,834597/bolsonaro-volta-a-descumprir-quarentena-ha-superdimensionamento.shtml)

<https://brasil.elpais.com/politica/2020-04-05/bolsonaro-participa-de-roda-de-oracao-e-exponovamente-conflitos-com-membros-de-seu-governo.html>

The President's own behaviour - contrary to the duty personal hygiene care and contact with the public - is notorious and reiterated, demonstrating disregard for the risks of contamination and the duty to inform, protect, prevent and act as an example to the population. It is clearly seen such a posture in the link [https://www.em.com.br/app/noticia/politica/2020/04/10/interna\\_politica,1137506/em-brasilia-bolsonaro-limpa-nariz-e-aperta-maos-de-apoiadores.shtml](https://www.em.com.br/app/noticia/politica/2020/04/10/interna_politica,1137506/em-brasilia-bolsonaro-limpa-nariz-e-aperta-maos-de-apoiadores.shtml).

This attitude, besides demobilizing the population that has been doing its part by following the WHO, the Ministry of Health itself, Governors, Mayors, press and leaders of Parliament guidelines, also, irreconcilably hurts the Federative pact and the autonomy of its entities, by deliberately failing to comply with Governors' decrees that stimulate horizontal isolation. Thus, resulting in an environment of insecurity and fear in the population, with negative repercussions in coping with the crisis, with serious and serious repercussions on the Brazilian population fundamental rights.

The then Brazilian Minister of Health, based on scientific evidence and other countries primarily affected by contamination experience (notably China, Italy, Korea, Iran), has pointed out that although the Sistema Único de Saúde (Unified Health System - SUS) and the private health network have a considerable structure, it is insufficient for the demand in the face of the potential for coronavirus contamination. Several Brazilian states already show failure in their health structures, which is the reason for the admitted by the Health Minister and Secretaries need that the pace of contamination be as slow as possible, in order to reduce the lethality rate.

We note that President Bolsonaro strongly pressured the aforementioned Minister to abandon the prudential measures recommended by the WHO, even with the worsening of the epidemic in Brazil. Finally, on April 16, the then Minister of Health, who had acted in this direction, was dismissed.

It should be noted that even far from the epidemic peak in Brazil, materials and equipment are already lacking, either for the protection of health professionals or for the recommended and necessary health care protocols for the help of the contaminated ones. There are no longer enough test inputs for the diagnosis of contamination, which also relativizes the statistical data and a more clear assessment of the progressivity of the virus. In this scenario, health authorities and sub national governments have considered that the most effective containment mechanisms have been shown to be population horizontal isolation, and sharp personal hygiene practices.

These guidelines are placed in a systemic perspective, as of global consensus in the face of the performance of COVID-19, aiming to possibility greater protection and rear of health professionals, reducing risks of contamination to this category, in the face of the situation of deficit of materials and health equipment. Also, the guidelines aim to protect the labour force in the areas of production and provision of essential services, which need to continue acting, because, in fact, the country cannot stop, even to meet the confrontation demand. This is also the case with the International Health Regulations.

By advocating vertical isolation, restricted to the elderly and population with comorbidities, the head of State of Brazil considers it feasible to lock them away at home, without any contact with relatives and caregivers, who would move freely in an environment totally favourable to the spread of the COVID-19 virus. We remind that Brazil is a continental country and that the living conditions of the population are very differentiated in the various regions and very precarious in several places, with an average of more than three residents per residence. In urban agglomerates this number is very high, and it is impossible to isolate the elderly or the ones with comorbidities. In other words: The President of Brazil does not hesitate to expose to health risks the entire Brazilian population that is already mostly vulnerable, in situations of worsening symptoms, since the health care network is already insufficient to provide full assistance.

We point out that, currently, President Bolsonaro might be the only head of State who openly advocates abandoning the measures recommended by the WHO and medical science, thereby contradicting international public opinion and putting at risk the global effort to combat the pandemic.

The measures implemented by the Ministry of Health, Health managers, SUS technicians and professionals cannot be disregarded and need to be defended. The lives of health workers, currently exposed to save our population, cannot be relativized according to the interests of the economy. Prevention therapy should never be declined. Rather, in such a scenario, it is an essential guideline, in order to make viable the possible assistance.

Brazil records until April 22, 2020 the following data on COVID-19 contamination: 43,049 contaminated persons, 2,741 deaths and a lethality rate of 6,4% (by March 26 the data were 2,915 contaminated) - <https://covid.saude.gov.br>. Yesterday alone there were 2,398 new cases, and 166 deaths. And, according to the health authorities, the summit of the spread will still take place from April, expanding to May, being these periods in which temperatures decrease in many regions of the country, due to the proximity of winter, which is a facilitating factor to the contamination.

According to the Brazilian Minister of Economy's own statement, in a press interview (Folha de São Paulo newspaper, link: <https://www1.folha.uol.com.br/mercado/2020/03/dados-do-bc-mostram-que-contagio-e-mais-rapido-no-brasil-diz-paulo-guedes.shtml>), data projected by the Banco Central do Brasil (Central Bank of Brazil) show that the contagion rate in Brazil of coronavirus is faster than in other countries, including China.



That is, to follow the guidance of the President of Brazil, and in the opposite direction from that recommended by the national health authorities, the World Health Organization and the experience acquired by countries that are already steps ahead in the fight against the contamination, what will happen in Brazil, is the denial of the right to health, on the prospects for the prevention, and protection. Considering the contingents of the Brazilian population that are exposed to agglomerating environments in their routines – students, workers (formal and informal) and the extreme vulnerable population - such guidelines of the head of government foreshadow a genocide, given that the health system is insufficient for the size of the pandemic.

The attitude of the President indicates epidemic crimes, defined as crime in Article 267 of the Brazilian Penal Code - which is even characterized as a heinous crime under law no. 8,072, from 1990 -, and infraction to preventive health measure, also criminalised in the Penal Code, Article 268. In addition, it violates legislation to confront the pandemic of COVID-19 edited by himself-Law No. 13,979 of February 6, 2020 and Portaria Interministerial (Inter ministerial Ordinance) No. 5 of March 17, 2020 of the Ministry of Health and the Ministry of Justice - which advocate isolation and quarantine as preventive measures and determine that the non-compliance of the confrontations of COVID-19 measures characterizes criminal types of attack on public health.

Concerned to meet strictly economic interests, President Jair Bolsonaro proposes a false dichotomy between addressing the crisis in health and in the economy. However, the countries that have achieved the best results are those that have made social isolation, ensured the health care of the population and took measures to maintain income and activate the economy. Therefore, there is no dichotomy between maintaining economic activity and saving lives.

It should be noted that instances related to the protection of the health care and citizenship rights - within the Federal Public Prosecutor's office, the Chamber of Coordination and Revision of the Public Prosecutor's office and the Federal Prosecutor's office on the Citizen Rights - have already officiated to the Federal Attorney General, asking him to recommend to the President of Brazil, regarding the implementation and enforcement of health, as well as the number of accounting pronouncements and related information, for any and all of the authority of the Executive branch of the Federal, that they are carried out in a consistent manner and in accordance with the guidelines laid down by the national health authorities and the World Health Organization, as well as in line with the National Human Infection Plan of Contingency by the new Coronavirus COVID-19, from the department of Health, adequately compatible with the state of Public Health Emergency of International Importance (the document is available on the

<http://www.mpf.mp.br/pfdc/manifestacoes-pfdc/recomendacoes/memorando-conjunto-38-2020-pfdc-2ccr-4ccr-6ccr-7ccr-mpf/view>).

This plea, unfortunately, was not accepted by the head of the Federal Public Ministry, under the understanding that the conduction of the measures to confront the pandemic by the head of the Executive Branch is discretionary, which reinforces the situation of helplessness of the Brazilian population also by instances of government control. This is an important aspect to be highlighted in this petition. As a result, Brazil has a situation that aggravates the risks of loss of control. In our constitutional system, it is up to the Federal Attorney General - who is the Head of the Federal Prosecution Office in Brazil - as a guardian of the law, the initiative of important actions before the STF capable of preventing the illegal and irresponsible action of the President of Brazil.

In the Brazilian constitutional system, only the Federal Attorney General's office acts before STF (Supreme Court), which is the competent court to judge the acts of the President of Brazil (art. 102 of the Constitution of the Republic, in particular its paragraph I, sub-paragraphs "a" through "d") in the exercise of its constitutional duties in the Prosecution Office, including the ones that have to be taken concerning the harmful actions of the President of Brazil, Jair Bolsonaro, according to the terms of art. 129 of the Constitution, which we quote:

Article 129. The following are institutional functions of the Public Prosecution:

I – to initiate, exclusively, public criminal prosecution, under the terms of the law;

II – to ensure effective respect by the Public Authorities and by the services of public relevance for the rights guaranteed in this Constitution, taking the action required to guarantee such rights;

III – to institute civil investigation and public civil suit to protect public and social property, the environment and other diffuse and collective interests;

...

However, it appears that the current Federal Attorney General has purposely omitted to act in order to restrict actions of the President of Brazil that may harm the rights of the population. Because of that, Federal Prosecutors of the Federal Prosecution Office has been demonstrating, including with disciplinary representations, against the Federal Attorney General posture. (<https://oglobo.globo.com/brasil/procuradores-de-grupo-especial-da-pgr-soltam-nota-contra-blindagem-de-aras-governo-bolsonaro-24371089>).

Finally, we emphasize that President Bolsonaro's deleterious and irresponsible actions in combating the coronavirus epidemic in Brazil put at risk not only the Brazilian population, but also the world population and all the effort by WHO to restrict the reach and duration of the pandemic. Brazil is a gigantic country with a population of 210 million. Should President Jair Bolsonaro's irresponsible guidelines be effectively implemented, our country will become a major uncontrolled focus of coronavirus propagation, threatening the entire planet.

## **2. NECESSARY PREVALENCE OF THE SYSTEM OF PROTECTION OF HUMAN RIGHTS.**

Brazil is a member country of the World Health Organization and is therefore under the legal guidelines of this organization. Notably, in the field of health, as well as in transversal areas, the Federative Republic of Brazil, besides being a signatory to various international agreements and treaties, has always had the guidelines of the World Health Organization as guiding public policies of the government.

Whereas the role of the United Nations High Commissioner and the Special Rapporteur of the United Nations convention on the right to health, it is essential and urgent the awareness of the circumstances that are reported, which characterize a direct violation, by the Head of the State-of-the Federative Republic of Brazil, to promote the right to health and the right to life, in breach of the guarantees of the Universal Declaration of Human Rights, in particular under articles III, XXVIII, and XXX, as well as the International Covenant on Economic, Social and Cultural Rights, article 12., items 1 and 2, point 'a'.

The Brazilian population is subject to serious risks of suffering from health problems, threat to life, and is confused about the best care and prevention measurements to take in the face of the spread of coronavirus.

We call for the intervention of this International Organization, according to the provisions of articles 21, paragraphs "a" through "e," and 22 of the Constitution of the World Health Organization, in order to recommend to the Government of Brazil to implement and execute preventive and protective health care to combat the human infection by the Coronavirus (COVID-19) in accordance with the guidelines laid down by the national health authorities and the World Health Organization, as well as, in line with the National Plan of Human Infection Contingency by the new Coronavirus COVID-19, the department of Health, adequately supported by the state of Public Health Emergency of International

Importance, especially regarding the distance from infected individuals, or those who can act as a vector, as well as the social isolation, demonstrated to be the more effective provision - as the means of immediate curing, and effective preventive vaccine are still not reached - to slow the spread of the virus.

It is also requested the monitoring of the actions to confront this pandemic by Brazil, specifically in relation to actions that may harm people's health, sending the necessary alerts and communications.

We trust in the collaboration of the United Nations to direct Brazil on the path of "a fine balance between protecting health, minimizing economic and social disruption, and respecting human rights" - as stated by WHO - in the face of this emergency.

**ADEMAR ARTHUR CHIORO DOS REIS**

**ALEXANDRE ROCHA SANTOS PADILHA**

**HUMBERTO SÉRGIO COSTA LIMA**