# DENUNCIATION OF VIOLATIONS OF THE HUMAN RIGHTS TO LIFE AND HEALTH IN THE CONTEXT OF THE COVID-19 PANDEMIC IN BRAZIL

Direito Humano à Saúde na Pandemia

SMDH
Em defesa da vida

monitoramentos dos direitos humanos no Brasil

Fórum Nacional de Defesa do Direito Humano à Saúde

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# Denunciation of violations of the human rights to life and health in the context of the Covid-19 pandemic in Brazil

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# Summary

# Foreword

This denunciation is a joint initiative. It is a coordinated effort by the Articulation for the Monitoring of Human Rights in Brazil (AMDH), which congregates the National Human Rights Movement (MNDH), the Process for Articulation and Dialogue International (PAD), the ACT Brazil Ecumenical Forum (FeACT) and also the National Forum for the Human Right to Health. The Pan American Health Organization (PAHO) collaborated with its preparation.

This project is hosted and partnered by two institutional bodies, the National Health Council (CNS) and the National Human Rights Council (CNDH). These are spaces for popular participation and social control of policies, but also in charge of promoting actions so that threats or violations of human rights are met with due accountability.

This action is based on the responsibility held by civil society organizations that advocate for human rights in Brazil. These organizations believe it is their responsibility to monitor situations, document and publicly denounce human rights violations in order to seek their processing by the institutions in charge of monitoring the fulfillment of national and international human rights commitments. That is why they sought to find evidence to support the complaint that the Brazilian State and the Bolsonaro government, by actions and by omission, have violated human rights in facing the COVID-19 pandemic, particularly the right to life and to health, both provided for in the International Agreements to which the Brazilian State is a signatory, and also expressly provided for in the Federal Constitution.

This denunciation demonstrates that COVID-19 has significantly impacted the lives of all populations in our Country. But this impact has not been the same for everyone, as those who were already in precarious living conditions saw their lives get even worse. It also shows that acts of commission and of omission taken by the Bolsonaro government have contributed to making the impact even worse, and resulted in a massive number of deaths that, according to several studies, even though the numbers differ, could and should have been avoided. Had one single death been avoided, it would have been a significant achievement. Under the protection of human rights, there is no such thing as acceptable violations!

The responsibility for the various violations, analyzed in light of international and national human rights regulations, is demonstrated in this document. To achieve this, we make direct reference to these regulations, especially those regarding the rights to life and to health, specify the State's obligations towards these rights, particularly in the context of the pandemic, demonstrate that there has been a violation of these rights by the Brazilian State and the Bolsonaro government, and finally, we present the conclusions, pleas, and recommendations to national public institutions and international bodies in charge of guaranteeing that human rights are realized, and not violated.

This document will be submitted, fully or partially, to organizations in the Global and Regional Human Rights Systems. So, within the United Nations system, the recipients

will be the Human Rights Council (HRC), the Office of the High Commissioner for Human Rights (OHCHR), various treaty bodies, especially the Human Rights Committee (CCPR) and the Committee on Economic, Social and Cultural Rights (CESCR), as well as various special human rights rapporteurs. Within the Regional Human Rights System, it will be submitted to the Inter-American Commission on Human Rights (IACHR), as a proposed follow-up to the Report on the Situation of Human Rights in Brazil,[1] published in March 2021. Each of these recipients will receive a specific request, considering their specific nature and attributions. A preliminary version of the document was submitted to the COVID Parliamentary Commission of Inquiry (CPI), conducted by the Federal Senate. The final document will also be submitted to public instances in the Legislative, in the Judiciary and in the Federal Public Attorney's Office, to aid in the preparation of their own instruments and initiatives.

This initiative is motivated by the spirit of justice. It is unacceptable that, in such a striking time as the COVID-19 pandemic, human lives may have been mistreated, abused and lost, and that their rights may have been violated by those who should have cared for them, protected them and promoted them, on account of their constitutional responsibility and of the international commitments made by the Brazilian State in regard to Human Rights.

The organizations responsible for this document also stand on the side of the victims of the pandemic, who, for lack of the necessary care for their rights, died or have been left with serious sequelae. They add to the effort of building testimonial justice and necessary reparations. The perpetrators of the violations must be held accountable, but it is also necessary to bring to light those who benefited from the violations, and to memorialize the victims and provide reparation to those who have suffered these violations, and to those who continue to do so.

The promoting organizations would like to thank the researchers who collaborated in the search for information, subsidies, demonstrations and arguments, and those who shaped the text presented here. They also thank the various partner organizations that have come together for the construction of this document and, particularly, the National Health Council (CNS), for their trust, and for providing the necessary support for its realization, and the National Human Rights Council (CNDH), who has joined in this partnership.

Brasilia, October 2021.

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In a partnership with
Conselho Nacional de Saúde (CNS)
Conselho Nacional dos Direitos Humanos (CNDH)

1 To see the document: https://www.oas.org/pt/cidh/relatorios/pdfs/Brasil2021-pt.pdf.

# Introduction

The purpose of this Denunciation[2] is to respond to the clamor of millions of Brazilian families whose dignity has been attacked as a result of the acts and omissions of the State, and of the Brazilian Government, in dealing with the COVID-19 Pandemic, which resulted in a mortality rate four to five times higher than the world average, and submit it to the Regional and Global Human Rights Systems.

The cited data means "that approximately four out of every five COVID-19 deaths could have been prevented, had the Country been at the world average in terms of fighting the pandemic" (HALLAL *in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021). This, based on data collected up to October 10, 2021, represents **an estimated total of 480,340 deaths that could have been avoided**, as well as the suffering of millions of family members, in particular the hundreds of thousands of orphans and millions of people with sequelae, who will have to face the consequences of the dismantlement of their families and lives.

Another study (IMPERIAL COLLEGE, 2021) further analyzes the excessive deaths and comes to the conclusion that half of all deaths by COVID-19 in the healthcare system could have been avoided if adequate conditions of care, provision of equipment and supplies and personnel training had been secured. At the same time, the study highlights that huge geographic inequalities and deficiencies in the healthcare system can be identified, directly associated to the cuts imposed to the healthcare system by the fiscal austerity policy.

This denunciation document makes a careful and exhaustive analysis of the actions taken by the health authorities directly responsible for managing the fight against COVID-19, as well as by the authorities who collaborated directly or indirectly so that the magnitude of the tragedy reached the point it did, identifying the multiple violations of the rights to health and life, and related human rights of millions of human beings, by the Brazilian State, clearly under the command of the President of the Republic.

2 Flavio Luiz Schieck Valente, rapporteur of this document, is a physician, with a Master of Public Health from Harvard School of Public Health. He has worked with the Human Right to Adequate Food and Nutrition for forty years, both nationally and internationally. Member of the World Alliance for Nutrition and Human Rights. Secretary General of FIAN International from 2007 to 2015. Coordinator of the Science and Technology Center for Food and Nutritional Sovereignty and Security and the Human Right to Food and Nutrition – Northeast (CSIGDHANA-NE). Since 2019, he has been an Affiliated Faculty at Syracuse University Nutrition and Food Studies Department in the USA, and an Honorary Research Fellow at the Centre for Agroecology, Water and Resilience (CAWR), Coventry University, UK. This Denunciation has had the direct assistance of Jônia Rodrigues de Lima, master and doctoral student in Social Sciences at the Federal University of Rio Grande do Sul (UFRGS). Coordinator of the Institute for Economic, Social, Cultural, Environmental and Human Rights (Idhesca) and advisor to the National Human Rights Movement (MNDH). She has worked with human rights for more than fifteen years, especially monitoring cases of human rights violations. Contributing researchers: Armando de Negri, Benilda Britto, Bruno Moretti, Cristian Gamba, Eloy Terena, Euzamara de Carvalho, Maria do Remédios Freitas Carvalho Branco, Pedro Hallal, Soraia Mendes and Edla Bussinger. Gilnei Oliveira da Silva and Roseane Dias also contributed to this document. With the support of Nara Aparecida Peruzzo, Paulo César Carbonari and Eneias da Rosa.

There is compelling evidence that this process occurs in a context of planned health care rollbacks and increasing disenfranchisement, with an attitude of denial of rights. It intentionally and systematically seeks to deconstruct the constitutional guarantee of the human right to health, which establishes the universality of the Unified Health System, duly regulated and institutionalized.

There is conclusive evidence and scientific proof that the national and international evolution of the pandemic denoted the very high degree of infectivity of the virus, and the rapid expansion of the pandemic; and that the risk of collapse of the healthcare system was clear, particularly in intensive care units, unless stern measures of social distancing, use of masks, hygiene with alcohol-based hand sanitizer, and soap and water were adopted. There is evidence that the Brazilian State, led by the Executive branch, in the figure of President Jair Bolsonaro, possessed the information and resources necessary to adopt an anticipatory governance posture, and take all measures to contain the expansion of the pandemic as much as possible, reducing mortality. Contrary to expectations, the Federal Government, under the explicit leadership of the President of the Republic, not only ignored the evidence generated by what was happening in other countries, failing to take the necessary measures, but also began to question, contest and publicly criticize the information produced by the national and international scientific communities, and endorsed by the World Health Organization (WHO).

The President developed an actual disinformation campaign, mischaracterizing the pandemic as a "little flu", and the use of masks as something for "cowards", and, pejoratively, the stuff of "sissies", in addition to encouraging the use of ineffective drugs as the main action to fight the virus.

The President collided with his own Minister of Health, who, at one point, still tried to lead a coordinated national effort to face the pandemic, working closely with the State Health Secretaries. That triggered a true media war between the minister and the President. On his social media, the President countered every direction given by the Minister of Health in his daily press conferences, questioning the validity of social distancing, of the use of masks, the real seriousness of the illness, among other issues.

At the same time, the President led an open campaign in favor of the use of Hidroxychloroquine as a possible treatment against the virus, contrary to the orientations of the Ministry of Health, ANVISA, and the international scientific community. And furthermore, he ordered the drug to be produced on a large scale by public laboratories, and later by the Brazilian Army, with the aim of distributing it through the Brazilian Unified Health System, SUS.

This double command in facing the pandemic generated a high degree of misinformation within the Brazilian population, leading to a low adherence of sectors of the population to the health guidelines. A study[3] carried out by the Institute of Education and Research (Insper), the Brazilian Institute of Capital Markets (Ibmec) and the University of Toronto, shows that the municipalities that supported President Bolsonaro in the second round of the 2018 election (60%+ of total votes), had a significantly higher mortality rate

3 Available at www.poder360.com.br/coronavirus/cidades-em-que-bolsonaro-venceu-em-2018-tem-mais-mortes-por-covid-diz-estudo. Visited: October 15, 2021.

(3.4 times higher) than those where the other candidate won (less than 10% of the votes for Bolsonaro) (HALLAL *in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021). This indicates that the presidential attitude had a strong influence over public opinion, inducing the population to put their own health at risk by believing the misinformation issued by the Head of the Country, and many people ended up paying with their own lives, or those of their family members.

Faced with growing opposition from the state governors, who decided to follow the then Minister of Health's directions, about a month after the first COVID-19 case erupted, the President decided to change the Minister of Health, choosing one who was in line with his positions. This alignment between the President and the new minister was short-lived, and the latter decided to resign, and go against the President's views. As a result, less than two months after the first case of COVID-19, two ministers had been appointed and dismissed, making it difficult to establish a coordinated and coherent strategy to fight the pandemic.

At such a critical moment, the President decided to appoint a military official to head the Ministry of Health, instead of a health specialist. In practice, from then on, the Ministry of Health objectively withdrew from the national coordination of the fight against the pandemic. Vieira (2020) observes that the decision to leave the national coordination of the fight against the pandemic cannot be attributed to the lack of coordination mechanisms between the distinct levels of action of SUS, because they actually exist, nor to initiatives in this regard by other federated entities; instead, what could be observed was

> [...] the deliberate weakening of these instruments, perpetrated by the Federal Government. A more detailed analysis of the irregularities in the federal management of the pandemic is presented below, including some information from the investigations of the Parliamentary Inquiry Commission (CPI), concerning the delay in the purchase of the vaccine, the lack of interest in the purchase of immunizers, the boycott of the immunizer developed by Butantã, among others.

It is worth mentioning the discontinuation of the epidemiological study (EpilCovid19) that monitored the pandemic evolution in Brazil, which happened without any technical justification (HALLAL *et al.*, 2020).

Special attention is given to the harm caused to particularly vulnerable groups, such as health professionals, indigenous peoples, traditional peoples and communities, the elderly, women (particularly black women), Afro-descendants (particularly quilombolas), gays, lesbians, transgender people, etc., the homeless, poor urban communities, rural workers, and the prison population, among others.

Structural discrimination as a governmental practice has been the tone of the current Federal Administration, under the uncontested leadership of the President. Ever since his electoral campaign, Bolsonaro has made clear his disregard for the human rights and constitutional rights of women, indigenous peoples, peoples of African origin, quilombolas and Afro-descendants, traditional populations and communities, gays, lesbians, transgender people, among other groups. During the pandemic, he has taken the opportunity to intensify his support for the invasion of indigenous and traditional lands by squatters, loggers, miners and the agribusiness, including the use of armed

violence[4]. This support helped make 2020 the year with the highest rate of rural conflicts in recent Brazilian history, and the preposterous increase in judicial evictions of family farmers from their consolidated landholdings, and of indigenous people from their lands, during the pandemic, according to the Report on Rural Conflicts made by the Pastoral Land Commission (CPT). Not to mention the destruction of food crops with the use of agrochemicals as weapons, as denounced by family farmers from Mata Sul, Pernambuco, in a video conference with the UN Special Rapporteur for toxic substances, [5]Marcos Orellana, at a time when hunger is spreading across the Country.[6]

In our understanding, the Brazilian State's attitude towards the pandemic fits into what Fricker (2007) calls epistemic injustice, which is composed of testimonial injustice and hermeneutic injustice. The first is characterized by the Federal Government's attitude of ignoring the suffering expressed by the affected person, disqualifying them in a discriminatory and systemic way, and denying them a voice; and the second, by the systematic dissemination of misinformation (FRICKER, 2007) - two elements heavily present, not only in the practices of the highest level of the Government, but also in those of other members of the first and second echelons of the Federal Government.

This document also seeks to identify who are the possible beneficiaries of these behaviors and initiatives, based on the analysis of available documentation and testimonials from different social actors, as we understand that it is essential to go beyond a mere description of the violations committed, and try to understand how such violations reflect social processes, with an intrinsic intentionality that might cause and perpetuate even more serious systemic and structural violations. In the analyzed case, we have identified that the disastrous response to the pandemic is part of a programmed strategy of hindering health assistance, associated with the dismantling of the Unified Health System, and part of a broader strategy of dismantling Social Protection policies, bringing about planned destitution and poverty (MARKS, 2011). At the same time, it is essential to identify those who profited from this process, both nationally and internationally, so that the unimaginable suffering inflicted on the Brazilian population is not normalized, and so those responsible - public or private - are held accountable and pay for their abuse and crimes before the international community and Brazilian society.

It is high time the planetary human society reaffirms the fundamental values behind the international human rights system in the international political architecture: human dignity: we are all human. It is essential to establish the effective sovereignty of peoples over their territories and natural resources, over the political, economic, social and environmental process, both nationally and internationally.

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4 Government publicizes armed man on Rural Workers Day. Available at: www.otempo.com.br/politica/governo-faz-propaganda-de-homem-rural-armado-no-dia-do-agricultor-1.2519181. Visited: Sep 17, 2021.

5 The UN investigates the use of agrochemicals as weapons in territorial conflicts in Mata Sul. Available at: www.brasildefatope.com.br/2021/09/10/onu-investiga-uso-de-agrotoxicos-como-arma-em-conflitos-territoriais-da-mata-sul. Visited: October 15, 2021.

6 "We have been living in terror": poisonings, shootings and arrests of rural workers in Mata Sul, in the bankruptcy estate belonging to Usina Frei Caneca. 8 communities reveal daily threats from henchmen on behalf of Agropecuária Mata Sul Ltda. Available at: www.brasildefatope.com.br/2021/05/13/a-gente-tem-vivido-o-terror-veneno-tiros-e-prisoes-contra-camponeses-na-mata-sul. Visited: October 15, 2021.

The first step would be to complete the drafting of the international human rights treaty regulating the activities of multinational companies, currently under discussion at the United Nations (UN) Human Rights Council. The second step would be to recognize the revisited human rights legal framework, as the umbrella for all other legal frameworks, which should be subsidiary to the obligations to respect, protect, promote, and guarantee human rights for all inhabitants of the Planet, in harmony with nature.

To this end, this paper analyzes the noncompliance with the legal framework that guarantees the right to health, which "is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity" (WHO). This failure to comply with the legal framework prevents the full accomplishment of human dignity necessary to warrant the right to life, especially during the COVID-19 pandemic.

# 1. The human right to health

The first mention of health as a fundamental human right, at international level, was in the constitution of the World Health Organization (WHO), in 1946, which consecrates health as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity", adding that "the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being, without distinction of race, religion, political belief, economic or social condition" (WHO, 2014). After that, several international standards incorporated the right to health, as it is formally acknowledged as a human right towards the preservation of human life and dignity.

Thus, governments have an obligation to respect, protect, and fulfill (facilitate, promote, and guarantee) the right to health, by preventing violations of such right, and creating policies, structures, and resources to promote and enforce it. Governments are also obliged to provide health and social services, and to promote health while respecting human rights.

In the Brazilian context, the respect and protection of the right to health have been legal obligations since the accomplishment of the Sanitary Reform movement, which can be seen in the creation of the Unified Health System (SUS), by the Federal Constitution of 1988. Human dignity and fundamental rights, including health, have given form to the constitutional principles that embody the claims for justice and ethical values ever since. Thus, these values are endowed with a special force, which spreads throughout the constitutional universe, and serves as a criterion for interpreting all the norms of the national legal system (PIOVESAN, 2008).

## 1.1. International legal framework for the human right to health

The idea of the right to health is expressed in article 25 of the *Universal Declaration of Human Rights* (1948):

> Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Article 12 of the *International Covenant on Economic, Social and Cultural Rights* (1966)[7] guarantees the right to health as a human right, among other social rights:

7 Ratified by Decree 591, on July 6, 1992.

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for: (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

The right to health is also recognized, namely, on article 5 of the *International Convention on the Elimination of All Forms of Racial Discrimination* (1965); articles 11.1 and 12 of the *Convention on the Elimination of All Forms of Discrimination against Women* (1979); and article 24 of the *Convention on the Rights of the Child* (1989), as well as on the *Vienna Declaration and Program of Action* (1993), and other international documents.

Various regional human rights instruments also acknowledge the right to health, such as the revised edition of the *European Social Charter* (1961) (article 11) and the *African Charter on Human and Peoples' Rights* (1981) (article 16). As for the Americas, article 26 of the *American Convention on Human Rights* (ACHR) (1969), signed on November 22, 1969 in San José, Costa Rica, effective as of July 18, 1978, aims at consolidating freedom and social justice in the American Continent, based on the respect for the essential rights of the human being. To comply with what the ACHR says, the States Parties have agreed on an Additional Protocol, the Protocol of San Salvador, from 1988. Article 10 of that Protocol reaffirms that everyone has the right to health, understood as the enjoyment of the highest attainable standard of physical, mental, and social well-being. Thus, States Parties agree to recognize health as a public good and, among other topics, especially to provide primary health care made available to all individuals and families in the community; universal immunization against the principal infectious diseases; prevention and treatment of endemic, occupational and other diseases; satisfaction of the health needs of the highest risk groups and of those whose poverty makes them the most vulnerable.

Article 26 of the ACHR, also known as the "Pact of San Jose, Costa Rica", also states the principle of progression, and disallows regressions in terms of economic, social, and cultural rights, such as the right to health. The General Assembly of the Organization of American States (OAS) has prepared the study named "*Progress Indicators for Measuring Rights Under the 1978 Protocol of San Salvador*", whose main goal is to measure the progressive fulfillment of economic, social, and cultural rights contained in the Protocol of San Salvador

In the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (1990), articles 28, 43e and 45c, we can also find the guarantee to the human social right to health.

On its article 25, the *Convention on the Rights of Persons with Disabilities* (2006) provides for the protection of the right to health. The *Final Declaration of the International*

*Conference on Primary Health Care*,[8] promoted by the WHO and held in 1978 in the city of Alma-Ata (now Kazakhstan), confirms the decisive role of primary health care, which focuses on the main community health problems, and provides promotion, prevention, treatment and rehabilitation services to solve these problems (article VII). It emphasizes that access to primary health care is the key to achieving a level of health which enables all people to lead socially and economically productive lives (article V), and to contribute to the enjoyment of the highest attainable standard of health. The *International Covenant on Economic, Social and Cultural Rights* refers to this idea with more clear and direct phrasing: "The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health."

The *Declaration of Alma-Ata* (1978) outlines the right to health in the following words:

> Health is a state of complete physical, mental and social wellbeing, and not merely the absence of disease or infirmity, it is a fundamental human right, and the attainment of the highest possible level of health is the most important world-wide social goal, whose realization requires the action of many other social and economic sectors, in addition to the health sector.

The concept of the right to health is best defined and systematized by the Committee on Economic, Social and Cultural Rights, based on General Comment 14 to Article 12 of the ICESCR (2000)[9], which interprets the right to health, defined in article 12, as a right that encompasses appropriate health care and health-determining factors, such as access to clean and potable water, adequate sanitary conditions, adequate supply of healthy food along with adequate nutrition, appropriate housing, healthy working and environmental conditions, and access to education and information on health-related issues, including sexual, reproductive, and mental health. Another important aspect is the participation of the population in the whole decision-making process on issues related to health, at community, national and international levels. The right to health in all its forms and at all levels encompasses essential and interrelated elements, the application of which will depend on the prevailing conditions in a particular State Party.

Accessibility has some important factors: (i) non-discrimination: health facilities, goods and services must be accessible to all, especially to the most vulnerable or marginalized sections of the population, such as indigenous peoples, quilombolas, traditional communities, without discrimination on any grounds; (ii) physical accessibility: health facilities, goods and services must be within safe physical reach for all sections of the population, especially to vulnerable or marginalized groups, such as ethnic minorities and indigenous populations, women, children, adolescents, older persons, persons with disabilities and persons with HIV/AIDS; accessibility also implies that medical services and underlying determinants of health, such as clean and potable water, and adequate sanitation facilities, are within safe, reasonable physical reach, including in rural areas;

8 Available at https://bvsms.saude.gov.br/bvs/publicacoes/declaracao_alma_ata.pdf. Visited: Sep 10, 2021.
9 Available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11. Visited: Sep 10, 2021.

besides adequate access to buildings for persons with disabilities; (iii) economic accessibility: health facilities, goods and services must be affordable for all, so payment for health-care services, as well as for services related to the underlying determinants of health, like potable water and sanitation services, has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups; equity demands that poorer households should not be disproportionately burdened with health expenses, as compared to richer households; (iv) access to information: it includes the right to seek, receive and impart information and ideas; however, accessibility of information should not impair the right to have personal health data treated with confidentiality.

Concerning acceptability, all health facilities, goods and services must be respectful of medical ethics, and culturally appropriate, respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as designed to respect confidentiality and improve the health status of those concerned.

In terms of quality, in the context of the right to health, health facilities, goods and services must also be scientifically and medically appropriate, and of good quality. This requires, among other things, skilled medical personnel, scientifically approved drugs within expiration dates, hospital equipment, clean and potable water, and adequate sanitation.

It's important to highlight that article 12 of the ICESCR gives special attention to "the provision for the reduction of the stillbirth-rate and of infant mortality, and for the healthy development of the child", which can be understood as the need to take measures to improve child and maternal health, sexual and reproductive health care, including access to family planning, pre- and postpartum care, emergency obstetric services and access to information, as well as the resources needed to act upon it.

Paragraph 15 of General Comment 14 covers the right to hygiene at work and in the environment, being expressed by "improvement of all aspects of environmental hygiene and industrial hygiene", including, in particular, the adoption of preventive measures with regard to accidents and occupational diseases. In addition, industrial hygiene aspires to reduce to a minimum the causes of health hazards resulting from the working environment.

Likewise, this document defines the prophylaxis, treatment, and control of epidemic, endemic, occupational, and other diseases, requiring that prevention and education programs be established to address health issues such as sexually transmitted diseases, particularly HIV/AIDS, and those that adversely affect sexual and reproductive health, as well as the promotion of social determinants for good health, such as environmental safety, education, economic development, and gender equality.

The right to treatment includes the establishment of a system of emergency medical care in case of accidents, epidemics and similar health hazards, as well as the provision of relief in case of accidents, and humanitarian aid in emergency situations. Disease control has to do with the individual and collective efforts of States to make available, among other things, the relevant technologies, the employment and improvement of epidemiological surveillance and the collection of disaggregated data, the implementation or improvement of immunization programs, and other strategies to control infectious diseases.

It is also essential to emphasize the International Health Regulations (IHR), a binding international legal instrument for 196 countries around the world, which includes all Member States of the World Health Organization (WHO). The IHR became effective on June 15, 2007, and requires countries to report certain disease outbreaks and public health events to WHO. Drawing on WHO's unique expertise in global disease surveillance, alert and response, the IHR defines rights and obligations of countries to report public health events, and establishes a number of procedures that the WHO should follow in its work to uphold global public safety.

## 1.2. National legal framework for the human right to health

Linking the right to health with the fundamental principles of the Federal Constitution (CF) of 1988, Piovesan (2008) emphasizes that item III of article 1 inaugurates, in the constitutional text, the dignity of the human person as the foundation of the Democratic State of Law, whose main objective is the construction of a free, fair and solidary society, in respect of what is said in item I of article 3. Brazil is also committed to the observance of human rights in its international relations, and in line with the treaties to which the Country is a signatory, article 4, item II, of the Federal Constitution of 1988. In inaugurating the title referring to fundamental rights and guarantees, article 5, caput, expressly ensures the inviolability of the right to life, which has its protection further reinforced by becoming a fundamental clause, as provided in article 60, paragraph 4, IV. The right to health, among others, certainly derives from the right to life, and the protection of human dignity is included in the chapter on social order, and deserving of a central provision in article 196.

The consecration of the right to health in Brazilian legislation is expressed in article 6 of the Political Letter, *verba legis*: "Education, health, food, work, housing, leisure, security, social security, protection of motherhood and childhood, and assistance to the destitute are considered social rights, in the form of this Constitution."

Article 196 of the Constitution also states that "Health is a right of all and a duty of the State, guaranteed through social and economic policies that aim to reduce the risk of disease and other health problems, and to provide universal and equal access to actions and services for their promotion, protection, and recovery." This understanding results from the struggle of the Sanitary Reform Movement, which held the 8th National Health Conference in 1986, in which, for the first time in the Country's history, the participation of organized civil society in the process of building an ideal for health was guaranteed in Brazil, based on international guidelines.

Subsequently, article 197 stipulates that health is a service of public relevance, since it is essential for the maintenance of life, and in article 198, item II, it was laid down that public actions and services related to health should have comprehensive care, prioritizing preventive activities, without prejudice to care services.

Federal Law 8080/1990, known as the Organic Health Law, establishes the Unified Health System (SUS), guided by the principles of equity, universality, and integrality. Since then, the SUS has contributed to the increase in life expectancy and demonstrates

great advances in vaccination campaigns, in the fight against HIV and AIDS, in the decentralization of primary care, and in preventive campaigns.

It is important to highlight Constitutional Amendment no. 29, from September 13, 2000, which adds paragraph 2 to article 198, establishing that he Union, the States, the Federal District, and the Municipalities must necessarily apply minimum resources in actions and public health services every year, to make the right to health viable in the Country.

Another important milestone in the right to health is the Charter of Health Users' Rights, approved by the National Health Council (CNS) at its 198th Ordinary Meeting, held on June 17, 2009. The document, which is based on six essential principles of citizenship, is characterized as an important tool for citizens to know their rights and duties when seeking health care, both public and private: 1. every citizen has the right to orderly and organized access to the healthcare systems; 2. every citizen has the right to receive adequate and effective treatment for their ailment; 3. every citizen has the right to be treated hospitably and humanely, without suffering any kind of discrimination; 4. every citizen has the right to receive services which respect them, their values and rights; 5. every citizen also has responsibilities in order to be able to receive adequate treatment; 6. every citizen has the right to the commitment of healthcare managers to the compliance with the previous principles.

# 2. The right to life

The right to life is the main right guaranteed to all people, it is the most important of human assets, as it would make no sense to declare any other if the right to be alive was not assured, in order to enjoy it in the first place. In other words, the right to life is a prerequisite for human existence and for the exercise of all other rights and freedoms provided for in international human rights treaties and in the Federal Constitution.

## 2.1. International legal framework for the human right to life

The Universal Declaration of Human Rights, signed in Paris on December 10, 1948, proclaims in article III that "Everyone has the right to life, liberty and personal safety."

Article 6 of the *International Covenant on Civil and Political Rights* (1966)[10] provides that "Every human being has the inherent right to life. This right shall be protected by law: no one shall be arbitrarily deprived of his life."

For its part, the American Convention on Human Rights from November 22, 1969, establishes in Article 4, paragraph 1, that "Every person has the right to have his life respected. This right shall be protected by law and, in general, from the moment of conception. No one shall be arbitrarily deprived of his life."

General Comment 36[11] on Article 6 of the International Covenant on Civil and Political Rights (ICCPR), adopted by the UN Human Rights Committee at its 124th session, held from October 8 to November 2, 2018, supersedes previous General Comments No. 6 (16th session) and 14 (23rd session). In addition, it clarifies that Article 6 of the ICCPR 3 states that "The right to life is a right which should not be interpreted narrowly. It concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity." Article 6 guarantees the right to life for all human beings, without distinction of any kind, including those people suspected or convicted of even the most serious crimes.

Similarly, General Comment 36 states that Article 6 of the ICCPR establishes that no one shall be arbitrarily deprived of his life, and that this right shall be protected by law. It lays the foundation for the obligation of States Parties to respect and guarantee the right to life, to realize it through legislation and other measures, as well as to provide effective remedies and redress to all victims of violations of the right to life. Article 6 also defines that deprivation of life involves an intentional or otherwise foreseeable and preventable harm or injury caused by an act or omission. The obligation of States Parties

10 Ratified by Decree 592, on July 6, 1992.

11 General Comment 36 available at https://www.ohchr.org/en/hrbodies/ccpr/pages/ccprindex.aspx. Visited: Sep 10, 2021.

to respect and guarantee the right to life extends to reasonably foreseeable threats and life-threatening situations that may or may not result in death. According to paragraph 7 of General Comment 36, "States Parties may be in violation of article 6, even if such threats and situations do not result in loss of life."

On paragraph 26, General comment 36 claims that States must take appropriate measures to address the general conditions in society that may generate direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include elevated levels of criminal and gun violence, heavy/generalized traffic and industrial accidents, environmental degradation, deprivation of indigenous peoples' lands, territories, and resources, prevalence of life-threatening diseases, hunger, widespread malnutrition, extreme poverty, and homelessness. The measures required to provide adequate conditions for the protection of the right to life include measures to ensure access to essential goods and services, such as food, water, shelter, medical care, electricity and sanitation, as well as other measures designed to promote and facilitate adequate general conditions, such as support for effective emergency health services, emergency response operations (including fire, ambulance, and police forces), and social housing programs. In addition, they must develop contingency plans and disaster management plans designed to increase preparedness and address natural and man-made disasters, which can negatively affect the enjoyment of the right to life.

It is important to emphasize, in the context of the international legal framework of the right to life, the content described in Article 7 of the Rome Statute of the International Criminal Court, which refers to crimes against humanity. The list of crimes include: (a) murder; (b) extermination; (c) enslavement; (d) deportation or forcible transfer of population; (e) imprisonment or **other severe deprivation of physical liberty in violation of fundamental rules of international law**; (f) torture; (g) rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity; (h) **persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law**, in connection with any act referred to in this paragraph, or any crime within the jurisdiction of the court; (i) enforced disappearance of persons; (j) the crime of apartheid; (k) any other inhumane acts of a similar character intentionally causing great suffering, or serious injury, to mental or physical health.

## 2.2. National legal framework for the human right to life

In the Brazilian legal system, following the ideals and international norms of human rights, the greatest of all possessions is life. In Brazil, the right to life is explicitly assured in the constitutional text, which establishes in article 5: "All are equal before the law, without distinction of any kind, guaranteeing Brazilians and foreigners residing in the Country the inviolability of the right to life, liberty, equality, safety, and property."

Thus, the right to life encompasses two dimensions: the right to defend and the duty to protect. Concerning defense, the right to life is imposed on public authorities and

other individuals so that they do not harm this legal asset. On the other hand, the duty to protect life is imposed on the State, which is responsible for taking the appropriate measures to ensure the protection of this asset; therefore, every imminent risk to life must be prevented by the public authorities, and every death must be investigated.

According to Tavares (2009), life should only be interrupted by natural causes, making if forbidden for one individual to take another one's life. The right to life is also a right to health, to food, to education, and to all means that guarantee the dignity of a person.

# 3. State obligations regarding the rights to health and to life during the pandemic

In his book *Comments on the 1988 Brazilian Constitution (2002, p. 4331)*, José Cretella Júnior quotes Zanobini, when thinking about the relationship between the right to life and health, and explains that

> [...] no other asset in life presents individual and social interests as clearly united as health, that is, the physical well-being that comes from the perfect harmony of all the elements that make up its organism, and their perfect functioning. For each individual, health is a presupposition and indispensable condition of all economic and speculative activity, of all material or intellectual pleasure. The state of sickness not only constitutes the denial of all these goods, but also represents danger, more or less close, to the individual's very existence and, in the most serious cases, the determining cause of death. For society, the health of its members is an indispensable condition for its conservation, internal and external defense, general well-being, all material, moral and political progress.

Based on these precepts of health and life, the World Health Organization (WHO) declared, on January 30, 2020, that the outbreak of the new coronavirus (2019-nCoV) constitutes a Public Health Emergency of International Concern (PHEIC) and affirmed the need to adopt Temporary Recommendations under the *International Health Regulations* (2005). In Brazil, also on January 30, 2020, Decree no. 10212 promulgates the revised text of the International Health Regulations.[12]

Through Federal Law No. 13979 of February 6, 2020, Brazil establishes measures to address the public health emergency of international concern resulting from the coronavirus (COVID-19). On March 11, 2020, COVID-19 was classified by the WHO as a pandemic, as there were outbreaks in several countries and regions of the world. Subsequently, in Brazil, Legislative Decree No. 6 of March 20, 2020, recognized a state of public calamity and public health emergency of international concern. In this pandemic context, the State's actions must ensure the values associated with the protection and preservation of people's lives, and to this end, it is imperative that the economy adapts to health needs.

To avoid and overcome a chaotic situation in the pandemic period, it is imperative to adopt measures that are appropriate for the State and for the people, such as a) releasing more resources for investments in health; b) prioritizing patients infected by the

12 It is a binding international legal instrument for 196 countries around the world, including all Member States of the World Health Organization (WHO). It aims to help the international community prevent and respond to serious public health risks that have the potential to cross borders and threaten people around the world. (Available at: www.gov.br/anvisa/pt-br/assuntos/paf/regulamento-sanitario-internacional/arquivos/7181json-file-1. Visited: Sep 14, 2021.

virus; c) treating and protecting healthcare workers; d) coordinating actions of the State along with those of the pharmaceutical industry, in order to guarantee all the necessary drugs for the population; f) defining criteria for priority care, especially for members of risk groups, vulnerable and indigenous peoples; g) strictly controlling social isolation measures; h) coordinating police efforts in order to avoid non-essential activities and crowds; i) keeping infected people in total isolation; j) providing social assistance to low-income populations; k) developing advertising pieces to encourage prevention and vaccination measures, among others.

In light of the unprecedented global health emergency caused by the COVID-19 pandemic, the Inter-American Commission on Human Rights (IACHR) published Resolution 01/2020 *Pandemic and Human Rights in the Americas*,[13] on April 10, 2020, which affirms that the measures adopted by the States to contain the virus must stem from a deep respect of human rights. This document includes 85 recommendations to the States Parties, including attention to vulnerable groups.

It should be understood that the serious health situation is an extraordinary legality in which the Public Power needs to adopt exceptional and temporary conducts and measures, to control the spread of the virus and the contamination of people. In the words of jurist Pedro Serrano (2020, p. 7):

> On a legal level, the existence of a pandemic is inscribed as an emergency situation, or public calamity of an extraordinary nature, to which the legal order can, and must, offer answers; the exception, as we know, is characterized by anomie, by the lack of norms, by the absence of legality.

From this standpoint, it is worth mentioning Lênio Streck's view (2020): "[...] the law must be applied by principle, and not by politics. Lives cannot be ranked. And, beware: extraordinary legality does not justify undermining the text of the Federal Constitution." Therefore, public actions to solve extraordinary problems in the fight against the pandemic must be based on the observance of constitutional principles, prioritizing, through urgent and emergency public policies, the protection of life.

13 Visit www.oas.org/pt/cidh/decisiones/pdf/Resolucao-1-20-pt.pdf. Visited: July 22, 2020.

# 4. Analysis of the context of the human right to life considering General Comment 36 on ICCPR and of the human right to life during the pandemic in light of General Comment 14 on ICESCR

Based on the analysis of the international human rights legal framework, and the corresponding national legislation, we postulate that the Brazilian State has violated and continues to violate, in different ways, multiple obligations regarding the guarantee of human rights, in particular the rights to life and health, in the context of confronting the COVID-19 pandemic.

Analyzing the facts and the general attitude of the Brazilian State regarding the pandemic, given the provisions and obligations of human rights and pandemic management, contained in national and international legislation, we can affirm that the Brazilian Government has committed the following violations:

## 4.1. Violation of the right to life

Just as countless Brazilians had their human right to health hindered, others, as a result of the actions and omissions of the Brazilian State, were directly affected in their right to life. Statistics reveal the dramatic worsening of the pandemic in the Country, whose outcome could have had another scope, preserving as many lives as possible. Considering that human rights are intrinsically transversal and interdependent, thousands of Brazilians were inexorably and prematurely deprived of their right to life, from which all other rights directly derive. Below is a list of the main violations observed.

### 4.1.1. Violation of Article 6 of ICCPR, paragraphs 2 and 3 of General Comment 36 on ICCPR

Violation of the obligation to respect and protect the right to life, by not showing empathy towards the relatives of the dead, and even towards the victims of the pandemic. The President of the Republic has publicly expressed contempt for the value of life, and naturalized deaths caused by the virus on multiple occasions. We include below a list of some of his nefarious pronouncements within one year of the pandemics in Brazil:

### “Overestimated” virus

“The destructive power of this virus is being overestimated. Maybe it’s even being promoted for economic reasons [...]”. (When Brazil recorded 25 cases of the disease, and no deaths).

### “Hysteria”

“Look, the economy was doing well... This virus brought a certain hysteria. There are governors who, as I understand it, and I might be wrong, who are making decisions that could greatly harm our economy”.” (On the day after the first death in the Country).

### “Little flu”

“For 90% of the population, it will be a little flu, or even nothing”. (Less than 100 deaths)

### “So what?”

“So what? I’m sorry. What would you have me do? I’m called Messias, but I’m not a miracle worker”. (Referring to his own surname, which means “Messiah”, when almost 5 thousand people had died).

### “Country of sissies”

“It’s all about the pandemics, now, this has to stop, come on! I’m sorry for the dead, I am. Every one of us is going to die eventually, everyone here is going to die. There’s no escaping that reality. We’ve gotta stop being a country of sissies.” (With 163 thousand deaths).

### “If you turn into a crocodile”

“If you turn into a crocodile, that’s your problem. If you turn into Superman, if some woman grows a beard, or if some man starts speaking in a high-pitched voice, they (Pfizer) will have nothing to do with that”. (About the possible side-effects of vaccines, with 185 thousand deaths).

### Masks are “harmful”

“There are some studies coming out [...] on the use of masks, that, at first, a German university says masks are harmful for children, causing irritability, headaches, concentration difficulties, a reduction in feelings of happiness, a refusal to go to school or daycare, dejection, a reduced ability to learn, vertigo, tiredness”. (With 250 thousand deaths).

### “Political use” of the pandemics

“Let’s not cry over spilled milk. We’re still going through a pandemic, which is partly being used, not to defeat the virus, but to try and overthrow the President.”. (With 340 thousand deaths).

### Hydroxychloroquine

"I caught the virus and took hydroxychloroquine. I might have been the only head of state to have sought a remedy to this disease. [...]. I'm not giving up, I'm stubborn, I'm persistent.". (With 484 thousand deaths).

### Abbreviation of Life

"A lot [of the people who died] had some comorbidity, so COVID-19 only shortened their lives by a few days, or weeks." (With 593 thousand deaths).

Nothing can change the President's mind, as seen in the pronouncement at the opening of the UN General Assembly.[14] In the nearly 13 minutes of his speech, besides continuing to defend the so-called "early treatment" - referring to drugs proven to be ineffective against COVID-19, such as hydroxychloroquine and ivermectin - he took a stand against "vaccination passports".

By choosing a strategy of disregarding the risk of the virus and questioning the technical guidelines issued by the global and national scientific communities, **the Brazilian State has caused an excess of deaths, i.e., avoidable, premature deaths.** It would be quite a complex endeavor to calculate the exact number of deaths that could have been avoided, but there are some formulations that allow for an approximate number.

For example, Pedro Hallal, university lecturer and researcher who collaborated in the preparation of this document, compared the percentage of deaths caused by COVID-19 in Brazil with that of other countries, finding that, with 2.7% of the world's population, Brazil contributed 12.9% of the deaths in June 2021, that is, 4.6 times more deaths than would be expected, given the size of its population. This allows us to estimate that four out of every five deaths could have been avoided, if the Brazilian Government had followed the recommendations of the international health community as well as other governments did. Applying this ratio to the updated number of deaths caused by COVID-19 in early October 2021 (600,000), it would represent an excess of 480,340 deaths.

This excessive number of deaths might be even higher, because deaths are being underreported, as highlighted by the doctor, lecturer and researcher who assisted in the elaboration of this document, Maria dos Remédios Freitas Carvalho Branco. According to Carvalho Branco, it is known that there is still an under-recording of deaths by COVID-19, i.e., when the cause of death was indeed COVID-19, but the death certificate shows another cause.

Despite expressing a dimension of the magnitude of the violation of rights, resulting from actions and omissions of the Brazilian State in the management of the pandemic, and pointing to the severity of future consequences for orphans and people with long-term effects, this excessive number of deaths alone is not enough to express the impact of social inequality on the mortality profile of different social groups, historically excluded from access to wealth, public services, and political representation, among others. We have analyzed separately what we have been able to document, and observed additional violations.

14 Available at www.youtube.com/watch?v=EmiKQDVtDds. Visited: Sep 14, 2021.

### 4.1.2. Violation of article 6 of ICCPR and Paragraph 3 of General Comment 36 on ICCPR

This violation is confirmed by the lack of protection to millions of Brazilians against premature death, as well as by discriminatory actions, and actions disrespecting the right to life. The policies adopted did not guarantee that everyone, without distinction of any kind, could enjoy a life with dignity, especially the most vulnerable people. The lack of protection of the right to life, especially for the most vulnerable, is already identified in the first cases diagnosed in Brazil, as the first confirmed case of COVID-19 in the Country was diagnosed on February 26, 2020, a 61-year-old white man, living in the city of São Paulo, who was returning from a trip to Italy. However, the first confirmed death from the coronavirus happened in Rio de Janeiro, and it was a 63-year-old black woman, who worked as a housemaid. It's quite a symbolic fact that the virus is more lethal for those who live in vulnerable conditions.

The EpiCovid19-BR survey, the largest study on the prevalence of COVID-19 infection conducted in the Country, showed, in all its phases, that the poorest 20% had twice the risk of being infected than the richest 20%. In the case of indigenous people, the risk of contracting the disease was five times greater than that of the white population.

As for vulnerability, it is important to emphasize the understanding of physician, sanitarian and head professor at the Department of Preventive Medicine at the School of Medicine of the University of São Paulo (FMUSP), José Ricardo Ayres. For Ayres (ABRASCO, 2017), vulnerability is

> [...] an articulate set of conceptual syntheses and practical guidelines aimed at transforming the behavioral, social and political-institutional dimensions related to different health problems and their undesirable consequences – situations of suffering, limitation and death – involving specific individuals and populations. This perspective is supported by an epistemological path that starts from the grievance itself, and moves towards its clinical understanding, and the measurement of its dispersion in society (epidemiological dimension); understanding of social aspects and origin (competence of Social Sciences and Humanities in health), and culminating in actions and programs that effectively overcome and/or mitigate the grievances, conceptualized [...] as medical-sanitary syntheses.[15]

As highlighted by Benilda Regina Paiva de Brito, a researcher who assisted our initiative, "in a mostly black and female country, we must see reality, the context of inequalities, from a viewpoint that identifies who this population is". And, by looking at it this way, we can identify, among these vulnerable populations, indigenous populations, women, black men and women, the LGBTQIA+ population, the homeless population, the incarcerated population, as well as migrants, refugees, asylum seekers and stateless persons, who commonly face difficulties in accessing constitutionally guaranteed rights, social discrimination, economic deprivation and weak connections with support networks.

15 Ciência & Saúde Coletiva Journal. Available at: www.abrasco.org.br/site/noticias/saude-da-populacao/revista-ciencia-saude-coletiva-e-enspfiocruz-debatem-sobre-vulnerabilidade/30383/. Visited: October 10, 2021.

During the pandemic, President Jair Bolsonaro has violated the **principle of non-differentiation/discrimination provided for in paragraph 3**, as he showed he valued some lives more than others, by questioning the measures of social distancing, because they would be bad for the economy: "We're all going to die some day [...]," he said on June 9, 2020, indicating that, in his opinion, the lives of some people are worth less than the smooth functioning of the economy as a whole.

Indigenous peoples have been neglected by the actions taken by the State to preserve lives during the fight against the pandemic. According to the documents prepared by the Articulation of Indigenous Peoples of Brazil[16] and by the Indigenous Missionary Council[17], the current Government has been adopting measures to cut off health services to indigenous people: the "More Doctors" Program was dismantled, and that was the only service that ensured the consistent presence of health professionals in indigenous areas; the government also raised suspicions about the administration of health care funds, which caused the suspension of financial resources for services for several months, leaving communities without any kind of assistance; the Government imposed their religious fundamentalism and political extremism on the Special Secretariat for Indigenous Health, disrespecting indigenous cultures and their knowledge; and even worse, the respectful approach to indigenous people was abandoned, and there are no more healthcare teams permanently allocated in the area, which is now served only by mobile and emergency teams. The arrival of the COVID-19 pandemic among indigenous peoples aggravated a situation of structural deficiency in existing social services, especially those of extreme importance for the new generations: health, education, leisure, security, healthy food, etc.

Poverty and the lack of public actions, intensified by the coronavirus pandemic, forced members of several indigenous peoples to go as far as the city centers to seek emergency resources, purchase consumer goods and food, and in many cases, receive medical care. These movements expose the entire indigenous population, children and adolescents, a fact that increases the risk of contracting virus. An article signed by researchers from several Brazilian universities, and published in The *Lancet Global Health* journal reveals that the prevalence of COVID-19 (individuals already infected at some point) among indigenous people is 6.4% - four times higher than in white people (1.4%). According to the team led by Professor Cesar Victora, from the Federal University of Pelotas, the higher prevalence among indigenous people can be explained by a set of factors affecting this population not only in the current pandemic context, such as high density of people living in the same environment, poverty, and difficulties to access health care[18].

Under the silence of the National Indian Foundation (Funai), invaders intensified death threats and attacks on indigenous people. These people have fought to isolate the territory with sanitary barriers, maintained by indigenous organizations, who, besides

16 Available at: https://emergenciaindigena.apiboficial.org/dados_covid19/. Visited: Sep 13, 2021.
17 Report on Violence Against Indigenous peoples 2020. Available at: https://cimi.org.br/wp-content/uploads/2020/10/relatorio-violencia-contra-os-povos-indigenas-brasil-2019-cimi.pdf. Visited: Sep 13, 2021.
18 Available at: www.bbc.com/portuguese/brasil-54274684. Visited: Sep 13, 2021.

seeking to protect their people against the virus, must always stay vigilant to keep the communities safe.

We analyze the context of the COVID-19 pandemic with this in mind, as a determining piece of an even larger array of crises that Brazil and the world are facing in 2021 - the main ones being the sanitary crisis and the socioeconomic crisis, with a shrinking world economy and growing inequalities - and which affects the black population, women, and LGBTQIA+ populations more severely.

For a large number of women and LGTBQIA+ people, especially transvestites and transgenders, and other gender identities who suffer intra-family violence, staying at home has become a challenge. The necessary social distancing measure adopted has forced women and LGBTQIA+ to coexist with their aggressors for a longer period; no wonder feminicide and transfeminicide cases have increased in several Brazilian states.

The State committed a violation by failing to adopt actions that would guarantee the expansion of protection and assistance networks for women. The Rio de Janeiro Public Safety Institute (ISP) highlighted data that show that the home, which in principle is a place of protection for many, did not fulfill this function with regard to women during the pandemic. During the isolation period in 2020, more than 61% of the serious recorded cases of violence against women occurred inside the home. When it came to physical violence, the percentage increased from 60.1% in 2019, to 64.1% in 2020. Sexual violence cases saw their percentage increase from 57.7% in 2019, to 65.6% in 2020.

Data from the dossier[19] released by the National Association of Transvestites and Transexuals of Brazil (Antra), in January 2021, show the number of cases of violence on social networks, attempted murders, suicides, and the number of murders have grown in the pandemic in 2020. This increase is clear in all analyzed scenarios, whether in bimonthly or semiannual periods, compared to the same periods in 2019. Most transgender women had no choice but keep on prostituting themselves, exposed to violence and to the virus. The document also shows that around 70% of the transgender population did not have access to the Economic Relief Aid offered by the Government.

The Technical Note on Public Policy and Gender-Based Violence During the COVID-19 Pandemic: Present, Absent and Recommended Actions, released by the Institute for Applied Economic Research (IPEA), [20] shows the increase of violence against women. The so-called explanatory factors of violence against women have been exacerbated, as expressed in the following table.

19 Available at: https://antrabrasil.files.wordpress.com/2021/01/dossie-trans-2021-29jan2021.pdf. Visited: Sep 25, 2021.

20 Available at: www.ipea.gov.br/portal/images/stories/PDFs/nota_tecnica/200624_nt_disoc_78.pdf. Visited: Sep 25, 2021.

**Chart 1 Violence against women during the COVID-19 pandemic.**

| Factors explaining violence against women | Aggravating factors during the pandemic |
|---|---|
| • Gender inequality;<br>• patriarchal system;<br>• sexist culture; and<br>• mysoginy. | • Social isolation;<br>• economic impact;<br>• reproductive work overload onto women;<br>• alcohol and drug abuse; and<br>• fewer counterating services available. |

Source: ALENCAR *et al*., 2020, p. 9.

Researcher Benilda Brito (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021) say points out that, in a little over a year, there has been a notorious widening of "the structural racism and patriarchy moat, social structures that place, respectively, black people and women in social positions of subordination". She also states that "The black population, more directly black women, have felt the strong effect of the pandemic on their occupations - whether in formal work, including domestic work, or in informal work - worsening their general situation of poverty and social exclusion." And she points out that "the COVID-19- related data on the main victims of the State's neglect – black people – reflect our unequal and racist reality, which makes the Country's black, poor and peripheral population even more vulnerable in every way".

The COVID-19 data on the main victims of the State's neglect presented in the survey *Prevalence of antibodies against SARS-CoV-2 according to socioeconomic and ethnic status in a nationwide Brazilian survey*[21], show that our unequal and racist reality, in all its forms, makes the black, poor, and peripheral population in Brazil even more vulnerable and precarious. These data reflect the chasms of social and racial inequality in Brazil, as pointed out by Brito (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021).

> Usually, the access to healthcare services is much more difficult for the black population, and it has been no different during the pandemic; they have continued to face difficulties in accessing the best services and assistance. It is also black people who are on the front line among healthcare workers.

Social issues directly influence the risks of infection, and the possibility of receiving treatment against the disease - the black population is the one doing informal work, facing the impossibility of maintaining social distancing, having to keep on working to support their families. Poverty, violence and the lack of basic sanitation are also factors that contribute to these risks, making the living conditions of this population even more vulnerable.

The homeless population is also one of the vulnerable populations that was not the focus of the state's actions during the pandemic period. In March 2020, the number of people living on the streets of Brazil reached almost 222,000, which represents an

21 Available at www.ncbi.nlm.nih.gov/pmc/articles/PMC7595003/. Visited: Sep 25, 2021.

increase of 140% since September 2012. Since the economic crisis was intensified, as a result of COVID-19, according to a technical note by IPEA,[22] it is estimated that the homeless population has increased even more in recent months.

The vulnerable population is the one who uses the public health services the most, so it is important to emphasize the selective policy adopted by the Federal Government, that defines who will survive, because it has not invested in the structure of SUS hospitals and ICUs. In March 2020, the Brazilian Association of Intensive Care Medicine (AMIB) presented a survey on the total number of beds in Intensive Care Units in Brazil.[23] According to the January 2020 mapping, Brazil had 45,848 ICU beds, 22,844 of which were in the Unified Health System and 23,004 were part of the private healthcare system. According to recommendations made by the WHO, and by the Ministry of Health, the ideal ICU bed ratio is 1 to 3 beds for every 10,000 inhabitants, and Brazil has a ratio of 2.2 beds, which is overall satisfactory. But when we look at these numbers in more detail, segmenting them between the public and private system, for example, SUS has an average of 1.4 beds for every 10,000 inhabitants, against 4.9 in the private network.

In April 2021, AMIB presented compiled data that pointed out that one in three coronavirus patients (36.6%) died after being admitted to the ICU. Proportionally, mortality is higher in the public network, with a rate of 52.9%, while in the private sector, the death rate is 29.7%. These data reflect the policies aimed at deteriorating the living and health conditions of the 80% of the Brazilian population who depend on the public healthcare system, especially the vulnerable ones, **violating the duty to protect without distinction**, i.e., **policies for death and extermination** advocated by President Jair Bolsonaro in 2010, during Session 171.4.53.O:

> One of the major causes of starvation, destitution and violence is the exaggerated populational growth. [...] There's no more room to lie down at the beach. There's too many people! We must put an end to this, if we want to produce happiness in our country.[24]

This is a fragment of the speech of then-Federal Deputy Jair Bolsonaro, on August 5, 2010, advocating in favor of Constitutional Amendment Bill 584, which he himself had proposed eight years prior. The idea was to encourage the public healthcare system to sterilize people who could not afford a vasectomy or a tubal ligation.

### 4.1.3. Violation of article 6 of ICCPR and Paragraph 25 of General Comment 36 on ICCPR: discriminatory practices

By arresting, detaining, imprisoning or otherwise depriving individuals of their freedom, States take on the responsibility to look after their lives, including providing necessary

22 Available at: http://repositorio.ipea.gov.br/handle/11058/10078. Visited: Sep 25, 2021.
23 Available at: www.amib.org.br/fileadmin/user_upload/amib/2020/abril/28/dados_uti_amib.pdf. Visited: Sep 25, 2021.
24 Full pronouncement available at : https://www.camara.leg.br/internet/sitaqweb/TextoHTML.asp?etapa=3&nuSessao=171.4.53.O&. Visited: Sep 13, 2021.

medical care and adequately monitoring their health. However, Brazil responds to this duty by adopting a true policy of extermination of this group.

According to data from the National Penitentiary Information Survey, conducted in 2019, the Brazilian prison population was composed of 773,151 people deprived of freedom in all regimes (BRAZIL, 2020). With an occupancy rate around 170% (COSTA *et al.*, 2020)[25], the Brazilian penitentiary system is overloaded and fragile, so, potentially curable infectious diseases, such as tuberculosis, result in high mortality. Due to being confined in overcrowded cells, with poor ventilation and limited access to hygiene practices, the incarcerated population is potentially more vulnerable to contracting and dying from COVID-19, as compared to the rest of the population.

According to estimates released in the initial phase of the pandemic, in the free population, each infected person would be able to infect two to three other people; given the characteristics of Brazilian prisons, the expectation was that an incarcerated person would be able to infect up to ten people (SÁNCHEZ *et al.*, 2020)[26]. Despite some measures adopted by the authorities, such as the release of detainees and the suspension of visits in order to contain contamination, data released by the National Council of Justice in October 2020 revealed a 287% increase in the number of cases in these spaces, compared to the previous three months, reaching a total of 43,563 infected and 201 deaths from COVID-19 in the Brazilian prison system (MUNDIN, 2020).[27]

### 4.1.4. Violation of Article 6 of ICCPR in light of paragraph 23 of General Comment 36 on ICCPR

**The Brazilian Government, led by Jair Bolsonaro, also violates Article 6 of the ICCPR in light of paragraph 23 of General Comment 36 on the ICCPR**, as the Brazilian State's initiatives regarding the protection of human rights defenders have been insufficient, not guaranteeing an effective protection of life, particularly for excluded and vulnerable groups.

The **failure to protect human rights defenders,** announced at the beginning of the Bolsonaro government, which prioritizes and benefits loggers, militiamen and other perpetrators, was greatly aggravated by the pandemic. According to data from the Observatory for the Protection of Human Rights Defenders,[28] between March and August 2020, 92 defenders of indigenous, quilombolas and LGBTQIA+ agendas lost their lives due to COVID-19.

As for the indigenous people and quilombolas, there is evidence of the intent to violate, on a video of the speech given by former Minister of the Environment,[29] Ricardo Salles, in

25 Available at: www.scielo.br/j/psoc/a/Jrx9BspBkMmvfLbTTLJLk9D/?lang=pt. Visited: Sep 25, 2021.
26 Available at: www.scielo.br/j/csp/a/ThQ4BfJJYngFJxv8xHwKckg/?format=pdf&lang=pt. Visited: Sep 25, 2021.
27 Available at: www.cnj.jus.br/covid-19-casos-entre-privados-de-liberdade-aumentam-287-em-90-dias/. Visited: Sep 25, 2021.
28 Available at: www.global.org.br/wp-content/uploads/2021/02/Rapport-Br%C3%A9sil2021port.pdf. Visited: Sep 10, 2021.
29 Available at: https://g1.globo.com/politica/noticia/2020/05/22/ministro-do-meio-ambiente-defende-passar-a-boiada-e-mudar-regramento-e-simplificar-normas.ghtml. Visited: Sep 10, 2021.

a ministerial meeting with President Jair Bolsonaro on April 22, 2020, widely reported by the press. At the meeting, Ricardo Salles alerted ministers about what he considered to be an opportunity brought by the COVID-19 pandemic: for him, the Government should take advantage of that moment, when society and the media were focused on the new coronavirus, to change rules that could be questioned in court, stating that they should "go by with the cattle drive"[30].

More than 30,000 indigenous people from 158 ethnic groups, according to information from the Articulation of Indigenous Peoples of Brazil (APIB)[31], have already been infected by the disease, and almost 800 have died. Among these 800 dead people are shamans, chiefs, elders, sages, teachers, warriors, midwives, healers, health agents, nursing technicians, a council member, and a doctor. Among them are internationally recognized leaders, such as chiefs Aritana Yawalapiti and Paulinho Paiakan, shaman Guarani Gregório Venega, elders WariniSurui, Acelino Dace, Artemínio Antônio Kaingáng, Elizer Tolentino Puruborá, Puraké Assuniri and João Sõzê Xerente. But also young people, like Alvanei Xirixana, a 15-year-old Yanomami who was diagnosed with the new coronavirus and died on 9 April 2020. Indigenous populations are traditionally less exposed to pathogens and, therefore, less immunized, which makes them more exposed to complications related to COVID-19. Moreover, their collective way of life presents a clear challenge to containing the dissemination of the virus among members of indigenous communities.

Quilombola communities have been losing their leaders as a result of, either the arrival of the coronavirus in their territories, or the need to leave the territory, for survival reasons. Leaders such as Carivaldina Oliveira da Costa, also known as Tia Uia, from the Rasa quilombo, in Rio de Janeiro, and Dona Maria Mercês de Barros, from the São Sebastião de Burajuba quilombo, in Pará, are examples of human rights defenders who developed an important political role in their communities, and who were victims of Government inertia and inefficiency. For many years, these communities have been subjected to aspects of structural racism, which has intensified recently. Like indigenous communities, quilombola communities still have to deal with deforestation and conflicts in their territories, even during the pandemic.

The LGBTQIA+ population, especially transgender and black people, are identified as highly vulnerable by COVID-19 research. This vulnerability index was determined according to three main variables: income and work, health, and exposure to risk, according to a survey published by social enterprise Gênero e Número (Gender and Number).[32]

### 4.1.5. Violation of article 6 of ICCPR and the obligation to protect life

Article 6 of ICCPR incorporates confrontation actions to counteract the conditions that prevent the enjoyment of the right to life with dignity, such as

30 Translator's note: the minister was alluding to an expression in Portuguese that gives the idea of opening the gates so that all the cattle pass and not just an ox, and meaning that he wanted a mass dismantling of regulations.

31 Available at: https://emergenciaindigena.apiboficial.org/. Visited: Sep 25, 2021.

32 Available at: www.generonumero.media/lgbt-coronavirus/. Visited: October 8, 2021.

> [...] high levels of criminal and armed violence, traffic and industrial accidents, environmental degradation, illegal occupation of indigenous peoples' land, territories and resources, the prevalence of fatal diseases such as AIDS, tuberculosis or malaria, extensive substance abuse, widespread hunger and malnutrition, and extreme poverty and homelessness.

Instead of protecting the right to life, President Jair Bolsonaro maintains his campaign priority of facilitating access to firearms. On February 12, 2021, nearly a year after the beginning of pandemic, the President signed four decrees that make it easier to use and purchase firearms in the Country. Along with the decrees, there are also measures from the Ministry of Justice and Defense, which increased to 550 the monthly limit of ammunition that can be purchased by those who already own, or carry a weapon; and the repeal of regulations dealing with the tracking and marking of weapons and ammunition. The most serious action that proves the non-protection of the right to life in this context is Resolution n. 126/20 of the Foreign Trade Chamber – linked to the Ministry of Economy – to reduce to zero the tax rate on the import of revolvers and pistols. This was a preposterous act, once the Government was already planning to reduce the budget for health care. Incitement to violence is a higher priority than actions to guarantee the enjoyment of the right to life with dignity.

On a day that should be dedicated to honor agricultural workers, responsible for producing 70% of the food consumed in the Country, President Jair Bolsonaro honored Farmers Day with the image of an armed man in his Twitter account. After a flurry of criticism, the Government's Communication Secretariat deleted the message.

As is clear in other dimensions of the law, the Brazilian Federal Government, in addition to not having adopted a national plan to collectively confront the pandemic, is taking advantage of the political vacuum left by the calamity, to accelerate the dismantling of a set of social public policies, deepening inequalities and generating more hunger and misery, and causing Brazil to return to the UN's Map of Hunger.

### 4.1.6. Violation of Article 6 of ICCPR with paragraph 27 of General Comment 36 on the ICCPR

Article 6 of the ICCPR, expressed by paragraph 27 of General Comment 36, deals with the obligation to protect and promote the investigation, and, when necessary, hold trial. Paragraph 27, read in conjunction with Article 2, paragraph 1 of the ICCPR, and Article 6, paragraph 1 of the ICCPR, establishes the obligation to provide an effective remedy for victims of violations of rights, and for their relatives. It reads: "Investigations and prosecutions of potentially unlawful deprivations of life should be undertaken in accordance with relevant international standards [...] and must aim at ensuring that those responsible are brought to justice, at promoting accountability and preventing impunity".

Although the reports of premature deaths are being investigated by the Parliamentary Commission of Inquiry (CPI) on the Pandemic, considering the magnitude of this violation, which affects millions of people, we consider that the appropriate forum for the investigation should be the judiciary, more specifically the Brazilian Supreme Court

(STF), in order to provide a response that would be able to definitively clarify the facts, and hold people responsible for their participation in these violations. We must be ready to take international action if the CPI's final report is shelved or politically defeated. The CPI is an instrument of political investigation that can be discarded by the judiciary.

Another fact that requires careful investigation are the actions of the health insurance carrier named *Prevent Senior*. Some doctors who formerly worked for the company prepared a dossier in which the health insurance carrier is accused of using their hospitals as "test-labs" for studies with drugs proven to be ineffective for the treatment of COVID-19. The company is suspected of pressuring its doctors to prescribe drugs with no proven efficacy for the treatment of COVID-19 - which were publicized by the President of the Republic, Jair Bolsonaro-, and of directly administering these drugs to patients, in some cases, without the consent of patients and/or of their families. They are also accused of defrauding death certificates, registering deaths from the coronavirus as if they had happened due to other causes. *Prevent* Senior's actions, under the guidance of the Bolsonaro Government, are remarkably similar to the experiments performed by Nazis on human beings, and it's imperative that the entire scheme is uncovered, and that all the accountable parties, inside and outside the State apparatus, are unmasked.

## 4.2. Violation of the human right to health

The human right to life has been grossly violated by the Brazilian State, as shown below. Not only as a result of his actions, but also due to his omissions in the context of the COVID-19 pandemic, the President of the Republic has violated the principles laid down by International Human Rights Treaties that guarantee the right to health, and this must be dealt with by international courts. The duty of the Country's highest authority with regards to anticipatory governance, and the adoption of emergency health measures, has not been observed.

### 4.2.1. Violation of Article 12 of ICESCR, by acts of omission, expressed in paragraphs 15, 16 and 17 of General Comment 14 by CESCR

The violation of the provisions of Article 12 of the ICESCR are seen by **the adoption of ineffective measures to prevent and treat epidemic and endemic diseases,** in particular with regard to the COVID-19 pandemic. Examples of effective measures that should have ben taken: the creation of an urgent medical care system and making available, among other things, relevant technologies, employing and improving epidemiological surveillance, gathering disaggregated data, implementing or improving immunization programs and other strategies to control infectious diseases. As an example of that ineffective action, we can cite the following case

#### 4.2.1.1. The case of Manaus

Amazonas was the first state whose healthcare system collapsed in the new coronavirus pandemic, in April 2020. Images showing cold storage chambers in hospitals and the burial of COVID-19 victims in trenches were seen by the entire world. Thus, Manaus and other areas of the state of Amazonas served as a political project to implement a "scientific experiment" to try and prove the unfounded thesis of 'herd immunity', as well as to attempt to confirm the supposed efficacy of medicines that had already been repeatedly discarded in numerous international studies.

This deliberate policy led to the failure to meet the fundamental needs of the health system in that region in a timely manner, which, even before December 2020, showed clear signs of complete collapse. According to testimony at the Parliamentary Inquiry Commission (CPI) on COVID-19, on 23 September 2020, the then Municipal Health Secretary of Manaus, Marcelo Magaldi Alves, had sent an official letter to the Minister of Health Eduardo Pazuello, noting that, in the last half of the month, the city had registered a significant increase in the number of new cases of COVID-19-19, in the hospital occupancy rate, and in the mortality rate, signaling that the epidemiological scenario in Manaus remained challenging. At that time, he requested the Ministry to provide the state with individual protection equipment and health supplies.

In 2021, the Health Secretariat of Manaus informed the Minister of , Health Eduardo Pazuello about the daily average of more than one hundred confirmed cases, and the hospital network was "on the verge of collapsing once again". The Secretariat requested support to fight the pandemic, specifically human resources in various medical specialties.

The Ministry of Health had been aware of the resurgence of infections and deaths in Manaus since September 2020, as indicated by the official letters and testimonies provided to the CPI on COVID-19. Deponent Marcellus Campelo claimed to have been asking the Ministry of Health for ventilators, monitors and infusion pumps for increasing the availability of ICU beds in the state since the beginning of the contingency plan. According to the testimony of former Minister Eduardo Pazuello to the CPI, it wasn't until January 6 that Manaus was considered the city with the fastest contamination by COVID-19.

Instead of confronting the extremely serious lack of ICU beds in Manaus and expanding them, the Federal Government's response to such a serious crisis was the dissemination of the idea of an "early treatment" against the disease, through the use of drugs with no scientific evidence of effectiveness for such purpose, along with a computerized system that would assist health professionals in making early diagnosis and subsequent prescription of those drugs, the so-called "covid kit". The online platform, called "Treat Cov", prescribed "treatment", including drugs that several studies confirmed do not work against the disease - such as chloroquine, hydroxychloroquine and azithromycin.

#### 4.2.1.2. Pilot project and experiments

The pilot project announced by the Ministry of Health to treat the crisis in Manaus would test a new scientific method to detect cases of COVID-19 in Primary Health Care (APS). The project was based on a cell phone app in which healthcare professionals

would use a clinical protocol - dubbed AndroCoV - that would make "a rapid diagnosis of the disease through a point system following strict medical criteria." As confirmed by Dr Mayra Pinheiro, Secretary of the Ministry of Health, "We are just validating a scientific protocol, showing that it is a strong indicator of the disease, that it can be used for decision making." This shows that the intention, from the start, was to turn the situation in Manaus into a scientific experiment without any hint of effectiveness and without any care to safeguard the health of the subjects of the law.

Another pilot project that has drawn attention also took place in the Amazon. It is the experiment with patients with COVID-19 symptoms who served as guinea pigs in a study funded by a private network and denounced as illegal, to test proxalutamide, an experimental drug studied for application in patients with some types of cancer, such as prostate cancer, because it blocks the action of male hormones. The experiment promised to cure COVID-19. It was sponsored by the Samel Group, a network of hospitals and health insurance carriers in the region. On October 13, 2021, the episode that culminated in the death of at least another 200 patients, according to data from the National Commission of Ethics in Research (CONEP), was described by UNESCO as what could be one of the "most serious and grave episodes of ethical infraction" and "violation of human rights" of patients in Latin American history.[33]

According to medical records, the treatment consisted of three proxalutamide capsules per day. In the same treatment, daily doses of hydroxychloroquine were also inhaled and ivermectin was administered to patients, both drugs proven ineffective in combating the new coronavirus. CONEP, an agency of the Ministry of Health that evaluates research protocols involving human beings, concluded an investigation in which it points out the irregularities of the study coordinated by physician Flávio Cadegiani. The agency even authorized the study with proxalutamide earlier this year, but points out that the one conducted in Amazonas involved more people than had been originally approved (645 participants, when the allowed number was 294) and was carried out with "critically ill intensive care patients", which had not been approved either.

CONEP understands that, based on the facts and grounds presented, there are several contradictions in the documents submitted to CONEP, which characterizes evidence of irregularity in the research procedures, as well as transgressions of current norms on ethics in research involving human beings, in addition to non-compliance with good clinical practices in the conduct of the clinical trial. The National Health Surveillance Agency (Anvisa) suspended the authorization to import and use proxalutamide in Brazil on September 2.

#### 4.2.1.3. Ineffective treatment: use of chloroquine

On Monday, June 15, 2020, the Ministry of Health had already issued Information Note 17/20 – SE/GAB/SE/MS with the "Ministry of Health's Guidelines for Early Drug Handling of Patients Diagnosed with COVID-19". From then on, the recommendation for the use

33 Available at: www1.folha.uol.com.br/equilibrioesaude/2021/10/denuncia-sobre-proxalutamida-e-das-mais-graves-da-historia-da-america-latina-diz-unesco.shtml. Visited: October 10, 2021.

of hydroxychloroquine, and other similar drugs, without scientific evidence of effectiveness, as an early treatment for COVID-19, was widely publicized by the President of the Republic, and publicly endorsed by his Ministries via official statements on social media, and on billboards all over the Country. Since May 2020, several ads have been posted on the official Instagram profile of the Special Secretariat for Social Communication of the Presidency of the Republic (@Secomvc), stating, for example:

"Chloroquine, a drug that has shown good results against COVID-19, can be prescribed for all patients diagnosed with coronavirus in Brazil". [34] (SECOM, May 20, 2020).

"We need to get past the political debate over chloroquine, for the good of the Country. President Jair Bolsonaro only wants the medicine to be an option for the poorest, as it has been for the richest". (SECOM, May 20, 2020).[35]

"I learned in the military that indecision is even worse than a bad decision. Doctors, you have saved thousand of lives all over Brazil. If hydroxychloroquine had not been politicized, many more lives could have been saved from the 115,000 that the Country has lost so far." (President's Speech).[36]

The State **violated the right to health and life by omission**, and especially **by actions**, since it failed to respect paragraph 8 of General Comment 14, which governs **the right to not be subjected to non-consensual medical treatments and medical experiments**, when adopting those measures proven to be ineffective.

#### 4.2.1.4. Dismantlement of health policies

In this context, it is important to remember that the inclusion of the human right to health in Article 6 of the Brazilian Constitution is the result of the mobilization and construction of the sanitary movement, that was able to mobilize users, health professionals and even managers at different levels of the system in defense of the Health System, based on human rights, with a strong participatory content and permanent dialogue, in harmony with the Declaration of Alma-Ata.

It is important to point out that the organization of the health services network, regionally (local, municipal, regional, state, and federal) and hierarchically (basic care, medium and high complexity outpatient and inpatient care), took place with the implementation of the SUS, which was regulated on September 9, 1990, by Federal Law No. 8080. This law defines the functioning of the SUS, legally establishing it as a dynamic system of continuous and growing organization of health care actions for the Brazilian people. SUS comprises: Family Health teams; Basic Health Units (UBS); municipal, state, and federal public hospitals - including university hospitals; research foundations and institutes (such as Butantã, Adolfo Lutz, and Vital Brasil); laboratories; blood banks; health

34 Available at: https://twitter.com/secomvc/status/1263208935236001800. Visited: October 10, 2021.
35 Available at: www.facebook.com/SecomVc/posts/260666828621933?comment_id=260869668601649. Visited: October 10, 2021.
36 Available at www.gov.br/planalto/pt-br/acompanhe-o-planalto/discursos/2020/discurso-do-presidente-da-republica-jair-bolsonaro-durante-o-encontro-brasil-vencendo-a-covid-19-palacio-do-planalto. Visited 10 October 2021.

surveillance, epidemiological, and environmental surveillance services, as well as private hospitals and health services contracted by or providing services to the government.

SUS provides health care in Brazil based on the guarantees of:

- universality – all people are entitled to public health care, regardless of gender, race, income, occupation or other social or personal characteristics;
- equity – health care is provided with resources and services in a fair way, allocating more to those who have less, in order to reduce inequalities;
- integrality – serving the person as a whole, carrying out health care actions in their entirety, whether curative, preventive, individual or collective;
- popular participation – participation of users of health services and organized civil society, through Health Councils (permanent, deliberative and joint) and Health Conferences (periodical, consultative and joint).

It is fundamental to emphasize here that the SUS, as well as the whole of Brazil's social policies, have been the target of an aggressive dismantling process since the legislative coup that culminated in the impeachment of President Dilma Rousseff. This coup consolidated a political front, characterized by some scholars as an authoritarian and conservative alliance, at the same time hierarchical and feudal, with little openness to "listen" to what comes from the popular classes.

The main instrument of this dismantling strategy was the approval of Constitutional Amendment 95/ 2016, also known as Constitutional Amendment of the Public Expenditure Ceiling. This modification in the Federal Constitution provides that, for 20 years, the primary expenditures of the public budget will be limited to the inflationary variation. This implies that these expenditures will not suffer any real increase.

Thus, measures of early treatment with hydroxychloroquine, the pilot projects, and the dismantlement of the health system do not respond to the needs of citizens concerning health care. Therefore, the Brazilian Government **is in violation of its obligation to create conditions that ensure medical assistance and health services to all in case of illness.** At the same time, the decision to use drugs with important side-effects on already weak patients due to the effect of the virus may undoubtedly have caused the death of thousands of people. The Brazilian justice system must investigate and find the ones responsible for yet this atrocity.

### 4.2.2. Violation of Article 2 of ICESCR, as per General Comment 14 in its paragraphs 31 and 32, regarding the progressive realization of the right to health, without retrogression

The Brazilian state **has not fulfilled its obligation to guarantee the highest possible level of health by adopting the necessary measures to use the maximum available resources.** A State that is unwilling to use the maximum amount of available resources to make the right to health effective violates its obligations under Article 12.

Even in the midst of such a chaotic sanitary situation, the Federal Government failed to spend R$80.7 billion of the budget intended to contain the effects of the pandemic in 2020, despite the seriousness of the health and social crisis faced by the Country since the arrival of the new coronavirus. This is equivalent to 15% of the total resources spent to this end and, just as a comparison, it would be enough to fund two "Bolsa Família" (social welfare program) programs for one year. The survey carried out by the Institute of Socioeconomic Studies (INESC) is part of the study "*A suffocated country – Balance of the General Budget of the Union 2020*".[37] The Institute's conclusion is that by not using the whole of the R$604.7 which were intended to fighting the pandemic contributed to the final balance of 200 thousand deaths caused by the virus, and to a record level of unemployment, which affected 13.4 million people. According to the study, in the emergency and calamitous situation Brazil found itself in 2020, the Government had an obligation to spend the maximum amount of resources available to protect the population. However, the sabotage, inefficiency and delay in funding public policies to overcome the crisis are crystal clear.

Thus, as highlighted by Bruno Moretti, researcher who assisted in this project, that contrary to what was defended by advocates of Constitutional Amendment No. 95/2016 (CA 95), its main objective is unbinding health expenditure, which is now only corrected for inflation. After all, freezing primary expenditures would not require an Amendment to the Constitution. In practice, even if the Net Current Revenue (NCR) rises above inflation, the amounts are not required to be transferred to the health budget.

In 2018 and 2019, this provision removed R$17.56 billion from the health budget, corresponding to the difference between 15% of the NCR (the lower investment limit laid down by CA 86, in effect since 2018, according to the ruling of Justice Ricardo Lewandowski), and those resources committed to health actions and public services in those years. CA 95 makes it legal for tax collection gains not to be passed on to SUS. In 2017, according to the official data from the Public Health Budget Information System (Siops) and the National Treasury, the amounts committed to public health actions and services were 15.8% of the NCR, and this indicator dropped to 13.5% of the NCR. In other words, CA 95 configures a kind of confiscation of revenues that should be channeled to SUS.

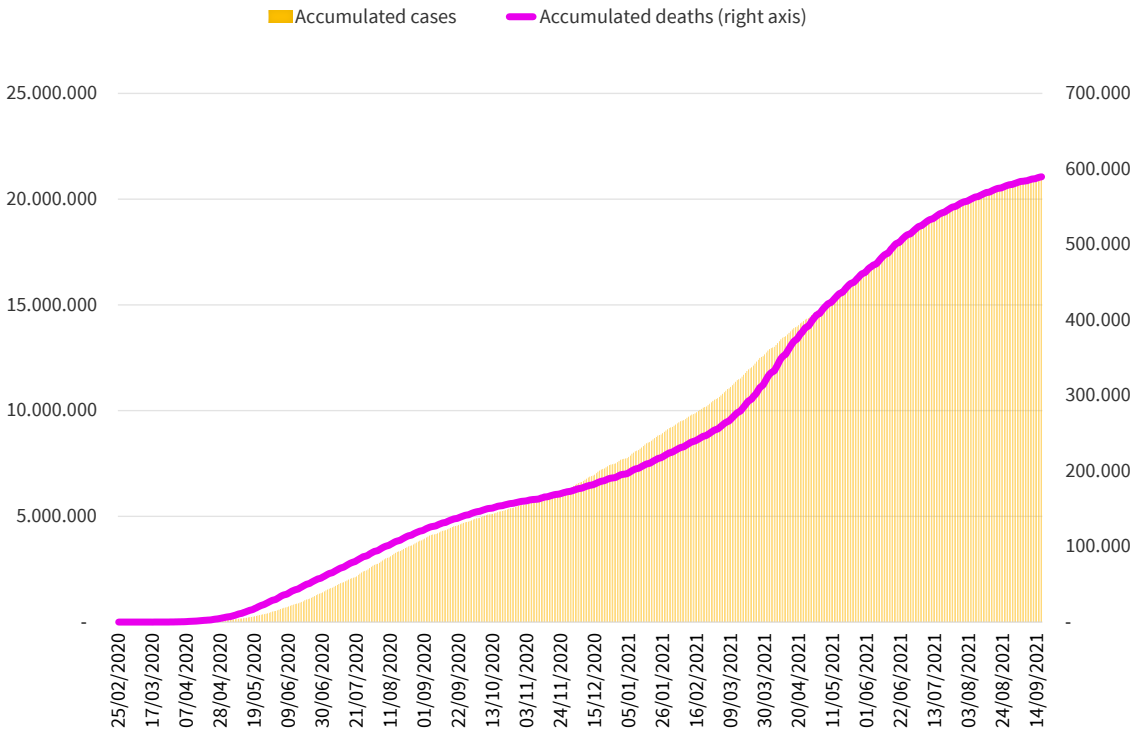
Therefore, the structural underfunding of SUS was converted into a reduction in health expenses after the freezing of the health floor by CA95. In 2020, CA 95 would once again mean losses for the health care system. The situation would become even worse when combining CA 95 and the primary financial results goal – which corresponds to the gap between primary revenues and expenditures. As tax revenues were low, it would be necessary to earmark resources in 2020, bringing expenditures down below the expenditure ceiling.

The budgetary decisions made by the Ministry of Health and the Ministry of Economy during the pandemic, both in 2020 and 2021, demonstrate how the budget was prepared and executed in violation of the human right to health.

37 Available at: www.inesc.org.br/baixa-execucao-financeira-e-lentidao-do-governo-asfixiaram-politicas-sociais-em-2020-diz-estudo/?gclid=Cj0KCQjwqKuKBhCxARIsACf4XuETeOJU8KlPb2O9CWK87PEIKWhRFg2F8rQDphwIBw3xcLholZbbpg8aAnGuEALw_wcB. Visited: Sep 10, 2021.

The following graph shows that, at the turn of 2020 into 2021, there was an inflection in the number of COVID-19 cases and deaths. In this context, we must again ask: why was the budget bill not adjusted as to include expenses to fight the growing pandemic? Obviously, adding expenses to the budget proposal was not possible, since the resources were already programmed in the expenditure ceiling. That is, there was a clear restriction of the health budget due to the maintenance of the expenditure ceiling, compromising the guarantee of the right to health in circumstances of an increase in the number of COVID-19 cases.

**Image 1. Accumulated number of cases and deaths by COVID-19.**




Source: Coronavirus Panel by Bruno Moretti

It is important to note what Bruno Moretti (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021) highlights about the 2021 budget:

1. the health budget for 2021 was sent to the National Congress under the auspices of CA 95, without the provision of resources to face the pandemic, either in health or in other policies such as the Emergency Aid; so:
2. funds only started to be transferred to healthcare entities to face the pandemic in March 2021, despite the upsurge of COVID-19 in the first months of that year;
3. the Emergency Aid was suspended for the entire first quarter of 2021, making the social distancing protocol actually impossible for the most vulnerable citizens;
4. the expiration of the extraordinary resources to face the pandemic, in December 2020, caused a reduction in the number of COVID ICU beds made available by the Ministry of Health: from 12,000 in December 2020 to only 3,187 in February 2021, even as the number of patients increased.

In 2020, the release of R$ 24.5 billion was authorized for the purchase of vaccines, considering the transfer of technology from AstraZeneca within the scope of Fiocruz, Covax Facility and other purchases. However, R$ 21.6 billion out of that amount were not even earmarked (88% of the total), and were cleared for reallocation in 2021, which shows the deliberate strategy of delaying vaccination against COVID-19. Up to mid-September 2021, less than 37% of Brazilians had been totally immunized.

In 2020, adding the amounts cleared between March and June for centralized acquisitions by the Ministry of Health, there were R$11.3 billion available, of which only R$1.5 billion had been paid (13% of the total). The sparse number of centralized purchases effectively made contributed to supply constraints for mechanical ventilators, personal protective equipment, ICU drugs, and tests, among other items, in a context of increasing demand and prices.

Even though the Ministry of Health had cleared financial resources for fighting the pandemic to be transferred to states and municipalities in 2020, the data show a significant reduction in transfers between April (R$ 4.25 billion) and May (R$ 2.37 billion), even as the pandemic raged. In June 2020, the amounts passed on were about half of the April figures. Between March and June 2020, there were R$27 billion available for transfers to states and municipalities to fight the pandemic within the scope of the Ministry of Health, but only R$9.9 billion (37% of the cleared amount) were affectively transferred during this period.

The expiration of the extraordinary resources to face the pandemic, in December 2020, caused a reduction in the number of COVID ICU beds made available by the Ministry of Health: from 12,000 in December 2020 to only 3,187 in February 2021, even as the number of patients increased.

Fiscal austerity should not be in effect during a pandemic: yet in April 2021, the most lethal month for COVID-19 in Brazil, the president of the Central Bank (BC), Roberto Campos Neto, stated that Brazil needed fiscal austerity and seriousness in fighting the COVID-19 pandemic. He claimed that additional spending could do the Country more harm than good.

Another problem regarding the resources made available to fight the pandemic is their diversion to other ends. In March 2021, the Office of the Comptroller General (CGU) released a review of the investigations into irregularities committed by states and municipalities in the use of federal resources to fight the pandemic.[38] The agency estimates a potential loss of R$ 125.9 million due to the diversion of funds. The effective loss, already confirmed by the investigations, is R$39.1 million. Since the beginning of the pandemic, the CGU has acted in 51 operations in conjunction with the Federal Police and Public Prosecutors' Offices. The contracts and bids analyzed by the agency totals R$1.4 billion.

Moretti (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021) points out that the budget proposal was sent to the National Congress with resources close to the floor frozen by CA 95. If the previous level (CA 86) had been in effect, SUS would have had an additional R$ 25 billion in the Annual Budget Bill. There are R$3.9 billion available to vaccinate the population against COVID-19, but the Ministry of Health itself estimates the

38 Available at www.gov.br/cgu/pt-br/coronavirus/cgu-monitora-aplicacao-dos-recursos-federais-repassados-a-estados-e-municipios. Visited 10 September 2021.

need for R$11 billion. That means that the Government's commitment to CA 95 implies that there are not enough resources to vaccinate the population in 2022.

The measures taken by the State **have violated the progressive realization of the right to health**, as they have not complied with the concrete and constant obligation to advance as quickly and effectively as possible to the full realization of article 12 of the ICESCR. For the enjoyment of the right to health, as in the case of the other rights listed in the Pact, measures that tend to set back the realization of rights are unacceptable. If any retrogression measures are deliberately adopted, the State must prove that such measures were applied after the most exhaustive examination of all possible alternatives, and that these measures are duly justified regarding the totality of the rights set out in the Covenant that relate to the full use of the maximum resources that the State Party has available.

### 4.2.3. Violation of Article 12 of ICESCR in light of paragraph 3 of General Comment 14 on ICESCR

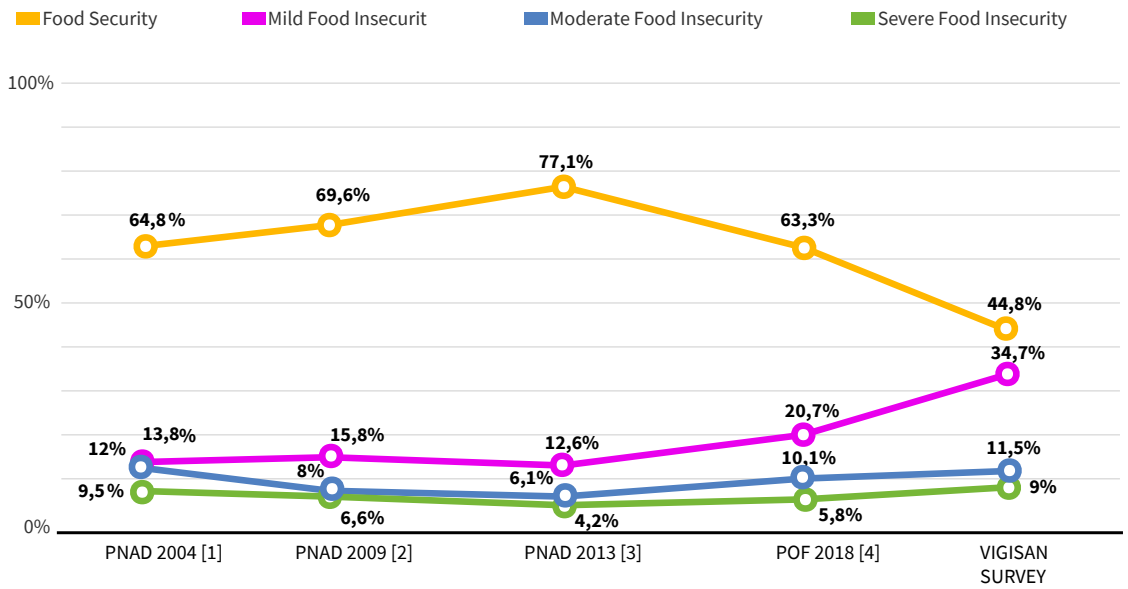
The Brazilian State **has violated the obligation to fulfill the human right to health**, as it did not respect the connection of the human right to health to the realization of other human rights, and subordinate to those same rights, which are stated in the International Bill of Human Rights, in particular the right to food, housing, work, education, access to information, and the freedoms of association, assembly, and movement.

#### 4.2.3.1. Failure to guarantee the human right to food

As for the realization of the human right to food, data from surveys conducted in 2020 show that 116.8 million Brazilians are living with some type of food and nutritional insecurity, more than half of the Brazilian population. Out of these 116.8 million people, 43.4 million did not have food in enough quantity and of sufficient quality to meet their food and nutritional needs; among these, 19 million went hungry (PENSSAN, 2021).

The population groups most affected by food and nutritional insecurity, and hunger, are the structurally excluded ones, who have largely lost their source of income during the pandemic, and who depend on the Emergency Relief Aid for food. Studies conducted during the pandemic report that families spent an average of 69% of the R$600 offered as emergency relief on food. Food insecurity was certainly negatively affected when the program was temporarily suspended, and when the amount offered was subsequently reduced, as shown in the following graphs.

**Image 2. Comparison of estimates of Food Security/Insecurity in the VigiSAN survey and national surveys reviewed according to an eight-item scale. VigiSAN survey AS/IA – COVID-19, Brazil, 2020.**

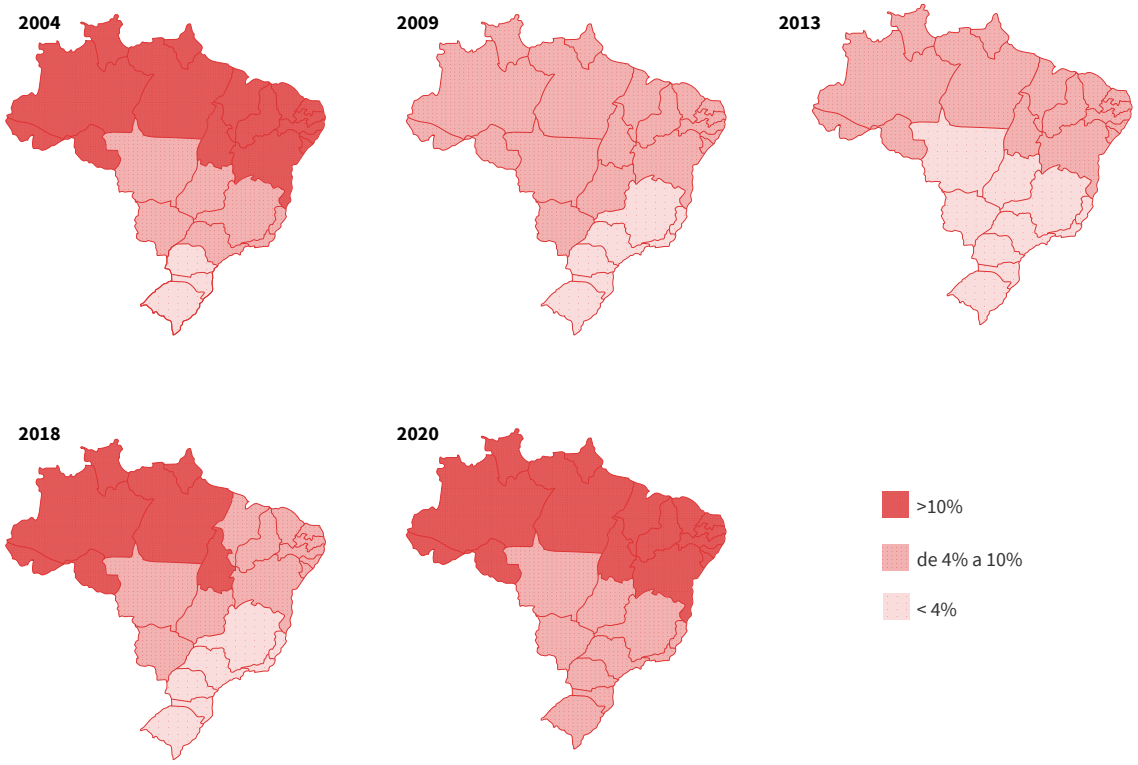



Source: Reprinted from PENSSAN Network 2021, p. 48. [Data reanalyzed for the eight-item scale, based on the surveys: (1) National Household Sample Survey 2003-2004 (IBGE); (2) National Household Sample Survey 2008-2009 (IBGE); (3) National Household Sample Survey 2013-2014 (IBGE); (4) Household Budget Survey 2017-2018 (IBGE)].

The graph shows the evolution of the percentages of food security (in green), mild food insecurity (in yellow), moderate food insecurity (in blue) and severe food insecurity (in red). As can be seen in the graph, the profile shows an improvement in the period from 2004 to 2013, with a significant reduction in severe and moderate food insecurity (4.2% and 6.1%, respectively), and with the prevalence of food security reaching 77 %. From 2013 on, the situation is inverted: food security reaches its lowest level in the official recorded series, 44.8% in 2020, and severe and moderate food insecurity go back to 2004 values, with an increase of more than 20% in mild food insecurity. These latest data were collected in 2020, and already take into account the impact of the dismantling measures of the National Council on Food Security and Sustainable Nutrition (CONSEA) and the National Policy on Food and Nutritional Security, which were intensified in the Bolsonaro administration, and the initial impact of the pandemic. According to the National Survey on Food Insecurity in the Context of the COVID-19 Pandemic in Brazil (PENSSAN, 2021), the prevalence of hunger increased by 27.6% in the period from 2018 to 2020, a figure that reflects the profound setback in the realization of the human right to adequate food and nutrition in the Country.

The following image makes it easier to see the evolution of the food and nutritional security situation in the different regions: the indicators show a worse situation nationally, but the most affected regions are still the North and the Northeast.

**Image 3. Evolution of hunger in Brazil: percentage of population affected by serious food insecurity between 2004 and 2020 - macro regions.**




Source: Reprinted from PENSSAN Network 2021, p. 52. [Data reanalyzed for the eight-item scale, based on the surveys: [1] National Household Sample Survey 2003-2004 (IBGE); [2] National Household Sample Survey 2008-2009 (IBGE); [3] National Household Sample Survey 2013-2014 (IBGE); [4] Household Budget Survey 2017-2018 (IBGE); [5] VigiSAN survey SA/IA – COVID-19, Brazil, 2020].

The same study points out that, besides the Northeast and the North region, hunger is more acute in rural populations, quilombolas, indigenous and riverside populations (12%), also in households led by women (11.1%), black and brown people's homes (10.7%), and in homes where the breadwinner has no schooling or has not finished primary education (14.7%). These data indicate the weight of ongoing violations of the human right to adequate food and nutrition that must be reversed and repaired in the short term, otherwise they will have grave consequences, particularly for developing children. In this specific case, the dimension of the human right to food that has been violated is the right to be free from hunger. Therefore, the Brazilian State has the obligation to grant this right immediately, even resorting to the international community, if it presents a convincing argument that it does not have the resources to do so.

In May 2021, an Argument of Noncompliance with a Fundamental Precept (ADPF) was filed with the STF, along with a request for an injunction, stating resources should be invested in measures for the immediate fight against hunger, demanding the suspension of the effect of the CA 95, which froze the correction of primary investments for the guarantee of rights for twenty years, and also challenging the Provisional Measure that reduced the amount offered as Emergency Relief Aid. The final ruling on ADPF had not been issued yet when this report was finalized.

That same inquiry highlights that thirst and drought are befalling more heavily the North and Northeast of Brazil. Water insecurity reached 40.2% and 38.4% of the households in these regions respectively - these rates are three times higher than in the other regions. This shows the absence of political will and effective public policies to contain the progress of water scarcity and to invest in basic sanitation services. It has always been a challenge for the populations who do not have access to these basic services to keep proper sanitation in order to fight the pandemic and other relevant pathologies.

These issues concerning food insecurity and the realization of the right to adequate food we have presented here are fundamental so that we can understand the collective dimension of the violation, in terms of public policies aimed at human dignity, and their impact on people's lives. Only this way will we be able to go beyond simply denouncing, and move on to promoting as much reparation as possible.

#### 4.2.3.2. Failure to guarantee the right to housing

The human right to adequate housing, with basic sanitation, is essential for the realization of the human right to health. During the COVID-19 pandemic, this right has become even more essential, as people are required to maintain constant social isolation and sanitization. However, according to a National Campaign dubbed "Zero Eviction"[39], in defense of life, there was a 310% increase in the number of evicted families in Brazil last year. 6,373 families had been evicted until August 2020, as opposed to 19,875 families up to August 2021. There was also a 495% increase in the number of families threatened with losing their homes: by August 2020, there were 18,840 families; by August 2021, 93,485 families.

After the Chamber of Deputies passed Bill 827/2020 (which suspends judicial measures for eviction or vacating properties until the end of 2021 due to coronavirus pandemic), it also passed in the Senate, on June 23, 2021, by 38 votes in favor and 36 votes against it. The Bill suspends acts performed since March 20, 2020, except those already completed.

However, on August 8, Jair Bolsonaro fully vetoed the bill (PL 827/2020) that prohibited eviction in urban properties during the coronavirus pandemic. The President claimed the project would "start a vicious cycle":

> The proposal would enable improvements to the squatters' problem, but on the other hand it would worsen the situation for property owners and landlords. The suspension of any judicial, extrajudicial or administrative activity tending to return the possession of the owner who suffered dispossession or to guarantee the payment of rent would directly impact the regularization of these properties and the income of these families, generating a vicious cycle, as more families would be left with no source of income and would need to occupy lands or delay rent payments themselves", he wrote.[40]

39 Data from August 2021. Available at: https://drive.google.com/file/d/1CIZjXacbUDgMqSaidkIps0ba9BF9q8Ju/view. Visited: Sep 10, 2021.

40 Available at: https://www12.senado.leg.br/noticias/materias/2021/08/05/bolsonaro-veta-projeto-que-suspendia-despejo-na-pandemia. Visited Sep 10, 2021.

Housing is a fundamental right for the realization of the human right to health. All people should have access to housing, to a roof over their heads. Many Brazilian citizens did not have this right guaranteed to begin with, but the data gathered by the Zero Evictions Campaign[41] show that the pandemic made the situation worse. During a pandemic, a time for exceptions, for seeking solutions, including emergency ones, it is understood that the right to housing must be assured.

#### 4.2.3.3. Failure to guarantee the right to information accessibility

Providing access to information is one of the obligations set out in item IV b of paragraph 12 of General Comment 14 to ICESCR. Information accessibility includes the right to seek, receive and impart information and ideas concerning health issues, and it should not impair the right to have personal health data treated with confidentiality.

Information accessibility is so important that, in the Declaration of Public Health Emergency due to COVID-19, made by the WHO on January 30, 2020, a series of measures were recommended, including "combating the spread of rumors and misinformation".

In March 2020, the Federal Government issued a provisional measure that provided for the suspension of enquiries via the Law on Access to Information (LAI) in all organizations and entities of the federal public administration, letting requests for information to go unanswered due to the servers' home-office situation, and also suspending the possibility of appeal. Also in March, several scientists, medical doctors, researchers, and members of organized civil society pointed to the need for the expansion of open and disaggregated data, especially about the COVID-19 progression in groups under social vulnerability.

According to Euzamara de Carvalho (*in*: SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021), lawyer and researcher who assisted in this initiative, the absence of data on the effects of the pandemic on these groups accelerates and aggravates the impacts on the health and lives of people historically affected by the absence of policies committed to achieving equity and dignity as human persons, as this lack of information makes it more difficult for public managers and health professionals to develop public policies to prevent and counteract the pandemic. Open data, transparency and information are the tripod for formulating any public policy.

Since 2011, when the LAI was passed in Brazil, Brazilian society had not experienced these many actions to dismantle monitoring and social participation tools in the Country. The Brazilian Law on Access to Information, along with its instruments, rites, procedures and appeal possibilities, is an example of good practices for many countries, and represents an achievement of the whole of Brazilian society, a concrete sign of the advance of democracy in the Country. However, the situations mentioned in this article show that changing a culture of secrecy can only be achieved through a broad effort - daily and constant - made by the Government, to ensure the implementation of consistent public policies and the constant training of civil servants and authorities.

41 For more information, visit: www.campanhadespejozero.org. Visited Sep 10, 2020.

The survey "COVID-19: access to public information"[42] monitored and analyzed enquiries on COVID-19 addressed at the Federal Government through the Electronic System of the Citizen Information Service (e-SIC), and their respective answers. The survey shows that, in the first quarter of 2020, as seen in the following table, 65% of requests were granted access, a condition in which that public agency considers that the demand for information has been met. In the second quarter of 2020, this type of response had a smaller share (46% in April, 41% in May and 44% in June). What increased, however, was not the percentage of requests with denied access - which remained at the same level in all months of the first half of 2020 - but the requests with the response "Forwarded to e-Ouv", which means it would be sent to the Electronic Ombudsman Service in the Federal Executive Branch, which does not belong to the LAI service cycle. Another common response was "This is not an enquiry".

**Chart 2 Comparison of general data from LAI - 1st half of 2020.**

| Description | 2020 | | | |
|---|---|---|---|---|
| | January - March | April | May | June |
| Total requests | 35.307 | 13.892 | 18.782 | 17.145 |
| Answered requests | 33.874 | 8.873 | 11.898 | 10.268 |
| Types of answers | | | | |
| Access granted | 65% | 46% | 41% | 44% |
| Access denied | 7% | 6% | 5% | 6% |
| Forwarded to e-Ouv | 8% | 18% | 29% | 22% |
| This is not an enquiry | 6% | 18% | 15% | 17% |
| Other answers | 14% | 12% | 10% | 11% |

Source: COVID-19 Survey: access to public information.

Still regarding information accessibility, it is important to highlight the accusation made by doctors from health insurance carrier Prevent Senior, which was allegedly defrauding death certificates, registering deaths caused by the coronavirus as deaths caused by other conditions. According to the dossier delivered to the CPI on the pandemic, the company concealed deaths of patients who participated in a study conducted to test the effectiveness of hydroxychloroquine, associated with azithromycin, in the treatment of COVID-19. The document also states that the dissemination of the use of chloroquine and other ineffective drugs resulted from an agreement between the Bolsonaro government and the *Prevent Senior*. According to the dossier, the study was a spin-off of the agreement.

Besides **not fulfilling his obligation to properly inform the population**, the President of the Republic violates the right to health by being deceitful, because despite not having any scientific evidence, that research was publicized and praised by President Jair

42 Available at: http://revista.ibict.br/liinc/article/view/5370/5110. Visited: Sep 10, 2021.

Bolsonaro, as an example of the successful use of hydroxychloroquine. The President posted study results without mentioning the deaths of patients who had taken the drug.

According to the Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, victims, their families and the population in general always have the right to know information about serious violations of human rights found in the State's archives, under any circumstances.

#### 4.2.3.4. Failure to guarantee health surveillance

Still in order to ensure access to information, it is important to highlight the non-compliance with the conditions for health surveillance, which is a continuous and systematic process of collection, consolidation, analysis, and dissemination of data on health-related events, aiming at the planning and implementation of public health measures to protect the population's health, prevent and control risks, injuries, and diseases, as well as promote health.

The Public Health Emergency Declaration issued by the WHO also recommended (item 5) that States review preparedness plans, identify gaps and assess the necessary resources to identify, isolate and care for infected people and prevent transmission and, in item 6, share data, knowledge and experiences with WHO and with the world.

In this sense, Brazil's Federal Decree 10212, published on January 30, 2020, brings a list of measures to be taken under the scope of global public health. According to researcher Euzamara de Carvalho (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021), Brazil was already potentially equipped to apply health surveillance measures since the advent of the National Health Surveillance Policy, acting along with SUS. However, Brazil did not announce or adopt any National Health Surveillance Plan in face of the National Declaration of a Public Health Emergency (ESPIN) due to the new coronavirus (2019-nCoV), as per Ordinance 188, issued on February 3, 2020.

It is worth noting that, while the various countries in the world and their respective heads of state strove to devise strategies to protect life and reduce the spread of the virus by prioritizing surveillance actions, the Brazilian Government neglected to defend life, especially for the most deprived people. The criticism to the Brazilian situation is vexing in the face of statements that "No country in the world has dealt as badly with the pandemic of the new coronavirus as Brazil", as published by SindiSaúde in regard to the study conducted by Lowy Institute, Australia.[43]

However, the painful series of actions taken by the current President of the Republic and the high echelon of his government, including the statements that guide them in the NON-fight against the pandemic, have demonstrated the clear violation of these recommendations, and the huge amount of political, institutional misguided actions in health surveillance.

43 Available at: http://www.sindisaude.com.br/home/noticias-destaque/brasil-fez-a-pior-gestao-do-mundo-na-pandemia.html. Visited Oct 10, 2021.

### 4.2.4. Violation of Article 12 of ICESCR, as per paragraph 36 of General Comment 14 (non-vaccination, vaccination, and pollution)

The Brazilian State violation of Article 12 of ICESCR, expressed by paragraph 36 in General Comment 14 **is seen in the noncompliance with the obligation to guarantee healthcare, particularly through vaccination programs against the main infectious diseases.**

#### 4.2.4.1. Vaccination

Brazil took an extremely long time to start purchasing vaccines. If not by the actions of Butantã Institute and Fiocruz (respectively in charge of CoronaVac and Oxford-AstraZeneca vaccines in the Country), Brazil would not have started to vaccinate its population in January 2021. Gonzalo Vecina Neto, lecturer at the School of Public Health from the University of São Paulo and founder of the National Health Surveillance Agency, and epidemiologist Ethel Maciel say that the first and biggest mistake made by the Federal Government was not buying vaccines in advance, as early as 2020 (PASSARINHO, 2021).

In mid 2020, when manufacturers announced they were developing vaccines, several countries such as Chile, Colombia, the United Kingdom and members of the European Union negotiated the purchase of these products still in the testing phase. Closing the deal still at the testing phase meant the access to vaccine shots would be guaranteed. According to the epidemiologist, one of the strategies to minimize risks would be to acquire an assortment of vaccines. For example, purchasing shots from Oxford-AstraZeneca, CoronaVac, Pfizer and Moderna. However, the Brazilian Government did not do that, and even turned down an offer by Pfizer, which would guarantee the delivery of 70 million shots of their vaccine until December.

To justify not closing the deal with Pfizer, the Brazilian Government argued that the terms of the contract proposed by the company were abusive. The Ministry of Health issued a statement[44], citing as an example the fact that Pfizer demanded that, in case of disagreement with the Brazilian Government, arbitration negotiations should be based on New York law, not Brazilian law. Another point mentioned was that Pfizer required the Brazilian Government to sign a liability waiver exempting the manufacturer from civil penalties for any serious side effects of the vaccine. Pfizer rebutted this, releasing a note of their own claiming that those same contract clauses had been accepted by other countries that acquired their vaccine, including the USA, Colombia, Chile, the UK, Japan, Ecuador and the EU.

Fiocruz started negotiations to buy the Oxford-AstraZeneca vaccine, while Butantã closed a deal with Chinese company Sinovac, for the transfer of technology to produce CoronaVac. After closing deals with foreign manufactures, both entities presented he proposals to the Federal Government. Jair Bolsonaro's government accepted Fiocruz's proposal, but, in October last year, it rejected a proposal by Butantã that provided for the delivery of 45 million shots of CoronaVac by December 2020, and another 15 million

44 Available at: www.gov.br/saude/pt-br/assuntos/noticias/nota-1. Visited: Sep 10, 2021.

in the first quarter of 2021– this would guarantee at least 60 million doses in the first vaccination phase.

At that time, then-Minister of Health Eduardo Pazuello decided to sign the deal, but President Jair Bolsonaro was against it. A political dispute with São Paulo governor, João Doria, and pressure from right-wing militants who raised suspicions about a vaccine produced in China weighed heavily in the decision. On October 21, in an interview to Jovem Pan radio station, the President argued: “We will not buy from China. It is up to me. I don’t believe [their vaccine] is safe enough for the population, due to its origin. That’s the way we think”.

Later, in January, President Jair Bolsonaro retreated, and signed a contract to purchase the Butantã vaccines. The problem is that delay in the negotiations was passed on to the product delivery schedule. That happened because both Butantã’s and Fiocruz’ manufacturing capacity depend on importing inputs from China. In the end, only 9.8 million shots of CoronaVac (Sinovac/ Butantã Institute) and 2 million shots of the Oxford-AstraZeneca vaccine were made available in January and February.

Another significant issue regarding vaccinations was the lack of definition of who should be vaccinated first, within the priority groups. The Federal Government made a huge list of priority groups, which totaled 77.2 million people altogether. The priority list included the elderly over 90 years old, healthcare workers, truck drivers, education workers and the military. There was no contingency as to who should be vaccinated first in the grim scenario of total lack of vaccine shots. As there was no federal coordination, each municipality devised their own rules, and some of them were biased. For example, the list made by the Federal Government included “healthcare workers”, but did not specify which workers would fit the priority status. For a lack of specific rules, some cities vaccinated beauticians, psychologists, dermatologists, vets and even Pilates instructors, before elderly people over 80 years of age.

In face of that situation, on February 8, Justice Ricardo Lewandowski, of the Supreme Court, ruled that the Federal Government should announce the priority order within each priority group. But by that time, the shots in the first batch were almost all gone. A wide array of healthcare workers who did not even work on the frontline were vaccinated at the expense of elderly people.

As for the vaccination itself, the workers who administer the shots did not receive proper training or guidance. There was no national vaccination campaign, no information available to the population and no specific training for the teams working at the healthcare centers. In Rio de Janeiro, it was widely reported that doses of Oxford-AstraZeneca were thrown away because of the low turnout of senior citizens in some areas of the city. Once open, the vial containing the Oxford vaccine is only viable for 6 hours. The CoronaVac vaccine stays viable for 8 hours after the vial is opened.

As there were no clear instructions on that should be done in case the target audience for vaccination did not show up, the remaining shots kept in the vials became unusable. So, besides the shortage of vaccine shots, the lack of guidance and personnel training made stocks even lower. The healthcare workers should have been instructed that it would be better to give vaccinate whoever was around - such as an elderly person’s companion, for example -, rather than let viable shots go to waste.

And, as if that wasn't enough, the CPI on the COVID-19 pandemic presents evidence of corruption in the purchase of vaccines. According to allegations made by Congressman Luís Miranda (DEM-DF), there is "overwhelming" evidence of alleged illicit actions perpetrated by President Jair Bolsonaro and former Minister of Health Eduardo Pazuello. Similarly, Davati Medical Supplies' sales representative, Luiz Paulo Dominghetti, stated in an interview published by Folha de S. Paulo on Tuesday, June 29, that he had received a bribe from the Ministry of Health's logistics director, Roberto Dias, during the negotiations for the purchase of the AstraZeneca vaccine .

Another alleged scheme is under scrutiny by the CPI on the pandemic. It involves the purchase of Chinese vaccine shots from CanSino Biological. The purchase of the most expensive vaccine shots to be acquired by the Brazilian Government (US$17 per shot) amounted to R$5 billion, and the contract had already been signed on June 15, but accusations regarding other pharmaceutical companies and their representatives caused the Chinese company to cancel their operations in Brazil.

Vaccination is an obligation to be fulfilled, aiming at the protection of health, since it is a fundamental public health intervention to prevent the population from falling ill from vaccine-preventable diseases, and from disseminating them. However, the Brazilian State **violated this obligation, as it failed to purchase vaccines** in a timely manner, which made the vaccination process very slow and, when the vaccine shots were effectively acquired, there is robust evidence that bribes were involved in the process.

#### 4.2.4.2. Pollution and poisoning by agrochemicals

At the aforementioned meeting in which Ricardo Salles, then Minister of the Environment, alerted ministers about what he considered to be an opportunity brought by the COVID-19 pandemic, he said that the Government should take advantage of that moment, when society and the media were focused on the new coronavirus, to change rules that could be questioned in court, stating that they should "go by with the cattle drive". *(Translator's note: the minister was alluding to an expression in Portuguese that gives the idea of opening the gates so that all the cattle pass and not just an ox, and meaning that he wanted a mass dismantling of regulations)* He opened the possibility of allowing several types of agrochemicals to be used in the Country. In 2020, Jair Bolsonaro allowed the use of 493 substances, 19 more than those allowed in 2019, out of which, 25 were toxic. That clearance meant that the Jair Bolsonaro government allowed 967 more substances to be used in agriculture between 2019 and 2020.

The use of agrochemicals directly pollutes the soil, the water and can even cause irreversible damages to the environment. That entails an imbalance of ecosystems, whether of their fauna or flora. As products are applied directly to crops, agrochemicals remain attached to vegetables, even after washing them. Please note that the continuous consumption of these products leads to various disorders and diseases. Data from the Brazilian Health Regulatory Agency show that Brazil has been the largest consumer of such substances in the world since 2008. Although that is an extremely large and profitable business, there are now other alternatives, such as organic fertilizers and

pest-control substances. That explains the growth in the market of "organic produce", for they do not use agrochemicals, but organic pesticides.

"Agribusiness and pandemic in Brazil: is a syndemic worsening the COVID-19 pandemic?"[45], a report launched by the Brazilian Association of Collective Health (Abrasco) and the International Pollutants Elimination Network (IPEN), indicates that, besides increasing the possibility of emergence of new zoonoses, such as COVID-19 (by destroying natural habitats), agribusiness also makes people more vulnerable to that kind of disease. This happens because the use of agrochemicals on crops affects the immune system, and the consumption of ultra processed foods makes non-transmissible illnesses and ailments more serious.

When it comes to pollution, it's important to mention forest fires. The Observatory of Climate and Health of the Institute of Communication and Scientific and Technological Information in Health (Icict/ Fiocruz), along with InfoAmazonia and the Federal University of Acre, has invested in Project "Inhaling Smoke", a study on the impact of pollution caused by forest fires in the Amazon during the COVID-19 pandemic. Wildfires and deforestation fires have reached record levels in the past few years. In 2020, a combination of the pandemic and one of the most severe cycles of wildfires and deforestation in the Brazilian Amazon increased the risk of rapid deterioration for COVID-19 patients living in the affected areas.

According to the results obtained thus far, each day being exposed to an amount of particulate matter above the safe level set by the World Health Organization (WHO), increases by 2% the risk of a person infected with SARS-CoV-2 being hospitalized. The smoke caused by the wildfires was linked to an increase of 18% in COVID-19 hospitalizations, and of 24% in respiratory syndromes hospitalizations in the five states most affected by the wildfires in 2020 (Amazonas, Acre, Rondônia, Mato Grosso, and Pará). We highlight that deforestation, which motivates the intense forest fires in the Amazon region, is encouraged by the Jair Bolsonaro administration.

Still on paragraph 36, the Brazilian State **does not fulfill its obligation to reduce or suppress air, water and soil pollution**, including the contamination by heavy metals such as lead (from gasoline), among others.

### 4.2.5. Violation of Article 12.2 (b) of ICESCR (work conditions)

When considering healthcare services during the pandemic, we can see **serious violations regarding article 12.2 b**, that deals with environmental and occupational hygiene and the "right to prevention and treatment of epidemic, endemic, occupational and other diseases."

During the pandemic period, **the State failed to comply with the established duty to adopt preventive measures against work accidents and occupational diseases.** There are numerous cases of health professionals falling ill, or being physically and mentally exhausted, not only due to being quite close to the high number of cases and

45 Available at: www.abrasco.org.br/site/wp-content/uploads/2021/05/Agronegocio-_-ABrasco-IPEN.pdf. Visited: October 10, 2021.

deaths of patients, colleagues, and family members, but also to the significant changes the pandemic has caused in their personal well-being and professional life.

According to the results of the nationwide survey "Work Conditions of Health Professionals in the Context of COVID-19", conducted by Fiocruz and published in March 2021, in one year, the pandemic has significantly altered the lives of 95% of these workers. The data also reveal that almost 50% admitted to overworking during this global health crisis, with work hours in excess of 40 hours a week, and a high percentage (45%) of them need more than one job to survive. These workers work strenuously, overworked, in order to make up for high absenteeism. The fear of contamination and imminent death is part of their daily lives, in actions marked by the risk of confiscation of the worker's citizenship (loss of labor rights and income, outsourcing, unemployment, low wages, extra expenses with purchase of PPE, alternative transport and food).

The survey also points out serious and harmful consequences to mental health, such as sleep disturbance (15.8%), irritability/frequent crying/general discomfort (13.6%), inability to relax/stress (11.7%), difficulty concentrating or slow thinking (9.2%), loss of career or life satisfaction/ sadness/apathy (9.1%), negative feelings about the future/ negative thoughts, suicidal ideation(8.3%), and changes in appetite/weight (8.1%).

The data also indicate that 43.2% of health professionals do not feel protected in their work against COVID-19, and the main reason, for 23% of them, is related to the lack, scarcity, and inadequate use of PPE (64% revealed the need to use makeshift equipment). The survey participants also reported a generalized fear of contamination at work (18%), the absence of an adequate structure to perform their professional activity (15%), and inefficient hospitalization flows (12.3%). The professionals' lack of technical training to work in the pandemic was cited by 11.8%, while 10.4% denounced the insensitivity of managers to their professional needs.

### 4.2.6. Violation of the principle of non-discriminating and equal treatment

As stated in articles 3 and 12.2 of the ICESCR, the covenant "prohibits any discrimination in the access to health care and basic factors to promote health, and to the means and rights for their acquisition [...]" whether for any reason: race, color, gender, sexual orientation, religion, language, political or other opinion, national or social origin, economic status, place of birth, physical or mental disability, health status, marital status, political, social or other status. At the same time, the ESCR committee points out that General Comment 14, paragraph 12, states that even in times of severe resource constraints, vulnerable groups should be protected, by adopting special programs of relatively low cost.

According to data from EpiCovid19, a national study mentioned earlier, the poorest 20% have twice the risk of infection by SARS-CoV-2 compared to the richest 20%. Indigenous people were 5 times more likely to contract SARS-CoV-2 than white people. Black and brown people were 2 times more likely to contract the disease than white people (HALLAL *et al.*, 2020).

#### 4.2.6.1. Discrimination of the black population

In an excellent document provided as subsidy to this denunciation, researcher Benilda Brito (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021) states that Brazil, even today, is faced with the consequences brought about by its national construction, historically anchored in colonialism, traditional and slaveholding domination, and by an inherited political system with a (neo) patrimonialist bias; the nation's formation was strongly marked by social inequality, racism, and a patriarchal logic. That has always worked towards reinforcing these features in the nation's ongoing democratization process.

Brito adds that, in a mostly black and female country, it is vital to see the reality, the inequality context and the advances made, from a perspective which identifies this population whom we should analyze. Beyond identifying the priority subjects of law, an analysis based on race and on reality allows for an even wider and richer array of information, variables and problematizations. It shows us paths that would not exist had this intention of looking deeper into this reality not been part of collecting the data.

We analyze the context of the COVID-19 pandemic with this in mind, as a determining piece of an even larger number of crises that Brazil and the world are facing in 2021 - the main ones being the sanitary crisis and the socioeconomic crisis, with a shrinking world economy and growing inequalities - and which affects more severely women and the black population.

Brito (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021) states that, in a period of a little over a year,

> [...] there has been a notorious widening of "the structural racism and patriarchy moat, social structures that place, respectively, black people and women in social positions of subordination. We have seen how women, especially poor black women, have been carrying the heaviest burden of supporting and maintaining life during the pandemic, more specifically through their care and work whether productive or reproductive, paid or unpaid. We have seen how racist, misogynist and LGBTQIA+phobic violence had increased during the pandemic, by radicalizing the extermination of black youth in peripheral areas and favelas, by the growing number of feminicides and LGBTQIA+ murders, especially of transgender people, during the sanitary crisis".

The researcher also states that the black population, more directly black women, have felt the strong effect of the pandemic on their occupations - whether in formal work, including domestic work, or in informal work - worsening their general situation of poverty and social exclusion.

In a country marked by overexploited workers, work informality and social vulnerability, the classification of groups at higher risk for COVID-19 infection has never been biological, but class, race and gender-based. The working class, especially its poorest and most oppressed strata, mostly composed of black people, are the most vulnerable targets for the virus. These structural inequalities are essential means to assess, for example, the impact of the measures adopted (or not) by the Brazilian State towards

protecting the human right to health of the black population in Brazil, says Brito (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021), because

> [...] usually, the access to healthcare services is much more difficult for the black population, and it has been no different during the pandemic. This population has the most difficulty in accessing the best services and care. It is also black people who are on the front line among health.

It's undeniable that social issues have direct influence over contamination risks, and over the ability to care for those affected by the disease. The black population is the one performing informal work, unable to maintain social distancing, having to keep on going to work to support their families.

> When analyzing vaccination data in our country, social inequalities remain present. The data show that more white people have been vaccinated than black. The ratio is two white people for every black person to have been immunized. This information is even more shocking when comparing the number of black people who die as a result of COVID-19, to that of white people[...].

She also states that "Besides all that, it is common knowledge that black people are not among the groups considered 'on the front line' among healthcare workers. That is because they are outsourced workers in hospitals, doing jobs like cleaning and security, which do not have priority status."

All those aspects pointed out by the context have been consolidated and recorded onto an Auxiliary Document - reporting situations of violation of the human right to health of black Brazilian people in the COVID-19 pandemic - that does not neglect the various aspects which permeate Brazilian black population's lives in times of health crisis.

The black population, in all its diversity, is also one of the risk groups; there are obviously different levels of risk within this group, according to comorbidities that affect black men and women in larger numbers, such as hypertension, diabetes, and especially sickle cell anemia, or even to social lethality, caused by historical, political, and social issues that are part of our society's structure.

A survey based on data from the Ministry of Health shows that the number of deaths from coronavirus in Brazil is five times higher among the black population. That is due to a history of slavery in Brazil, but, above all, due to a racism that is seen in the negligence and the violence perpetrated by the State against the black population, which is the absolute majority in favelas, tenements, stilt houses, street populations, jails, and doing precarious jobs.

In addition to que issues of housing, the poor population in the Country, mostly composed of black people, faces challenges when trying to quarantine, because the represent the majority of the people who kept on commuting on crowded trains and buses.

Epidemiologist, and one of the coordinators of the Racism and Health Workgroup at Abrasco, Edna Araújo, lecturer at the State University of Feira de Santana (UEFS), adds,

highlighting the denial of rights experienced daily by most black men and women in the Country:

> In Brazil, the fight against the COVID-19 pandemic has revealed not only the insufficiency of our healthcare system - actually something faced by several countries around the world during a pandemic – but also the social inequality resulting from the high concentration of income and racism in its most varied forms, which makes the birth, life, illness, and death of the black population mediated by conditions of misery, deprivation of rights, housing, and formal employment.

It is also worth noting that in a country deeply marked by patriarchy, in which the insertions of black male and female workers are also marked by gender, black women have been suffering twice as much.

In more updated data– and to counter a possible argument that seeks to justify this scenario solely through the lens of social inequality, or because black people work in activities with more exposure to the virus, a group of researchers analyzed official statistics on Brazilians killed in 2020, in a study released in September 2021.[46] The study, linked to the Solidary Research Network, which brings together several public and private institutions, states that black people have a higher risk of dying from COVID-19, even those at the top of the social pyramid. Black men, and black and white women, are twice as likely to die from COVID-19 than white men in Brazil, which demonstrates that racial and gender inequalities contribute to increased risk of death, even in groups of people whose occupations place them at the top of the social pyramid. In all activities, except agriculture, black men face a higher risk than white men, according to the study. Work is a determining factor for higher mortality rates in black people, even among lawyers, with a 43% higher risk, and engineers and architects, with a 44% higher mortality risk.

As for the impact of COVID-19 on black people's mental health, it is worth reinforcing that, as this portion of the population is the one with the greatest exposure to infection, due to the aspects already presented earlier, they present a considerable incidence of fear, anxiety, despondency, languishing, and demands derived of mourning processes, among other psychosocial demands.

Brazil's Black Coalition for Rights, made up of more than 200 organizations, entities, groups and collectives in the Brazilian black movement, and who supports one of the more than 120 requests for impeachment of the President, filed in August 2020, points out that "a large share of the lives lost in Brazil to COVID-19 could have been saved, as can be seen in several countries around the world who followed health policies and healthcare management as per the parameters of science, and of the World Health Organization (WHO)".

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46 The researchers examined data from the Ministry of Health's Mortality Information System on 67,500 people who died from COVID-19 in 2020, a sample equivalent to one-third of all deaths caused by the coronavirus reported in the period. The study considered those people between 18 and 65 years of age and with a professional occupation registered in the Ministry of Health system. The researchers used statistical techniques to prevent pre-existing conditions and other personal characteristics from hindering the comparisons. (Available at: https://www1.folha.uol.com.br/equilibrioesaude/2021/09/negros-tem-mais-risco-de-morrer-de-covid-mesmo-no-topo-da-piramide-social-diz-estudo.shtml. Visited: Oct 2, 2021).

The following crimes are presented in the submitted document:

- non-compliance with the Federal Law that determines the measures that must be taken to monitor and control the coronavirus pandemic, urging civil disobedience to the measures of social isolation and other measures to preserve life, in addition to breaking protection protocols;
- neglecting and not performing the necessary actions to contain the pandemic, as established by national and international legal parameters;
- denying measures to assist and fight COVID-19 in the most vulnerable communities, including quilombola communities;
- appointing as president of the Palmares Cultural Foundation a person who goes against the legal and constitutional norms that regulate the institution, and has not been held accountable for his actions. The Foundation is a public institution dedicated to the promotion and preservation of cultural, historical, social and economic values resulting from the black influence in the formation of Brazilian society;
- participating in and endorsing attacks against democracy and its institutions, demanding that the National Congress ad the Supreme Court be closed, and defending military intervention in the Country;
- threatening the legislative and judicial powers, putting democratic institutions at risk;
- denouncing an alleged fraud in the 2018 elections, questioning the electoral system that guarantees the exercise of political rights, without presenting any probative evidence of this allegation;
- intervening in public offices in order to protect family members from criminal investigations.

In addition to presenting the crimes, actions of commission and of omission perpetrated by the Jair Bolsonaro Government in facing the pandemic from the perspective of the organized Black Movement, the list of RIGHTS which have been VIOLATED is included:

- the constitutional and universal Right to life and personal safety;
- the constitutional and universal Right to health;
- the constitutional Right to public health;
- the Right to not be racially discriminated;
- the Right to the historical and cultural heritage of quilombola communities;
- the Right to information accessibility and freedom of speech;
- the Rights to free exercise of the Legislative Power, of the Judicial Power and of the constitutional powers of the states;
- the democratic Regime;
- the constitutional Principles of administrative probity.

#### 4.2.6.2. Gender discrimination

To eliminate gender discrimination, the Committee recommends that a broad strategy be developed to promote women's right to health, in all its dimensions. This strategy must necessarily address the issue of domestic violence and feminicide.

However, as explained in item 3.1.2, no actions were taken to ensure the expansion of the protection and care network for women, neither to reduce their work overload. According to the survey "The work and lives of women in the Pandemic",[47] 50% of women have become caregivers during the pandemic; 72% of women are responsible for caring for children, elderly people or people with disabilities. At home, caregiving hours and paid work hours overlap in women's daily lives; 41% of women who continued to work during the pandemic with the same wages reported they were working during quarantine.

Taking into account the deaths of women that occurred during the pandemic period, and which have been occurring in the especially misogynist context widely and openly propagated by President Jair Bolsonaro, this situation can be characterized as "feminicide by the State", as explained by lawyer and researcher who assisted in this document, Dr. Soraia Mendes (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021). Dr. Mendes defines as feminicide by the State "[...] all the acts of commission or of omission taken by state agents, who, wishing the result or assuming the risk of producing it, cause the death of women due to the historical and cultural inequality of power, constructed and naturalized as a pattern of contempt or discrimination against the female gender." This way, she emphasizes that the inequality between men and women, based on millenary patriarchal power relations nurtured for centuries and encouraged in present times, is the driving force that perpetuates the most varied forms of violence against human rights which must be guaranteed to women.

As Dr. Mendes notes, it is a determining factor that the misogyny directly expressed by the President of the Republic and his subordinates has never been among their strategically disconnected and aimless speeches, and have been able to objectively trigger acts which have resulted in the death of women.

Misogyny is the repulsion and hatred of women. And this form of aversion to the feminine is directly linked to the acts of violence committed against women, besides being the main cause of much of feminicides and other violent acts.

To further emphasize his misogyny, on October 7, 2021, Jair Bolsonaro vetoed[48] the provision for free distribution of sanitary pads to low-income students and homeless people under Law 14214, which provided for the creation of the Menstrual Health Protection and Promotion Program. The distribution of sanitary pads was the main measure to be taken by the program. According to Senator Marília Arraes, author of the project approved by the Chamber of Deputies and the Senate, period poverty, a problem that has already affected millions of women globally, with one in four young women not attending classes during their menstrual period because they do not have sanitary pads, had its effects aggravated by the pandemic. Low-income female students and homeless women cannot afford to maintain personal hygiene with dignity.

When it comes to women's bodies, the Government wishes them to be fertile and maternal, for it forces them to bear children, even if they do not want to. That is, a woman cannot rule over her own body. But the menstrual cycle, which by definition is what

47 Available at: https://mulheresnapandemia.sof.org.br/. Visited: Oct 10, 2021.

48 Available at https://www12.senado.leg.br/noticias/materias/2021/10/07/bolsonaro-veta-distribuicao-de-absorventes-a-estudantes-e-mulheres-pobres. Visited Oct 10, 2021.

makes a pregnancy possible, that can be overlooked. It is acceptable to have women bleed down their legs or miss school during their period, however uncomfortable and humiliating that must be, because a misogynist Government has refused to offer them even the least bit of assistance. This whole situation, made worse by the pandemic, brings up questions about the cause of death of women during the pandemic, **which violates the principle of non-discrimination.**

#### 4.2.6.3. Discrimination against indigenous peoples

Luiz Eloy Terena (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021), lawyer and researcher who assisted in preparing this denunciation, lists below the main violations of the principle of non-discrimination against indigenous peoples observed in this period of pandemic.

**Lack of data/transparency in the Health Information System for Indigenous Peoples (SIASI):** SIASI data are only accessible upon official request via the Access to Information Law, unlike other health databases produced by government agencies. As the Ministry of Health has historically invested in making health data available through specific systems (among which SIM, SINAM, SINASC, among many others), it would be expected that the same would happen with SIASI. The demand for public availability of SIASI data was a recurrent theme discussed within Allegation of Non-Compliance with a Fundamental Precept (ADPF) 709, and even after determination by the Federal Supreme Court (STF), specialists from the Oswaldo Cruz Foundation (Fiocruz) and the Brazilian Association of Public Health (Abrasco) have not been able to access the data.

**Immediate exposure of indigenous peoples to the virus:** Fiocruz analyzed the risk of COVID-19 spreading within indigenous populations, taking into account geographic and sociodemographic vulnerabilities. The geographic vulnerability of indigenous peoples was determined by the occupation of territories located in municipalities classified according to levels of probability of immediate risk of epidemic, estimated for the municipal population. The situation was analyzed at three different moments in the course of the pandemic in the Country: April 18, 2020; May 5, 2020; and May 20, 2020. On the last available date of the analysis, 66.1%, 60.8%, 54.2% and 34.9% of the indigenous population in the South-Southeast, Northeast, Legal Amazon and Central-West regions, respectively, resided in municipalities at high risk for epidemic (FIOCRUZ, 2020a, 2020b). With the initial dissemination of COVID-19 by air to the capitals of the coastal region, and to capitals in the North and Midwest regions, the indigenous lands geographically most vulnerable in mid-April 2020 were those mostly located near urban centers such as Manaus, the Rio Branco - Porto Velho axis, Fortaleza, Salvador, and capitals in the South and Southeast (FIOCRUZ, 2020a).

As of May 5, 2020, indigenous lands in the Legal Amazon on Rivers Solimões and Amazonas, and on their branches, lands in Amapá and Northern Pará, Altamira, Middle and Upper Purus, Yanomami region, Javari River Valley, and Upper Juruá River were identified as high risk for the pandemic (FIOCRUZ, 2020b). These numbers indicated that a quick response from the government would be essential to contain the advance of transmission. Regrettably, despite surveys (FIOCRUZ, 2020a; 2020b; HALLAL *et al*,

2020) pointing out that the indigenous population in an urban context needed to be contemplated in the strategies to control the pandemic directed at indigenous peoples, to date, the government has failed to respond to that need.

**No response from the Brazilian government:** On March 11, 2020, Sesai presented the *National Contingency Plan against Human Infection of the new Coronavirus* (COVID-19). This document does not present the operationalization (people in charge, goals, deadlines) necessary for the implementation of the indicated measures, nor how they will be monitored. Besides this, there is a lack of indications about the assessment of the installed capacity, the workforce, and the necessary inputs for the counteracting measures, as well as of the budgetary contributions to be applied.

**No sanitary protocol or testing for healthcare workers:** The first case of COVID-19 among indigenous people was confirmed by Sesai on April 1, 2020. The infected person was an Indigenous Health Agent from the DSEI Alto Solimões, who contracted the disease from a fellow healthcare worker who had been to São Paulo. It was not until August 2020 that Sesai organized a *Sanitary Protocol for Entering indigenous territories*, providing for the testing of workers before they entered indigenous lands, to try and minimize the risks of COVID-19 transmission among professionals and users of the healthcare system.

#### 4.2.6.4. Discrimination against children and adolescents

##### Orphaned by COVID-19

The first point that must be addressed to demonstrate the violation of the rights of children and adolescents is the idea that has spread since the beginning of the pandemic that children are not affected by COVID-19. According to a report by the BBC[49], scientist Susan Hillis, an infectious disease researcher at the US Center for Disease Control and Prevention, states that the extremely large number of orphans shows the exact opposite, but authorities from different countries and society at large has ignored or acted too slowly to help these minors in such an extreme situation.

Social and economic vulnerability affected a large number of children and adolescents, becoming a symbol of a pandemic that has drastically and irreversibly marked a whole generation of Brazilians. It is estimated that more than 113,000 Brazilian minors lost their father, mother or both to COVID-19 between March 2020 and April 2021. If we consider the children and adolescents whose main caregiver was a grandparent, this number jumps to 130 thousand in the Country.

According to non-governmental organizations that work with child protection agencies in Brazil, social services for minors under 18 years of age were greatly affected in 2020 as a result of the suspension of face-to-face activities. Many cases have gone months without referral, which may have negatively affected the actual orphan survey,

49 Available at https://www.bbc.com/portuguese/brasil-57923377. Visited Oct 10, 2021.

as pointed out by SOS Children's Villages Brazil, an organization with actions all over the Country, in a news piece on CNN Brazil.[50]

Those children, in most cases, will not be put up for adoption. But they require public policies in order to have socioeconomic and emotional structure, because many times, these families do not have any spare room in their homes to properly accommodate new members.

## National School Feeding Program

The second aspect concerning the violation of the principle of non-discrimination of children and adolescents has to do with the suspension of in-person classroom activities, as already mentioned above. In this context, there have been serious violations of the right to adequate food and nutrition under the National School Feeding Program (PNAE). PNAE is one of the consolidated programs in the National Food and Nutritional Security Policy. Many municipal and state governments have decided to adopt the distribution of food baskets to families whose children and adolescents attend public school.

Some governments have introduced the use of a magnetic card with which the family could buy the food products of their choice from local grocery stores. The vast majority of state and municipal governments, however, have opted to restrict the distribution of food baskets and food *kits* to families enrolled in the Single Registry, drastically reducing the number of beneficiaries, thus violating the constitutional provision that establishes the program as universal for all children and young people attending public schools.

A case study prepared in 2020 by the National Rapporteur on Human Right to Food (SANTARELLI) of the Brazilian Platform for Economic, Social, Cultural and Environmental Human Rights (DHESCA Brazil Platform), documented the multiple violations committed by the government of the state of Rio de Janeiro, by municipal governments and other authorities in the same state. In this case, a violation of the Human Right to Adequate Food and Nutrition was also perpetrated by Justice Tófolli, of the Federal Supreme Court, when he accepted the appeal of a municipality in Rio de Janeiro to restrict the distribution of food baskets to families already registered in the Single Registry, opposing the court order issued by the Regional Court of the State of Rio de Janeiro, which demanded the distribution of school meals to all students enrolled in public schools.

Among the multiple recommendations made by the Rapporteur to the authorities, we highlight the following: to the National Fund for Educational Development, there should be an increase in the PNAE budget and the reactivation of the program's advisory group, as a legitimate space for social participation; the Municipality of Remanso (Bahia) is required to provide universal service to all students in all public schools, and to review the composition of the food baskets, prioritizing fresh food, preferably purchased from regional family farming; from the government of Rio de Janeiro, the use of the maximum available resources and the prohibition of social retrogression is demanded, to ensure the human right to food and nutrition of children and adolescents in public schools,

50 Available at https://www.cnnbrasil.com.br/nacional/orfaos-da-covid-19-uma-geracao-invisivel/. Visited Oct 10, 2021.

and they should also review the guidance on the composition of food baskets made by schools, suggesting the purchase of family farming products; the Judiciary is advised to review the decision issued by Justice Dias Toffoli, that exempts the State of Rio de Janeiro from the universal distribution of food baskets, according to the interlocutory appeal filed by the Public Defender's Office.

Still within the scope of the operationalization of the PNAE, most governors and mayors have chosen to stop purchasing directly from local and regional family farming, as defined in national legislation, with huge losses for family farmers involved in the program, and aggravating the already precarious situation of food insecurity among the rural population.

#### 4.2.6.5. Discrimination against the elderly

The right to health of the elderly was the most challenged by COVID-19, due to the severity of the clinical manifestation of this virus in elderly people, since immunosenescence, which is a decrease in the functions of the immune system, common in old age, predisposes them to negative outcomes regarding infectious diseases, such as COVID-19 (ZHANG, 2020). Besides, a considerable part of the elderly population has one or more non-transmissible chronic diseases, such as hypertension, diabetes, asthma, chronic obstructive pulmonary disease, cancer, heart disease, among others (BRAZIL, 2019b), which are important prognostic factors for more severe cases of the disease (CDC, 2020). Another relevant point is that social distancing, which is key to reducing COVID-19 transmission, especially for people over 60, limits the elderly's access to health services for regular monitoring, which can worsen or decompensate pre-existing clinical conditions.

In addition to the great threat to life, the pandemic can put older people at greater risk of poverty, loss of social support, stigma trauma, discrimination, and isolation. This pandemic came at a time when the global population is aging, which is considered the main demographic event in the 21st century, both globally (YENILMEZ, 2015) and nationally (GRAGNOLATI, 2011). Article 230 of the Brazilian Constitution states that, in addition to the family, both society and the state have the duty to protect the elderly, "defending their dignity and well-being, and guaranteeing their right to life". Besides that, as a signatory of the *Madrid International Plan of Action on Ageing*, published in April 2002 by the United Nations, Brazil has committed to acknowledging the elderly's vulnerability in humanitarian emergency situations, such as a pandemic.

Sociologist Norbert Elias, in his book "*The Loneliness of the Dying*", followed by the addendum "*Ageing and Dying*", states that ageing is connected to social distancing, invisibility, grief and abandonment. These issues are even more concerning in the present context of the unexpected COVID-19 pandemic. These effects are less visible than high rates of lethality and mortality, but bring dire consequences for the elderly and their families.

Elderly people who live alone may need emotional or economical support, health care, help to purchase food, and other kinds of assistance. Elderly people living with others are at risk for contamination by other members of the household who keep in touch with the outside world.

The arrival of the current pandemic and the recommendations for social distancing that soon followed have increased public awareness about the psychological impacts of social distancing measures, and the loneliness that many people have been experiencing. In the daily lives of a lot of elderly people, this is a common feeling, although silenced by society.

Identifying and offering assistance to elderly people who are living by themselves during the pandemic is one of the recommendations made by the UN. Outreach strategies and support networks to mitigate loneliness and social withdrawal include the use of the Internet and of cell phones. However, according to the survey "Elderly people in the context of the COVID-19 pandemic in Brazil: effects on health, income and work conditions", this is a limited option in a country like Brazil, with a high percentage of illiterate elderly people (reaching more than 40% in some states, according to the last census), poor families who do not have Internet availability, and with mobile devices not adapted to the limitations of ageing.

As a way out of this situation, the aforementioned research points out that the results of the English Longitudinal Study of Ageing (ELSA) show that primary prevention strategies aimed at lessening the impact of loneliness and social isolation can help prevent chronic disease among the elderly. In Brazil, community healthcare agents (ACS) working under the Family Health Strategy (ESF) have an important role in identifying and monitoring elderly people who live alone, and those who need some kind of support. However, **changes made in the National Primary Healthcare Policy since 2017 have undermined the teams in the territories and disqualified the work of ACS, increasing the risk of leaving a significant part of the population unassisted, especially during the pandemic.** The vital role of primary care in reducing hospitalizations and mortality from preventable causes in the elderly may have suffered a serious setback, as observed since the beginning of the 21st century.

### 4.2.6.6. Discrimination against people with disabilities

Although disabilities may not represent, in principle, a factor for a person to be considered high risk for coronavirus contamination - as informed by the Ministry of Women, Family and Human Rights in their manual aimed at that population -, the Brazilian Law for the Inclusion of Persons with Disability states, in the only paragraph of Article 10, the condition of vulnerability of persons with disabilities in public emergency situations, and the National Health Council (CNS) also recommends that all persons (BERNARDES, 2021)[51] with disabilities be considered as a risk group for infection by COVID-19. And it is also society's duty to ensure the realization of the rights of people with disabilities.

According to the CNS, the current administration hides behind a welfarist attitude towards persons with disabilities. However, it is essential to point out that the Executive does not present proposals to guarantee their rights; on the contrary, it threatens the

51 BERNARDES, Vitória. Who protects people with disabilities during the pandemic? This section of the population remains unassisted. Available at: http://conselho.saude.gov.br/ultimas-noticias-cns/1247-artigo-em-meio-a-pandemia-quem-protege-as-pessoas-com-deficiencia-segmento-populacional-segue-sem-orientacoes-por-vitoria-bernardes. Visited: Oct 8, 2021.

ones already accomplished. It is important to point out the absence of protocols for the care of people with disabilities infected by COVID-19, as well as the constant violation of their right to access information, since audio description resources, Brazilian sign language, subtitles, documents in accessible media and formats, and simple language, are the exception in our country. Basic needs have yet to be met, and understanding the bodies of people with disabilities as political, empowers them to recognize discrimination and confrontations in order to guarantee and access rights.

#### 4.2.6.7. Discrimination against the LGBTQIA+ population

LGBTQIA+ people have been historically exposed to forms of violence, whether physical, material, symbolic and/or psychological. During a sanitary, economic and social crisis, this may become more intense, considering the need for social isolation policies. It should be considered that the impacts on this population's mental health may be more aggravated than in populations who do not routinely face structural and institutionalized prejudice.

Many people in this group already experience some form of social isolation, due to the prejudice they suffer, the non-acceptance of their gender identity or sexual orientation by their families, the difficulty of being inserted into public/social spaces, such as workplaces and universities, among others. The domestic and family environment is often where violent acts and violations of LGBTQIA+ people's rights take place. So, being in confinement with people who often do not accept their gender identity and/or their sexual orientation can be extremely painful. However, because of COVID-19, LGBTQIA+ people who are homeless and/or unemployed may need to return to the homes of family members, who are often LGBTQIA+phobic.

Another important aspect in terms of the disregard for the LGBTQIA+ population is that, with the advancement of COVID-19 in Brazil, only essential activities have been allowed to keep functioning throughout the country; however, the services related to the transsexualization process in SUS (PTSUS), performed in an outpatient or inpatient basis, were not included in the list of essential activities. Consequently, consultations for guidance on access to and use of hormones, consultations with multi- and interdisciplinary teams, and the very trust and security that users had in the service, were hindered, as information on whether access to PTSUS would continue became fragmented and imprecise, which can trigger self-medication and dysphoria episodes (FERREIRA, 2020).[52] Moreover, **the scarcity of information about the return of activities and medical assistance in SUS might trigger psychological and emotional effects.** The recommendation is that the state can minimize the effects of these divergences through the organization and implementation of phone hotlines for access to medication and shelter, since there may be an increase in hate speech and intrafamily violence in this period; in addition to psychosocial phone services, which are considered a valuable tool in SUS (FERREIRA, 2020).

52 Available at: https://www.generonumero.media/saude-trans/. Visited: Oct 10, 2021.

### 4.2.6.8. Discrimination against the incarcerated population

According to researcher Cristian Gamba (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021), who contributed to the preparation of this denunciation, the effects of the pandemic management in Brazil are aggravated in the uncontrolled context of the spread of a disease, considering the incarcerated population, who is extremely vulnerable as a result of a state of affairs determined by political choices about who should live and who should die, as a way of exercising sovereignty in the contemporary historical setting.

In the context of the pandemic, the Inter-American Commission issued Resolution No. 01/2020, which reminded member states of the Inter-American system that, when issuing emergency and containment measures in the face of the pandemic, they should apply intersectional perspectives and pay special attention to the needs and different impacts of these measures on the human rights of historically excluded groups, such as persons deprived of liberty. Thus, the Commission recommended: a) the adoption of measures to deal with overcrowding in detention units (especially considering the Brazilian reality, where these spaces are usually overcrowded); b) in case of risk, that the States analyze requests for prison benefits and alternative measures to the penalty of imprisonment; c) providing adequate food, health, sanitation and quarantine measures to prevent intramural transmission, ensuring medical attention is available in all units; d) establishing protocols to prevent pandemic-related acts of violence (IACHR, 2020).

As the researcher points out, in Brazil, the health emergency has forced authorities to deal with the third highest incarcerated population in the world (748 thousand inmates), according to data from Infopen (the National Penitentiary Information System, 2020). And here, unlike in other countries, the State itself cautiously recognized, in 2015, the situation of serious human rights violations in the prison environment, in a lawsuit that calls for the recognition of an "unconstitutional state of affairs" of the Brazilian penitentiary system.

It is important to point out that the system's current capacity is 440.5 thousand spots; there is a deficit of 241.6 thousand spots in the Brazilian penitentiary system (closed, provisional, and semi-open regimes), which means that prisons in Brazil are 54.9% over capacity. This total does not include prisoners in open regimes, and those in prisons at Civil Police precincts (about 5,000). If these people were considered, the number would rise to almost 748 thousand.

From a syndemic point of view, Gamba (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021) understands that the numbers above are also related to the sanitary conditions found by the virus in the prison environment, and to the precarious medical-hospital assistance available. Although Infopen data for the first half of 2020 (BRAZIL, 2020) show a slight improvement as compared to 2019, they showed that, regarding access to health care in the prison environment, there were 1,042 medical offices, 807 multidisciplinary care rooms, 488 test sample collection rooms, 871 wound dressing, suture, and vaccination rooms and nursing stations, 10 gynecology teams, 846 dentists, 1,534 nurses, 868 general practitioners, 71 specialist physicians, all for a contingent of more than 700 thousand people. The data also show the presence of pathologies inside

prisons. Of the total 25,504 pathologies investigated in the same period, 28% of the male population (6,645 men) and 45% of the female population (1,004 women) were HIV-positive; 28.4% (6,607) were men with tuberculosis, and 30.3% (680) were women with syphilis.

The first measure adopted by the Federal Executive Branch to deal with the public health emergency (COVID-19) in the prison environment was Inter-ministerial Ordinance No. 7, of March 18, 2020, prepared jointly by the Ministries of Justice and Public Safety and the Ministry of Health, generically addresses some measures aimed at containing the pandemic in prison, such as: identifying inmates who showed signs and symptoms of influenza (prioritizing members of risk groups), adopting procedures to identify suspicious cases in new inmates, enforcing the use of masks, encouraging individual isolating, pulling public servants out in case of positive test results, controlling the entry of external visitors, offering information about COVID-19, offering inmates preventive measures, and changing the routine inside prisons.

In case of suspected or confirmed infection by COVID-19, Article 3 paragraph 1 provides that ,"in case suspected or confirmed cases cannot be isolated in individual cells, it is recommended that the Penitentiary Administration adopt isolation by cohort, and use curtains or markings on the floor to demarcate a minimum distance of two meters between those who need health care".

Gamba (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021) highlights the precariousness of the measure taken by the Federal Government in the face of suspected/confirmed cases of COVID-19, in the Brazilian reality of prison overcrowding. Thus, makeshift measures, such as separation by curtains or markings on the floor tend to inevitably fail, and are not enough to guarantee the safety of those who occupy the prison environment. It is a very general measure that does not specifically foresee how these procedures should be carried out, or even how the materials and inputs necessary for their respective compliance will be provided.

The Ordinance also authorizes prisons to temporarily adopt the reduction or even total suspension of visits, and also the reduction or suspension of access by outsiders, making it difficult to carry out inspections. It is also worth noting the absence of a Contingency Plan specifically for the penitentiary system, as it was left to each state to devise their own.

Subsequently, Resolution No. 62 of the National Council of Justice, although mainly geared towards guiding judges on the adoption of extrication measures, also provided for preventive measures against the proliferation of COVID-19 in prisons (articles 8 - 11). To this end, it recommends that judges, as part of their inspection duties in prisons and juvenile detention centers, ensure that the Executive Branch draws up and implements a contingency plan that provides, at the very least: information campaigns, screening procedures by health teams at the entrance of establishments, and the adoption of preventive hygiene measures, supply of medicines and mandatory provision of basic hygiene items by the Public Administration, and expansion of the list of allowed items, uninterrupted water supply, appointment of medical teams in all establishments and provision of personal protective equipment. The Ordinance further recommends the procedure to be followed in cases of suspected or confirmed COVID-19 infection, providing

separation of the person who presents symptoms, immediate referral for treatment in a reference health unit, and immediate communication to the competent court, so that the substitution of prison or socio-educational measure for a non-custodial measure can be studied.

Regarding testing the prison population, by August 2021, 354,019 tests had done in the prison system, with 66,040 confirmed cases. As for the juvenile detention system, 20,879 tests were done, with 2,673 confirmed cases.

Chart 3 Tests done X confirmed cases in incarcerated individuals.

| | Tests done | Confirmed cases |
|---|---|---|
| **Penitentiary system** | 354.019 | 66.040 |
| **Juvenile detention system** | 20.879 | 2.637 |

Source: Data based on information provided by the National Council of Justice (2021).

Considering that Brazil had 748,009 people deprived of liberty in the adult penitentiary system, according to data from the latest Infopen (BRAZIL, 2019), it can be inferred that approximately 8.8% of the Brazilian incarcerated population were infected by COVID-19, disregarding possible underreporting. The weakness of the preventive measures has also exposed the staff working inside the prison system to serious risks, since 32,927 cases of COVID-19 were confirmed among this group of public servers.

Chart 4 Tests done X confirmed cases in public servers working in the penitentiary system.

| | Tests done | Confirmed cases |
|---|---|---|
| **Penitentiary system** | 79.958 | 24.952 |
| **Juvenile detention system** | 29.655 | 7.975 |

Source: Data based on information provided by the National Council of Justice (2021).

In all, there were 90,992 cases of COVID-19 in the prison system - including inmates and staff - and 563 deaths. As for the juvenile system, 10,612 cases and 101 deaths were confirmed.

Gamba (*in:* SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021) points out that the total omission of the Federal Executive Branch has been ascertained, and no normative act was found that contained determinations or guidelines aimed at reducing prison overcrowding in spaces of deprivation of liberty. Thus, the task of taking the necessary measures in this field fell upon the other branches of power, mainly the Judiciary and the Executive of each state. That means that the Executive has, once again, **violated the non-discrimination principle.**

Most of the measures used by the judiciary to prevent dissemination of the virus have brought even more restrictions to the rights of inmates, since hearings have been redesignated, prison terms have been extended; custody hearings have been halted, and these are essential instruments to investigate cases of mistreatment and torture; visitations and the entry of food have been limited or altogether suspended, among others. So much so that, out of the 27 Brazilian states, 24 ordered the suspension of visits during the pandemic, 24 suspended proceedings, court deadlines and expedition of warrants, 23 suspended hearings, and 16 suspended trials (CNJ, 2020).

### 4.2.6.9. Discrimination against the homeless

The pandemic has brought an aggravating factor for the homeless, making them even more vulnerable, as they are more exposed to the virus than other groups, because although the outdoors are well-ventilated, people are exposed to all kinds of viruses, and to all kinds of infections, are unable to maintain proper hygiene, wear masks, or self-isolate. The lack of a shelter makes these people much more vulnerable.

Veridiana Machado, representative of the Intersectoral Committee for Monitoring the National Policy for the Homeless (Ciamp-Rua), states, on an article published by Fiocruz[53], that it is not known for sure how many people are homeless, but with the pandemic, it is something that has become very visible. It is a considerable number, including children begging for money at traffic lights. “Just go to out into the street and you will see [...]”, she says.

The profile of new homeless people has changed: these are working-class people who can no longer pay their rents and bills, and are going into the streets in search of food, but end up staying, because they can no longer support themselves. Marcelo Pedra, a researcher at the Center for the Homeless at Fiocruz Brasília, says in the same article that the economic and social situations in the country have deteriorated.

In March 2020, the homeless population in Brazil was almost 222 thousand people, which represents a 140% increase since September 2012. As the economic crisis was intensified due to COVID-19, according to IPEA, it is estimated that the homeless population has increased even more in recent months.

Vanilson Torres, who has been in the streets of Natal for 27 years, and is currently a representative of the National Homeless Movement, states in the aforementioned article: “We already had a lack of public policies for the homeless, but the pandemic just made it extremely visible”. And he wonders: “How can we stay at home if we don’t have one? How can we wear masks if there’s no way of washing them? We already live in social isolation. We go hungry, cold, and we also deal with COVID-19.” The pandemic has exposed the existing social wounds, states Vanilson[54], who also showed concern for the assistance of homeless children and adolescents, and for their future.

Another facet of the **discrimination against the homeless** is the shortage of shelter to receive them in Brazilian states and municipalities. According to Veridiana Machado, representative of Ciamp-Rua, no new spots have been opened in public shelters nor in housing projects, but people are still being removed from the streets. A lot of them have been removed along with their belongings, as if they were garbage. Also, the access to the Emergency Aid did not contemplate the homeless, because they could not register to receive the income due to the bureaucratic process, such as the obligation of including a cell phone number in the registry, for example, besides the problems in accessing some services that started to work remotely during the pandemic.

53 Available at https://www.fiocruzbrasilia.fiocruz.br/populacao-em-situacao-de-rua-aumentou-durante-a-pandemia/. Visited: Oct 10, 2021.

54 Available at: https://www.fiocruzbrasilia.fiocruz.br/populacao-em-situacao-de-rua-aumentou-durante-a-pandemia/. Visited: Oct 10, 2021.

The lack of responses from the public authorities regarding racial inequalities during the pandemic, as well as the issue of gender, indigenous people, children and adolescents, the elderly, the homeless, LGBTQIA+ and prison populations is notorious. There were no specific policies capable of mitigating the impacts of the crisis on these vulnerable populations, **an action that proves the non-compliance with the principle of non-discrimination by a government that adopted a policy of extermination** of those who have no "athletic backgrounds", like President Jair Bolsonaro.

### 4.2.7. Violation of the principles of accessibility and quality

Ensuring accessibility and quality in health services is essential so that Primary Health Care (APS) can be strengthened and structured as one of the main responses of the health sector to the pandemic, given its capillarity and reach to significant portions of the population, exposed to excessive risks due to their living conditions. COVID-19 showed that the speeches and practices of reducing the size of the State, making labor laws more flexible, dismantling the social protection system, devaluing and disinvesting in science, technology and education, and making public health services more precarious, are not only wrong, but also violate human rights, including the rights to health and to life.

According to Fiocruz and Abrasco[55], "Without detracting from the importance of adequate structuring of specialized care aimed at the most serious cases of COVID-19, we should alert that, in the scope of primary health care (APS), much can and needs to be done." Because, as noted by Fiocruz and Abrasco, in the absence of vaccines and specific drugs, and due to the high transmissibility of the virus, the only effective interventions to control the pandemic are "public health measures, such as isolation, social distancing and surveillance of cases, with the purpose of reducing contagion, preventing suffering and death, by slowing down the progression of the pandemic". At the same time, the system must receive resources in order to offer timely and adequate assistance. However, what was seen, regarding Primary Health Assistance, was the restriction of the number of users of the service. There used to be a concern to offer services focused on the individual, involving their family and context, but during the pandemic, this has become a challenge, considering the need to social distance and reduce crowds.

Healthcare users used to be constantly encouraged and invited to use services, as a means to promote health and prevent diseases - for example, hypertensive and diabetic people require closer monitoring to assure adherence to treatment, including changes in lifestyle and drug treatment to prevent complications, hospital admissions and mortality. Even knowing that these patients are the ones at higher risk for worse COVID-19 outcomes, during the pandemic they are being advised to seek care only upon the appearance of symptoms that might suggest the infection by the virus.

55 Available at: http://cadernos.ensp.fiocruz.br/csp/artigo/1140/atencao-primaria-a-saude-em-tempos-de-covid-19-o-que-fazer#C4. Visited: Oct 10, 2021.

Besides this, some services and appointments were suspended in order to reduce the flow of people in the Basic Health Units (UBS), such as: growth and child development (C and D), HIPERDIA (hypertension monitoring program, only prescription refills were maintained), cytopathological testing, physiotherapy, and mental health services (only psychotropics' prescription refills).

If on the one hand there has been a greater effort to open new beds and equipment for intensive care in hospitals, on the other hand, there has been a drastic reduction in primary health care, causing patients to seek secondary and tertiary services to the detriment of primary services. **That way, the principles of accessibility and quality are violated.**

# 5. Conclusions on the reported violations

The group of entities presenting this document demand that justice be done for the hundreds of thousands of families who lost their loved ones prematurely, avoidably, and unnecessarily due to a range of human rights violations resulting from a countless series of acts of commission and of omission perpetrated by representatives of the Federal Government of Brazil, under the political leadership of President Jair Messias Bolsonaro. A president who, at no time, showed any empathy towards those affected by COVID-19 - on the contrary, who ridiculed them, by calling them "weaklings" -, made it clear that life, the most cherished possession of his fellow citizens, who elected him to govern the Country, was of no value to him. We are confident that the body of evidence, testimonies and proof we have collected in this Denunciation Document demonstrate that President Bolsonaro and his associates must be held accountable for the crimes committed.

The original violation, from which all other violations stem, refers to noncompliance with what was laid down in Article 6 of the International Covenant on Civil and Political Rights (ICCPR), which "recognizes and protects the right to life inherent to every human being". The Human Rights Committee, in General Comment 36, updated in 2018, defines it as

> [...] The supreme right from which no derogation is permitted even in situations of armed conflict and other public emergencies which threaten the life of the nation. The right to life has crucial importance both for individuals and for society as a whole. It is most precious for its own sake as a right that inheres in every human being, but it also constitutes a fundamental right, whose effective protection is the prerequisite for the enjoyment of all other human rights and whose content can be informed by other human rights.

And it goes on:

> The right to life is a right which should not be interpreted narrowly. It concerns the entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause heir unnatural or premature death, or prevent them from enjoying life with dignity. Article 6 guarantees the right to life for all human beings, without distinction of any kind, including those people suspected or convicted of even the most serious crimes.

At the same time, in an articulate way, the Brazilian Government, under the leadership of President Bolsonaro, has violated the right to health (Article 12 of ICESCR) of several million Brazilians who were infected by the coronavirus. That situation could have been avoided if the Brazilian State had fully adopted the measures laid down by the WHO and the national and international scientific communities; had the Country's highest dignitary supported the national coordination of measures to increase intensive care

units, exercise social distancing, use the current national manufacturing capabilities to produce vaccines, encourage the use of masks and alcohol-based hand sanitizers, instead of ostensibly and systematically denying and fighting those actions in interviews, *lives* and public appearances, as widely documented in this Denunciation. It is impossible to estimate the magnitude of the long-lasting effects of the disease on those who had it, or how it will hinder their quality of life, and at what cost to the Unified Health System (SUS).

There is overwhelming evidence that the Brazilian State possessed all necessary information to implement timely and adequate strategies to contain the quick expansion of the pandemic, and its high death toll. By not following the anticipatory governance principle, the Brazilian State violated a series of national and international human rights and sanitary provisions.

The pandemic landed in the Country in the midst of a recession associated with fiscal austerity measures, led by Constitutional Amendment 95/2016 (CA 95), that was passed in December 2016, also known as Public Expenditure Ceiling CA, which limits primary public expenditures, especially those intended to guarantee social security and constitutional social rights, which will be corrected solely for annual inflation until 2036. Prospective analyses on the impact of significantly reducing resources intended for health actions and public healthcare services indicate that this is a clear violation of the principle that forbids any retrogressive measures to be taken in relation to the right to health, resulting in a huge negative impact on the realization of such constitutional rights, which are universally and fully guaranteed, such as the right to health and to education (MENDES SANTOS, 2019).

There is compelling evidence that this process occurs in a context of planned healthcare rollbacks and increasing disenfranchisement, with an attitude of denial of rights; it intentionally and systematically seeks to deconstruct the constitutional guarantee of the human right to health, which establishes the universality of SUS, duly regulated and institutionalized. The current Government's agenda is to reduce basic public healthcare to a minimum, making it available exclusively for those who cannot afford any other form of healthcare, so that everyone else is compelled to seek **paid health services**. However, with the progressive increase of the elderly population, there will be a growing demand for longitudinal health care. Likewise, chronic degenerative diseases and other health problems that affect the elderly - cancer, diabetes, mental disorders - cannot be solved by "buying" a single doctor's appointment; frequent follow-ups are required, which, if carried out privately, would place a heavy burden on family budgets. Today, there are more than 70 million people living in misery and poverty; more than 30 million unemployed and despondent people; and 45 million informal workers in Brazil. The growth perspectives are the worst possible, according to specialized institutions.

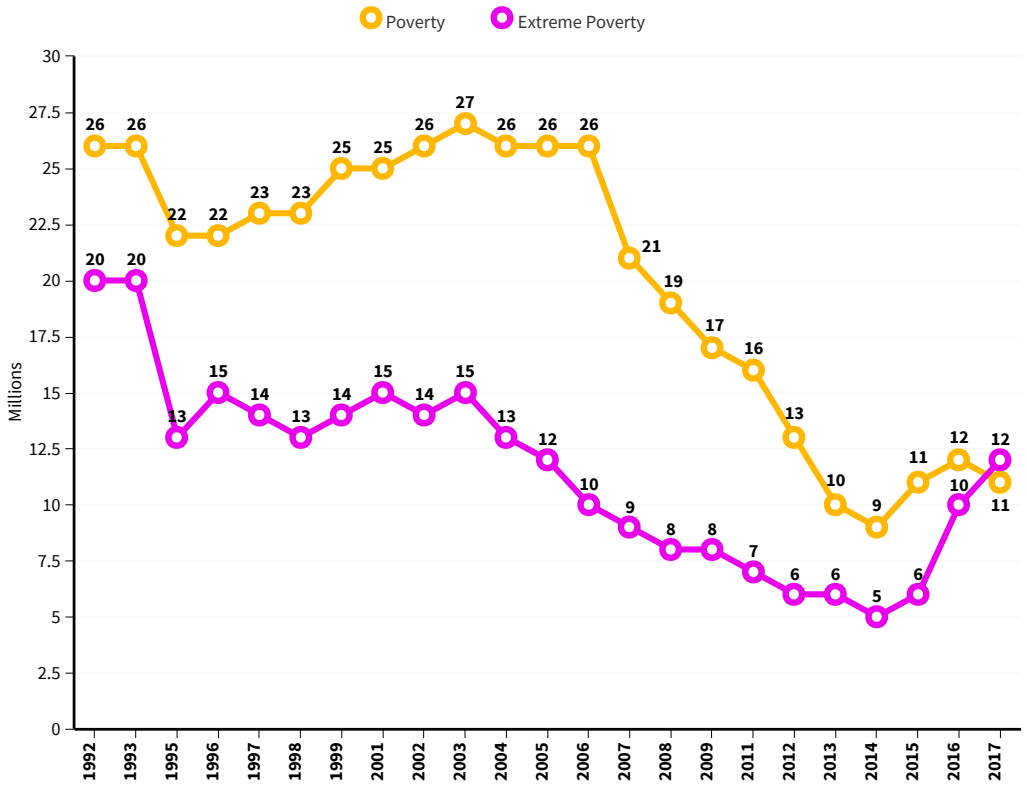
The chronic underfunding of SUS, aggravated since Constitutional Amendment 95 was passed - which froze investments in social areas for twenty years -, now moves on to a situation of defunding. Besides, measures taken in other areas of the Government, such as the wide liberation of the use of new agrochemicals, the flexibilization in the process of purchasing fire weapons and the end of policies like the *More Doctors Program*, make the situation even worse.

Moreover, as the fourth paragraph of General Comment 14 on ICESCR emphasizes:

> [...] the reference in article 12, paragraph 1 of the Covenant to "the best attainable state of physical and mental health" is not limited to the right to health care. On the contrary, the memorial on the drafting of Article 12.2 recognizes that the right to health encompasses a wide range of socio-economic factors that promote the conditions under which people can lead a healthy life, and extends this right to the basic determinants of health, such as food, nutrition, housing, access to clean drinking water and adequate sanitary conditions, safe and healthy working conditions, and a healthy environment.

Back in 2017, the impact of recession and fiscal austerity could already be noticed in the profile of poverty in Brazil. As can be seen in the graph below, after a significant drop in extreme poverty and poverty rates in Brazil, from 1992 to 2014, the numbers go back up, reaching levels recorded in 2004, when it comes to extreme poverty.

**Image 4. Number of Brazilians in poverty and extreme poverty (in millions of people): 1992-2017.**




Source: IBGE-PNAD Contínua (since 2012); IBGE/PNAD.

In 2018, even before Bolsonaro's inauguration and the arrival of the pandemic, the food and nutritional conditions of the Brazilian population had suffered considerable deterioration. That process began in 2014, when Brazil had left the UN Hunger Map, but it was accelerated after 2016, bringing food insecurity back to 2004 levels. The decisions taken by Bolsonaro's administration regarding the National Food and Nutritional Se-

curity Policy made the situation even worse. The dissolution of the National Food and Nutritional Security Council (CONSEA), the deactivation of the Inter-ministry Commission of Food and Nutritional Security Chamber, responsible for the executive coordination of the National Food and Nutritional Security Policy, in combination with even deeper cuts in key food and nutritional security - such as the Family Farming Support (Pronaf), the Food Acquisition Program and programs aimed at supporting indigenous peoples and traditional populations and communities -, aggravate the situation of food insecurity and hunger. The rights to life and health are intricately connected to the access to adequate food and nutrition.

According to the *Mapping and Analysis of the Legal Norms for Responding to COVID-19 in Brazil,*[56] by Conectas - Human Rights, 3,049 norms related to COVID-19 were identified in 2020 at Union level. At the federal level, more than the absence of a focus on respecting rights, the existence of an institutional strategy to spread the virus was detected, promoted by the Brazilian Government, under the leadership of the Presidency. The results dispel the idea that there could have been incompetence or negligence in managing the pandemic on the part of the Federal Government. Quite the contrary, the systematization of data, although incomplete due to the lack of space for so many events, reveals the commitment and efficiency of the Federal Government's actions in favor of the widespread dissemination of the virus in the national territory, with the aim of resuming economic activity as quickly as possible, and at any cost.

Conectas - Human Rights has also observed that the Federal Government perceived, in the regulation of the essential character of the activities, the possibility of restricting, at least partially, the reach of the public health protection measures adopted by the states. Thus, a heated political clash was established between the federal strategy for spreading the virus and the numerous state and municipal strategies to contain the spread of the disease, triggering inflation of federal, state and municipal norms, as well as giving rise to intense judicialization.

So, this Denunciation demands that the Brazilian State, under the leadership of President Jair Bolsonaro, be held responsible

- **for the untimely deaths of 480,340 Brazilians due to the violation of obligations, through acts of commission and of omission mentioned above;**
- **for the damages and sequelae caused to the millions of Brazilians who contracted the virus because of the poor handling of the pandemic;**
- **for the damage caused to hundreds of thousands of orphans and other family members of those who died prematurely.**

The State has been violating almost all its basic obligations towards the **human right to health** (§ 43) and the priority obligations (§ 44, both from General Comment 14) and, consequently, **the right to life**, among them, the following ones.

56 See Rights during the Pandemic. Available at: www.conectas.org//publication. Visited: Oct 10, 2021).

| OBLIGATION | SITUATION |
|---|---|
| a) Guaranteeing the right of access to health centers, goods and services on a non-discriminatory basis, especially with regard to discriminated and/or marginalized groups. | VIOLATED |
| b) Guaranteeing the right of access to a minimally essential food that is nutritious, adequate and safe, and ensure that no one goes hungry. | VIOLATED |
| c) Ensuring access to housing and basic sanitary conditions, as well as an adequate supply of clean drinking water. | VIOLATED |
| d) Providing essential medicines according to the current definitions contained in the WHO essential medicines program. | VIOLATED |
| e) Distributing all healthcare facilities, goods and services equitably. | VIOLATED |
| f) Adopting and applying, based on epidemiological evidence, the strategy of a National Public Health Action Plan to address the health concerns of the entire population. The strategy and action plan must be developed and periodically revised based on a participatory and transparent process. | VIOLATED |
| g) Fostering reproductive health, maternal health (prenatal and postnatal), and children's health. | VIOLATED |
| h) Providing the population with immunization against the main infectious diseases detected in the community. | VIOLATED |
| i) Taking measures to prevent and fight epidemic and endemic diseases. | VIOLATED |
| j) Disseminating education and providing access to information about major health problems in the community, including methods to prevent and combat these diseases. | VIOLATED |
| k) Providing adequate training to the health sector personnel, including health and human rights education. | VIOLATED |

It is important to clarify that, under international human rights laws, a State Party can never, under any circumstances, justify its failure to comply with the basic obligations set forth above, which are non-derogable. Thus, according to the facts outlined in the context of this document, it can be seen that the Brazilian State, especially through the head of the Executive Branch, maliciously tried to publicly minimize the risks of the pandemic, on numerous occasions, inducing a considerable part of the population, both through words and through his personal behavior, to disregard sanitary measures such as the use of masks and social distancing.

Furthermore, he publicized the use of drugs proven to be ineffective against COVID-19, inexorably associating his personal image with the use of Hydroxychloroquine, whose

ineffectiveness, at the time, had already been verified by the world scientific community and the World Health Organization. Among the numerous infractions committed, the Federal Government deliberately failed to provide public hospitals with the minimum conditions to face the pandemic, which could be seen by the lack of oxygen for hospitalized patients. The facts mentioned here briefly illustrate the severity of the violation of human rights perpetrated by the Brazilian State.

The premature death of thousands of Brazilians could have been avoided, as well as the limitations resulting from COVID-19 sequelae in survivors. We highlight that the President's outrageous conduct during the pandemic has been routinely reported on international journals. For the sake of the International Human Rights System, the Brazilian State must be held accountable for every piece of evidence brought against it.

The violation of the international and national legal systems, as detailed in the legal framework, whose fundamental precepts are reproduced in domestic Law, has been exhaustively demonstrated. The violation of the Brazilian population's right to health, proudly proclaimed and as a demonstration of power by Mr. Jair Messias Bolsonaro, was also expressed by the violation of the right to life of thousands of citizens: due to the lack of health care, as a means to demonstrate loyalty to the head of State; for lack of adequate treatment and infrastructure; by the absence of other sanitary measures to contain the spread of the virus that could have been taken by the Government.

Since the beginning, the Brazilian State **has not respected** its population's rights to health and to life, as it deliberately perpetrated the violations that hindered the enjoyment of such rights.

In the same vein, the Brazilian state **has failed to protect** the population's right to health, as suggested by the contents of the Parliamentary Inquiry Commission (CPI)[57] on the COVID-19 pandemic, as there is evidence that the State has associated with third parties, whose interests were far removed from the maintenance of health and life of the Brazilian people, forgetting its duty to protect these rights.

By failing to take adequate sanitary measures and to develop urgent and necessary public policies, the State **has not facilitated, provided, or promoted** the rights to health and life of its population, as directed by paragraph 33 of General Comment 14 on article 12 of ICESCR.

It is of the utmost importance to point out that all the violations registered here not only hurt article 6 of the ICCPR and article 12 of the ICESCR, in light of their General Comments, but also hurt all the international treaties that affirm and guarantee these rights, especially those that refer to the right to health, namely: American Convention on Human Rights; Article 10 of the Protocol of San Salvador; Article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (1965); articles 11.1 and 12 of the Convention on the Elimination of All Forms of Discrimination against Women (1979); article 24 of the Convention on the Rights of the Child (1989); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their

57 The Final Report was approved on October 26, 2021, and is available at https://senadofederal-my.sharepoint.com/:b:/g/personal/cpipandemia_arquivos_senado_leg_br/EUTR4zRZ8VRNpTmppMgJyLsBiGmQxIWoq3boPat_fg83CQ?e=zzlR60. Visited Oct 27, 2021. Our initiative presented contributions to the Rapporteur on October 5, 2021.

Families (1990), especially articles 28, 43e and 45c; the Convention on the Rights of Persons with Disabilities (2006), which, on article 25, provides for the protection of the right to health, besides the Final Declaration of the International Conference on Primary Health Care (DECLARATION..., 1975).

And finally, the denialist campaigns and the personal commitment of the President, including his own example of conduct, which has been widely reported in the official media and on social networks, represent **a violation of the duty to promote the right to life and the right to health** in the context of the COVID-19 pandemic, and the Brazilian State should also be held responsible. Looking at this whole scenario, one can easily agree with philosopher Vladimir Safatle (2020) in that the actions of commission and of omission taken by the State, especially during the pandemic, go beyond the "necropolitics of the State, manager of death and disappearance". Because he is "the continuous actor of his own catastrophe, he cultivates his own explosion, continuously flirting with his own destruction."

The Brazilian State, in its three powers, Executive, Legislative and Judiciary, is the executor of this "necropolitics". The three Branches of the Brazilian State are responsible for the deaths of more than six hundred thousand (600,000) people from COVID-19. President Jair Messias Bolsonaro, who has not heeded the precepts of human rights in his administration, shares the responsibility for those deaths, since he should prioritize the interests of the population as a whole in order to achieve the fundamental objective of the Republic: to promote the good of all (Article 3, IV of the Constitution), as well as national development and the eradication of poverty. The non-compliance with human rights precepts was aggravated in the pandemic period and corroborated by the Legislative and Judicial Powers, as they failed to take effective measures to remove Bolsonaro from office, even in the face of overwhelming evidence of his option for an extermination policy.

The Judiciary did not fulfill the obligation to materialize fundamental rights, since it also failed to control the other branches of power, especially the Executive. The Legislative, in turn, is also responsible for those deaths, as it did not follow up on the numerous *impeachment* requests that came to the Chamber of Deputies, and it fell onto the Senate to establish the COVID Parliamentary Commission of Inquiry (CPI), which collected ample evidence of numerous potential crimes committed by Bolsonaro, such as liability crimes, charlatanism, malfeasance, and passive corruption. As expressed by researcher Benilda Brito (*in*: SOCIEDADE MARANHENSE DE DIREITOS HUMANOS, 2021), this is the worst humanitarian tragedy in Brazilian history since the enslavement of black people.

**The failure to meet obligations to respect, protect, and guarantee the human rights to life and health** has resulted in the most shocking image of the pandemic: graves being mechanically excavated in cemeteries. That image is the embodiment of Jair Bolsonaro's government proposals. Due to the failure to adopt a proper policy to combat the COVID-19 pandemic, which had caused six hundred thousand (600,000) deaths by October 8, 2021, the world had to witness these bodies be subjected to the brutality of a mass burial, performed with the aid of a bulldozer. It takes a bulldozer to cope with the results of an extermination policy. Those buried bodies were the bodies of people with families, with stories and with dreams that were literally dumped by

the State, as if they were recyclable material. That is the image of a Brazilian tragedy, resulting from morbid necropolitics, the result of the politics that chooses their killable bodies, as Cameroonian philosopher Achille Mbembe postulates.

# 6. Pleas and recommendations to national institutions and bodies

The analyses and conclusions in this document make it imperative that those responsible for violating human rights be held accountable. The following recommendations suggest measures and actions so that Brazilian institutions and authorities are able to counteract the depreciation and naturalization of death and extermination of structurally discriminated groups.

## Requirement 1

May the Brazilian State be held responsible for not having exercised the anticipatory governance required by the severity of the pandemic and, consequently, by the more than 480,000 premature and preventable deaths that occurred in the context of the COVID-19 pandemic.

**Recommendations**

May the Brazilian State exhaustively investigate the criminal and administrative responsibilities for the hundreds of thousands of premature deaths, under international laws, making sure the responsible subjects are brought to justice, hence avoiding impunity.

## Requirement 2

May the Brazilian State be held accountable, particularly the Head of State, for disrespecting the dignity of COVID-19 victims and that of their families;

- for setting forth a process of planned retrogression in the health sector, among other areas, denying rights and dismantling the constitutional guarantee of the right to health;
- for a higher mortality rate in public Intensive Care Unit beds;
- for recommending and acquiring, at the expense of the national treasury, ineffective drugs to treat the COVID-19 infection, contrary to the guidelines laid by international scientific community and the WHO;
- for taking much longer than necessary to purchase vaccines against COVID-19, considerably delaying the beginning of the vaccination campaign in the Country.

**Recommendations**

May the Federal Congress swiftly submit to trial the numerous *impeachment* petitions it has received against President Jair Messias Bolsonaro, in order to halt the daily

violations he perpetrates against different rights, particularly against the rights to life and health, ensuring adequate and fair redress for all victims and their descendants.

May the Brazilian State immediately revoke Constitutional Amendment 95, resuming the funding of the Unified Health System and of scientific research on the coronavirus infection, which should be one of the guiding principles in confronting COVID-19.

May, as far as each body or institution is concerned, the right to memory and truth be guaranteed, so that there is no misrepresentation of the history of this pandemic to justify the violations that were perpetrated, including the establishment of a COVID-19 Memorial and Truth Commission that documents and supports the quest for reparations for victims of violations, recording their stories, as well as identifying who benefited from violations during the pandemic.

### Requirement 3

May the Brazilian State be held accountable for widening the structural racism and patriarchy moat, social structures that place, respectively, black people and women in social positions of subordination. We have seen how women, especially poor black women, have been carrying the heaviest burden of supporting and maintaining life during the pandemic, more specifically through their care and work whether productive or reproductive, paid or unpaid. We have seen how racist, misogynist and LGBTQIA+-phobic violence had increased during the pandemic, by radicalizing the extermination of black youth in peripheral areas and favelas, by the growing number of feminicides and LGBTQIA+ murders, especially of transgender people, during the sanitary crisis.

**Recommendations**

May the affirmative actions carried out by the State to promote equality recognize the existence of racism, breaking the myth of racial democracy (the belief that being a diverse and mixed country, Brazil is not racist, and has managed to transcend racial conflicts).

May racism crimes be classified by the judicial system as racism, and not as racial slur. The crime of racism is non-bailable and does not prescribe.

May the Brazilian State put into practice the National Comprehensive Health Policy for the Black Population (PNSIPN), which “acknowledges racism, ethnic-racial inequalities and institutional racism as social determinants of health conditions”.

May the Federal Government’s transparency system be reorganized, updating the data related to the impacts of the pandemic, with a racial and gender perspective, in accordance with the ethno-racial parameters adopted by the Brazilian Institute of Geography and Statistics (IBGE).

### Requirement 4

May the Brazilian State be held accountable for violating the duty to protect vulnerable groups against discrimination, and for supporting acts of commission and of omission that promote and naturalize the death and extermination of these groups.

**Recommendations**

May the all authorities and institutions propose measures to curb discriminatory practices and manifestations of any kind by public agents, including the President, with sanctions to be imposed in case of recurrence, including loss of office in the most serious cases.

### Requirement 5

May the Brazilian State be held accountable for the long-lasting effects on people affected by COVID-19 that could have been avoided but were not due to acts of commission or of omission by the Brazilian State.

**Recommendations**

May the Brazilian State establish a sovereign wealth fund, with resources based on taxes on financial transactions, to guarantee a basic lifetime income of one minimum wage for each and every individual with long-term effects of the COVID-19 pandemic.

May the Brazilian State fulfill its duty to offer, through SUS, auxiliary treatments for the sequelae left in part of the population who recovered from the COVID-19 infection.

### Requirement 6

May the Brazilian State be responsible for supporting orphans and other dependents of the victims of premature deaths due to COVID-19.

**Recommendations**

May the national policy of social assistance allocate individual monthly pensions in the amount of one minimum wage to children and adolescents who have been orphaned by the COVID-19 pandemic.

### Requirement 7

May the Brazilian State be held accountable for the excessive number of untimely deaths of people from particularly vulnerable groups, caused by structural discrimination, such as indigenous peoples, quilombolas, black men and women, women, the elderly, children and adolescents, family farmers, LGBTQIA+, the incarcerated population and the homeless.

**Recommendations**

May the Brazilian State fulfill its obligation to investigate the responsible parties and, when necessary, bring them to trial under international standards, including the Minnesota Protocol for investigations of potentially wrongful deaths, and may the Brazilian State aim to ensure that those responsible are held properly accountable, to prevent impunity and secure reparations, preventing such events from ever happening again.

### Requirement 8

May the Federal Executive be held accountable for suspending healthcare services in various indigenous areas for several months, leaving them unassisted.

**Recommendations**

May the Brazilian State immediately resume regular and permanent healthcare services in indigenous areas.

### Requirement 9

May the Federal Executive be held accountable for imposing religious fundamentalist and political extremist practices onto the Special Secretariat of Indigenous Health (SESAI), disrespecting indigenous cultures and values.

**Recommendations**

May the Brazilian State reinforce the need for different perspectives in the organization of SUS, to attend to the specificities of intercultural health care, recovering the principle of equity in health actions.

May the Brazilian State respect the cultures and values of indigenous peoples, ensuring that SESAI can function independently of religious fundamentalism and political extremism.

### Requirement 10

May the Federal Executive be held accountable for acts of omission regarding their obligations towards respecting, protecting and guaranteeing the lives of women and LGBTQIA+ populations. Staying home during the pandemic became a challenge to women and LGBTQIA+ people, especially transvestites and transgender people, and other gender identities who suffer intra-family violence.

**Recommendations**

May the Brazilian State ensure stronger support networks for those groups, so that social distancing is possible in spaces free of hostility and violence; may it create support channels, whether offering socioeconomic support or mental health support, with qualified listening and professional guidance.

May the Brazilian State ensure that people under psychological stress are sheltered and socially engaged, as well as providing them with access to emergency relief resources offered by the Government.

May the Brazilian State secure, as priority populations, those people who are undergoing gender reassignment, so that they are able to keep medical follow-ups and access to adequate drugs and psychological shelter.

## Requirement 11

May the Federal Executive be held accountable for failing to take additional measures to protect and assist women, as Brazilians accuse President Jair Messias Bolsonaro of institutionalizing misogyny, promoting repulsion and hatred of women, and instituting feminicide.

**Recommendations**

May the Brazilian State be urged by the Attorney General's Office to determine the opening of investigative proceedings against the President of the Republic, Mr. Jair Messias Bolsonaro, under Article 121, paragraph 2A, item II of the Penal Code, based on as many denunciations as promoted, either by family members, either through representations of civil society of transvestite women, transgender people, indigenous people, quilombolas, women who were pregnant and/or gave birth during the pandemic.

That, as applicable, the "National Guidelines on Femicide: Investigating, Prosecuting and Judging Violent Deaths of Women with Gender Perspective" (BRAZIL, 2016) be observed, especially in reference to

1. the right to justice, translated into the State's obligation to promptly start an unbiased investigation of the alleged facts;
2. the right to know the truth and learn the circumstances of the crimes, the motives and the responsible parties for the facts that victimized them;
3. to the right to memory, which translates into not misrepresenting their memory to justify the violence they suffered;
4. the right to due process and a trial free from stereotypes and prejudice;
5. the right to see the culprits be held accountable and punished, and the consequent civil reparation for the damage caused;
6. the respect of human dignity, consisting of:
    - not minimizing the surviving victim's suffering, and that of the indirect victims;
    - respecting the surviving victim's pain and they recall facts, and that of the indirect victims;
    - avoiding the exposure of the surviving victim and of the indirect victims to the accused, especially when then show fear or discomfort in their presence;
    - avoiding discriminatory questions about the fatal or surviving victim's personal life, speculating about information not helpful to the process, and that might cause the surviving victim and the indirect victims to feel embarrassed;
    - avoiding any remark that might reproduce gender stereotypes and judgments about the direct victim's behavior, whether they have survived or not; and
    - avoiding unrelated documents from being included in the records, just to expose and violate the direct and indirect victims' privacy and;
7. to privacy and confidentiality of information, observing the following guidelines:
    - assistance to surviving victims and indirect victims, during statements and depositions or in any other circumstances, must be carried out in appropriate spaces that contribute to people's privacy, confidentiality and safety;

- the information collected, especially that which deals with intimate aspects of the victim's life, must be protected from being made public, especially by the media exploitation of the cases;
- ensure that direct and indirect victims have access to information about their rights, the process and all legal procedures;
- ensure that they can be accompanied by a person they trust during statements, depositions, and examinations;
- carry out the necessary and appropriate referrals to the specialized service network or other services;
- adopt assistance protocols that contribute to the flow of information and people, preventing surviving victims and indirect victims from being forced to recount the facts several times, or having to move from one service to another without obtaining the necessary information and referrals compatible with their needs;
- avoid using discriminatory language and judgmental questioning that questions the victim's habits, attitudes, or behavior, or holds the victim responsible for the violence suffered.

### Requirement 12

May the Federal Government, along with the other constitutional powers, be held accountable for failing to take effective, concrete measures to reduce prison overcrowding, and for the unjustified delay in vaccinating incarcerated people, who, despite being characterized by the National Immunization Plan as members of priority groups, were vaccinated only after the entire non-priority adult population.

**Recommendations**

May magistrates adopt the provisions of Recommendation No. 62 of the National Council of Justice (CNJ), especially the points listed below:

- the preferential application of socio-educational measures in an open environment and the review of provisional detention decisions, especially for the following groups: adolescents who are part of the risk group; adolescents who are in detention centers with occupation above capacity, or who are in detention center that do not have a health team; adolescents who are hospitalized for the practice of infractions without violence or serious threat;
- for provisional prisoners (penitentiary system), recommends: review of the provisional prisons decreed, with priority for: pregnant women, inmates in overcrowded prisons, and people who have been held in custody for more than 90 days, or for crimes committed without violence or serious threat;
- for the convicted prison population, it recommends granting early release for inmates from the closed and semi-open regimes; granting inmates in the semi-open and open regimes house arrest; granting persons arrested who have a suspected or confirmed diagnosis of COVID-19 house arrest;
- in cases of suspected or confirmed COVID-19 infection in the penitentiary system, it recommends separation of the person who presents symptoms; immediate referral

for treatment in a reference health unit; immediate communication to the competent court to evaluate the substitution of prison or socio-educational measure for a non-custodial measure.

### Requirement 13

May the Brazilian Government be promptly held accountable for making bad budgetary decisions, in executing and allocating resources for the period between 2020 and 2022, decisions which systematically violate the human right to health in the context of the pandemic, as they prevented the adoption of measures required to face the pandemic in terms of medical-hospital structure, hence failing to offer what was necessary to care for the population.

**Recommendations**

May the Brazilian State reconsider immediately the Country's fiscal framework, especially CA 95, which removes resources from health. For 2018, 2019 and 2022 (years in which the fiscal rules were not relaxed), more than R$40 billion were taken from SUS, as a result of the freezing of the health funding floor at 2017 levels by CA 95. The withdrawal of resources from SUS and other areas reduces the State's capacity to guarantee human rights.

For 2022, change the forwarded budget, providing sufficient resources for SUS, including regarding vaccination, maintenance of open hospital beds, and meeting repressed demands (more than 1 million surgeries were not performed during the pandemic).

### Requirement 14

May the need be recognized to review Primary Health Care policies, in order to guarantee the principles of accessibility and quality in the context of social distancing.

**Recommendations**

May the Brazilian State guarantee Primary Health Care services to, simultaneously, face the pandemic in the context of social distancing, and maintain the regular offer of services aimed at preventing diseases and promoting health, solving potential problems.

### Requirement 15

May it be acknowledged the lack of respect and internalization of international standards for health surveillance committed by the Federal Government by the following acts:

- non-compliance with national and international norms and legislations that aim to contribute to the fight against the COVID-19 pandemic;
- failing to follow guidelines issued by the Ministry of Health to monitor the progression of the pandemic and to assess and revert the sanitary crisis, by not implementing awareness programs to inform the population about individual and collective preventive and protective measures;

- recommending pharmacological measures scientifically proven to be ineffective as immunization against COVID-19;
- constantly developing and publicizing misinformation about non-pharmacological measures to reduce transmission of the coronavirus (using official means to produce denialist information);
- not prioritizing the National Health Surveillance Policy as an effective measure to fight the pandemic.

**Recommendations**

May the Brazilian State take measures to counteract the national public health emergency caused by the coronavirus and responsible for the COVID-19 pandemic and other outbreaks.

### Requirement 16

May it be acknowledged that the Brazilian State overwhelmingly exacerbated the food insecurity and the hunger in vulnerable populations during the pandemic. The Brazilian people accuse President Jair Messias Bolsonaro of dismantling the National Food and Nutritional Security Policy (SAN), an action that made hunger and food insecurity even more serious for the Brazilian population, with dramatic consequences for affected families and for society as a whole.

**Recommendations**

May the Brazilian State immediately freeze the prices, in public and private sectors, of food, cooking gas, fuel, and hygiene products, with due Government oversight, to avoid abusive increases, as has been the case since the beginning of the pandemic.

May the Brazilian State make the immediate reinstatement of the National Food and Nutritional Security Council (Consea).

### Requirement 17

May it be acknowledged that the Brazilian State did not protect the right to housing and the right of squatters to legitimately use public land to grow their living.

**Recommendations**

May the Judiciary maintain the suspension of evictions, as provided in Law 14,216, of 2021, for an indefinite period of time. There can be no compliance with any judicial, extrajudicial, or administrative act or decision that results in the eviction or forced collective removal from private or public, urban or rural property, whether for housing or production.

# 7. Pleas to international institutions and bodies

Considering that the violations hurt constitutional rights guaranteed in the international covenants received by the Federal Constitution, especially the rights to health and life; with the understanding that the non-fulfillment of the Brazilian State's obligations to these international human rights norms, due to the State's action or omission, represents a failure in its duty to guarantee human rights; and considering that in the Democratic Rule of Law, the duty of international cooperation among States is established, the following pleas are presented:

## Plea to the CESCR/UN

We appeal for the CESCR/UN to take into account the violation of the human right to health in the way in which the Brazilian State and the Federal Government dealt with the COVID-19 pandemic under the terms of article 12 of the ICESCR and what is explained in Comment General nº 14 of CESCR/UN, including for non-compliance with the principle of non-discrimination and progression in the realization of the human right to health and, if the resulting evaluation is pertinent, the CESCR/UN is appealed to include this analysis when considering the III Official Report on the Brazilian State regarding the fulfillment of the ICESCR under discussion in the Committee.

## Plea to the CCPR/UN

We appeal for the CCPR/UN to take into account the violation of the human right to life in the way in which the Brazilian State and the Federal Government dealt with the COVID-19 pandemic under the terms of article 6 of the ICCPR and what is explained in Comment General nº 36 of CCPR/UN, including for non-compliance with the principle of non-discrimination and, if the resulting evaluation is pertinent, the CCPR/UN is appealed to include this analysis when considering the Official Report on the Brazilian State regarding the fulfillment of the ICCPR under discussion in the Committee.

## Plea to the HRC/UN

We appeal for the HRC/UN to take into account the violation of human rights, especially of the human rights to health and to life, in the way in which the Brazilian State and

the Federal Government dealt with the COVID-19 pandemic under the terms of article 6 of the ICCPR and of article 12 of ICESCR, during the proceedings of the Fourth Universal Periodic Review (UPR) which the Brazilian State will undergo next.

## Plea to the OHCHR/UN

We appeal for the OHCHR/UN, in light of the "Guidelines on COVID-19", issued by the United Nations, to take into account the violation of human rights, especially of the human rights to health and to life, in the way in which the Brazilian State and the Federal Government dealt with the COVID-19 pandemic under the terms of article 6 of the ICCPR and of article 12 of ICESCR when preparing their report for the HRC/UN and also to take any measures they consider appropriate about it.

## Plea to the Special Procedures/ UN

We appeal for the Special Procedures/UN, especially those Special Rapporteurs directly connected with the subject, to take into account the violation of human rights, especially of the human rights to health and to life, in the way in which the Brazilian State and the Federal Government dealt with the COVID-19 pandemic, under the terms of article 6 of the ICCPR and of article 12 of ICESCR when preparing their report for the HRC/UN and also to take any measures they consider appropriate about it.

## Pleas to IACHR/OAS

We appeal for the IACHR/OAS, through its Rapporteurs (for Brazil and ReDESCA, especially), to take into account the violation of human rights, particularly to health and life, in the way the Brazilian State and the Federal Government dealt with the COVID-19 pandemic in the preparation of new reports on Brazil and on the situation of DESCA in the country, considering the provisions of its Resolution No. 01/2020 which determines, among other things "that the pandemic context and its consequences accentuate the importance of the fulfillment and observance of international human rights obligations, particularly those concerning DESCA" and recommends "1. Adopting immediately, urgently, and with due diligence all the appropriate measures to protect the rights to life, health, and personal integrity of the people who are in their jurisdictions in the face of the risk posed by the present pandemic. [...] 2. Immediately adopt an intersectional human rights approach in all state strategies, policies and measures aimed at addressing the COVID-19 pandemic and its consequences [...]" (2020, p. 7), in addition to seven general principles and obligations to guide action (§ 3), and recommendations for groups in situations of special vulnerability.

# References


AGÊNCIA NACIONAL DE VIGILÂNCIA SANITÁRIA (Avisa); ORGANIZAÇÃO MUNDIAL DA SAÚDE (OMS). *Regulamento Sanitário Internacional* - RSI 2005. [Versão em português aprovada pelo Congresso Nacional por meio do Decreto Legislativo 395/2009 publicado no DOU de 10/07/09, p. 11]. 2009. Disponível em: https://www.gov.br/anvisa/pt-br/assuntos/paf/regulamento-sanitario-internacional/arquivos/7181json-file-1. Acesso em: 30 out. 2021.

ALENCAR, Joana; STUKER, Paola; TOKARSKI, Carolina; ALVES, Iara; ANDRADE Krislane de. Políticas públicas e violência baseada no gênero durante a pandemia da covid-19: ações presentes, ausentes e recomendadas. Instituto de Pesquisa Econômica Aplicada (IPEA); Diretoria de Estudos e Políticas Sociais (Disoc), Nota Técnica n. 78, jun. 2020. Disponível em: https://www.ipea.gov.br/portal/images/stories/PDFs/nota_tecnica/200624_nt_disoc_78.pdf. Acesso em: 30 out. 2021.

ARTICULAÇÃO DOS POVOS INDÍGENAS DO BRASIL. *Comitê nacional de vida e memória indígena*. 2021 Disponível em: https://emergenciaindigena.apiboficial.org/dados_covid19/. Acesso em: 13 set. 2021.

ASSOCIAÇÃO BRASILEIRA DE SAÚDE COLETIVA (ABRASCO); INTERNATIONAL POLLUTANTS ELIMINATION NETWORK. *Agronegócio e pandemia no Brasil – uma sindemia está agravando a pandemia da Covid-19?* [*s. l.*]: [*s. n.*], 2021. Disponível em: https://www.abrasco.org.br/site/wp-content/uploads/2021/05/Agronegocio-_-ABrasco-IPEN.pdf. Acesso em: 6 out. 2021.

ASSOCIAÇÃO DE MEDICINA INTENSIVA BRASILEIRA (AMIB). *Dados atualizados sobre leitos de UTI no Brasil*. São Paulo, março de 2020. Disponível em: www.amib.org.br/fileadmin/user_upload/amib/2020/abril/28/dados_uti_amib.pdf. Acesso em: 25 set. 2021.

BALTHAZAR, Ricardo. Negros têm mais risco de morrer de Covid mesmo no topo da pirâmide social, diz estudo. *Folha de S.Paulo*, São Paulo, seç. Equilíbrio e Saúde, 27 set. 2021. Disponível em: https://www1.folha.uol.com.br/equilibrioesaude/2021/09/negros-tem-mais-risco-de-morrer-de-covid-mesmo-no-topo-da-piramide-social-diz-estudo.shtml. Acesso em: 30 out. 2021.

BARCELLOS MALIN, A. M.; DOS SANTOS ALVES, T.; MELO QUINTSLR, M. M.; NETO MACHADO, L.; DA COSTA MAIA LOPES, B.; DE JESUS MOREIRA, D. L.; CARDOSO GOMES, J. Covid-19: acesso à informação pública no Brasil – Relatório de Pesquisa. *Liinc em Revista*, Brasília, v. 16, n. 2, p. e5370, 2020. DOI: https://doi.org/10.18617/liinc.v16i2.5370. Acesso em: 30 out. 2021.

BENEVIDES, Bruna G.; NOGUEIRA, Sayonara Naider Bonfim. *Dossiê Assassinatos e Violência Contra Travestis e Transexuais Brasileiras em 2020*. São Paulo: Expressão Popular, ANTRA, IBTE, 2021. Disponível em: https://antrabrasil.files.wordpress.com/2021/01/dossie-trans-2021-29jan2021.pdf. Acesso em: 30 out. 2021.

BERNARDES, Vitória. *Em meio à pandemia, quem protege as pessoas com deficiência? Segmento populacional segue sem orientações*. Disponível em: http://conselho.saude.gov.br/ultimas-noticias-cns/1247-artigo-em-meio-a-pandemia-quem-protege-as-pessoas-com-deficiencia-segmento-populacional-segue-sem-orientacoes-por-vitoria-bernardes. Acesso em: 8 out. 2021.

BEZERRA, Lucila. ONU investiga uso de agrotóxicos como arma em conflitos territoriais da Mata Sul. *Brasil de Fato - Pernambuco*, Cidades, 10 set. 2021. Disponível em: https://www.brasildefatope.com.br/2021/09/10/onu-investiga-uso-de-agrotoxicos-como-arma-em-conflitos-territoriais-da-mata-sul. Acesso em: 29 out. 2021.

BOLSONARO, Jair. Discurso do Presidente da República, Jair Bolsonaro, durante o Encontro Brasil Vencendo a Covid-19 - Palácio do Planalto. *In*: ENCONTRO BRASIL VENCENDO A COVID-19, 2020, Brasília, 24 ago. 2020. Disponível em: https://www.gov.br/planalto/pt-br/acompanhe-o-planalto/discursos/2020/discurso-do-presidente-da-republica-jair-bolsonaro-durante-o-encontro-brasil-vencendo-a-covid-19-palacio-do-planalto. Acesso em: 30 out. 2021.

BOLSONARO, Jair. Pronunciamento de abertura na Assembleia Geral da Organização das Nações Unidas (ONU). *In*: ASSEMBLEIA GERAL DA ORGANIZAÇÃO DAS NAÇÕES UNIDAS (ONU), 76., 2021, Nova York, 21 set. 2021. Disponível em: https://youtu.be/EmiKQDVtDds. Acesso em: 30 out. 2021.

BRASIL. [Constituição (1988)]. *Constituição da República Federativa do Brasil de 1988*. Brasília, DF: Presidência da República, 2021. Disponível em: http://www.planalto.gov.br/ccivil_03/constituicao/constituicao.htm. Acesso em: 28 out. 2021.

BRASIL. Conselho Nacional de Justiça. *Adolescentes internados*. Brasília, 2018. Disponível em: www.cnj.jus.br/wp-content/uploads/2018/11/1020c8c889d5fd7c0ec2b7bc29850d50.pdf. Acesso em: 18 set. 2021.

BRASIL. Conselho Nacional de Justiça. *Boletim CNJ de Monitoramento Covid-19*. Registros e óbitos de 24 de agosto de 2021. Brasília, 2021a.

BRASIL. Conselho Nacional de Justiça. *Covid-19 no Sistema Prisional*. Disponível em: https://www.cnj.jus.br/wp-content/uploads/2021/09/monitoramento-casos-e-obitos-covid19-100921-info.pdf. 2021b. Acesso em: 18 set. 2021.

BRASIL. Conselho Nacional de Justiça. *Monitoramento CNJ – Covid-19*: Efeitos da Recomendação nº 62/2020 de 20 de abril de 2020. Brasília, 2020.

BRASIL. Conselho Nacional de Justiça. *Recomendação n. 62, de 17 de março de 2020*. Brasília, 2020a.

BRASIL. Controladoria-Geral da União. CGU monitora aplicação dos recursos federais repassados a estados e municípios. Controladoria-Geral da União, [2021?]h. Disponível em: https://www.gov.br/cgu/pt-br/coronavirus/cgu-monitora-aplicacao-dos-recursos-federais-repassados-a-estados-e-municipios. Acesso em: 30 out. 2021.

BRASIL. Decreto n. 591, de 06 de julho de 1992. Atos Internacionais. Pacto Internacional sobre Direitos Econômicos, Sociais e Culturais. Brasília, 1992.

BRASIL. Ministério da Justiça e Segurança Pública. Departamento Penitenciário Nacional. Conselho Nacional de Política Criminal e Penitenciária. Resolução n. 14, de 4 de fevereiro de 2021. Priorização da Vacinação dos Servidores do Sistema Prisional e Pessoas Privadas de Liberdade no Plano Nacional de Operacionalização da Vacina Contra a Covid-19. Brasília, 2021d. Disponível em: www.in.gov.br/en/web/dou/-/resolucao-n-14-de-4-de-fevereiro-de-2021-302791438. Acesso em: 18 set. 2021.

BRASIL. Ministério da Justiça e Segurança Pública. Departamento Penitenciário Nacional. *Medidas de combate à Covid-19*. Brasília, 2021c. Disponível em: https://app.powerbi.com/view?r=eyJrIjoiYThhMjk5YjgtZWQwYS00ODlkLTg4NDgtZTFhMTgzYmQ2MGVlIiwidCI6ImViMDkwNDIwLTQ0NGMtNDNmNy05MWYyLTRiOGRhNmJmZThlMSJ9. Acesso em: 15 set. 2021.

BRASIL. Ministério da Justiça. Departamento Penitenciário Nacional. *Detecções/ suspeitas do coronavírus – painel regional*. Brasília, 2021e. Disponível em: https://app.powerbi.com/view?r=eyJrIjoiYThhMjk5YjgtZWQwYS00ODlkLTg4NDgtZTFhMTgzYmQ2MGVlIiwidCI6ImViMDkwNDIwLTQ0NGMtNDNmNy05MWYyLTRiOGRhNmJmZThlMSJ9. Acesso em: 28 set. 2021.

BRASIL. Ministério da Justiça. Departamento Penitenciário Nacional. *Levantamento nacional de informações penitenciárias*. Brasília, 2019.

BRASIL. Ministério da Justiça. Departamento Penitenciário Nacional. *Levantamento nacional de informações penitenciárias*. Brasília, 2020c.

BRASIL. Ministério da Saúde. *Covid-19 no Brasil*. Brasília, 2021f. Disponível em: https://qsprod.saude.gov.br/extensions/covid-19_html/covid-19_html.html. Acesso em: 18 set. 2021.

BRASIL. Ministério da Saúde. *Nota* [Governo Federal/Ministério da Saúde informa que recebeu, sim, a carta do CEO da Pfizer...]. 23 jan. 2021j. Disponível em: https://www.gov.br/saude/pt-br/assuntos/noticias/nota-1. Acesso em: 30 out. 2021.

BRASIL. Ministério da Saúde. *Plano de Contingência Nacional para Infecção Humana pelo novo Coronavírus (Covid-19) em Povos Indígenas*. Brasília, 2020d. Disponível em: https://docs.bvsalud.org/biblioref/2020/04/1095139/plano_de_contingencia_da_saude_indigena_preliminar.pdf. Acesso em: 30 out. 2021.

BRASIL. Ministério da Saúde. *Plano Nacional de Operacionalização da Vacinação contra a Covid-19*. Brasília, 2020e. Disponível em: https://www.conasems.org.br/wp-content/uploads/2021/04/1a-Edic%CC%A7a%CC%83o-Plano-Nacional-de-Vacinac%CC%A7a%CC%83o-contra-Covid_V1_16dez20.pdf. Acesso em: 18 set. 2021.

BRASIL. Ministério da Saúde. Secretaria de Gestão Estratégica e Participativa. Departamento de Apoio à Gestão Participativa. *Caminhos do direito à saúde no Brasil*. Brasília, 2007.

BRASIL. Ministério da Saúde. *Vigitel Brasil 2018*: vigilância de fatores de risco e proteção para doenças crônicas por inquérito telefônico: estimativas sobre frequência e distribuição sociodemográfica de fatores de risco e proteção para doenças crônicas nas capitais dos 26 estados brasileiros e no Distrito Federal em 2018. Brasília, 2019a.

BRASIL. Ministério das Comunicações. Secretaria Especial de Comunicação Social. [A cloroquina, medicamento que tem apresentado bons resultados contra a Covid-19...] [Brasil], 20 mai. 2020d. Twitter: @secomvc. Disponível em: https://twitter.com/secomvc/status/1263208935236001800. Acesso em: 30 out. 2021.

BRASIL. Ministério das Comunicações. Secretaria Especial de Comunicação Social. [O ministro-chefe da Secretaria-Geral da Presidência, Jorge de Oliveira, defendeu, nesta quarta (20), o novo protocolo do Ministério da Saúde, que permite o uso da cloroquina...] [Brasil], 20 mai. 2020e. Facebook: @ SecomVc. Disponível em: https://www.facebook.com/SecomVc/posts/260666828621933?comment_id=260869668601649. Acesso em: 30 out. 2021.

BRASIL. Ministério das Mulheres, da Igualdade Racial e dos Direitos Humanos. *Diretrizes Nacionais para Investigar, processar e Julgar com Perspectiva de Gênero as Mortes Violentas de Mulheres*. Brasília, 2016.

BRASIL. Nota Ministério da Saúde. 23 jan. 2021g. Disponível em: www.gov.br/saude/pt-br/assuntos/noticias/nota-1. Acesso em: 5 out. 2021.

BRASIL. Senado Federal. Agência Senado. Bolsonaro veta projeto que suspendia despejo na pandemia. *Agência Senado*, 5 ago. 2021i. Disponível em: https://www12.senado.leg.br/noticias/materias/2021/08/05/bolsonaro-veta-projeto-que-suspendia-despejo-na-pandemia. Acesso em: 30 out. 2021.

BRIZZI, A. *et al*. *Factors driving extensive spatial and temporal fluctuations in COVID-19 fatality rates in Brazilian hospitals*. Imperial College COVID-19 Response Team – Report 46 06 de octuber 2021. Disponível em: https://spiral.imperial.ac.uk/bitstream/10044/1/91875/2/2021-10-06-COVID19-Report-46.pdf. Acesso em: 07 out. 2021.

CABRAL, Sandro; PONGELUPPE, Leandro; ITO, Nobuiuki. The Disastrous Effects of Leaders in Denial: Evidence from the COVID-19 Crisis in Brazil. *SSRN Electronic Journal Elsevier BV*, 2021. DOI: https://doi.org/10.2139/ssrn.3836147. Acesso em: 29 out. 2021.

CADERNOS DE SAÚDE PÚBLICA. Rio de Janeiro: Fundação Oswaldo Cruz, v. 36, n. 8, ago. 2020.

CAMPANHA NACIONAL DESPEJO ZERO. [Dados atualizados da Campanha - 30 de agosto de 2021]. 2021. *Campanha Despejo Zero*, Disponível em: https://drive.google.com/file/d/1CIZjXacbUDgMqSaidkIps0ba9BF9q8Ju/view. Acesso em: 30 out. 2021.

CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC). *People Who Are at Increased Risk for Severe Illness CDC*. 2020. Disponível em: https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html?deliveryName=USCDC_2067-DM31413. Acesso em: 30 jun. 2020.

COLLUCCI, Cláudia. Denúncia sobre proxalutamida é uma das mais graves da história da América Latina, diz Unesco. *Folha de S.Paulo*, 11 out. 2021. Disponível em: https://www1.folha.uol.com.br/equilibrioesaude/2021/10/denuncia-sobre-proxalutamida-e-das-mais-graves-da-historia-da-america-latina-diz-unesco.shtml. Acesso em: 30 out. 2021.

COMENTÁRIOS Gerais dos Comitês de Tratados de Direitos Humanos da ONU. Comitê de Direitos Humanos. Comitê de Direitos Econômicos, Sociais e Culturais. Brasília: DPU, MPF, DPE-SP, 2018. Disponível em: https://www.defensoria.sp.def.br/dpesp/repositorio/0/Coment%C3%A1rios%20Gerais%20da%20ONU.pdf. Acesso em: 30 out. 2021. [Inclui os seguintes documentos: Declaração Universal dos Direitos Humanos (1948); Pacto Internacional sobre Direitos Econômicos, Sociais e Culturais (1966); Pacto Internacional sobre Direitos Civis e Políticos (1966), entre outros].

COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS (CIDH). *Convenção Americana sobre Direitos Humanos*. San José da Costa Rica, 1969.

COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS (CIDH). *Pandemia e Direitos Humanos nas Américas. Resolução n° 1/2020*. 2020. Disponível em https://www.oas.org/pt/cidh/decisiones/pdf/Resolucao-1-20-pt.pdf. Acesso 03 out. 2021.

COMISSÃO INTERAMERICANA DE DIREITOS HUMANOS (CIDH). Situação dos direitos humanos no Brasil: Aprovado pela Comissão Interamericana de Direitos Humanos em 12 de fevereiro de 2021. [*S. l.*]: CIDH, 2021. Disponível em: https://www.oas.org/pt/cidh/relatorios/pdfs/Brasil2021-pt.pdf. Acesso em: 30 out. 2021.

CONECTAS DIREITOS HUMANOS. *Mapeamento e análise das normas jurídicas de resposta a Covid-19 no Brasil*. Boletim n. 10, São Paulo: Conectas, 2021. Disponível em: https://www.conectas.org/wp-content/uploads/2021/03/Boletim_Direitos-na-Pandemia_ed_10.pdf. Acesso em: 30 out. 2021.

CONSELHO INDIGENISTA MISSIONÁRIO. *Relatório de Violência contra os Povos Indígenas 2020*. 2021. Disponível em: https://cimi.org.br/wp-content/uploads/2020/10/relatorio-violencia-contra-os-povos-indigenas-brasil-2019-cimi.pdf. Acesso em: 13 set. 2021.

COSTA, J. S. *et al.* Covid-19 no sistema prisional brasileiro: da indiferença como política à política de morte. *Psicologia e Sociedade*, n. 32, p. e020013, 2020.

COSTA, Jaqueline Sério da; SILVA, Johnny Clayton Fonseca da; BRANDÃO, Eric Scapim Cunha; BICALHO, Pedro Paulo Gastalho. Covid-19 no sistema prisional brasileiro: da indiferença como política à política de morte. *Psicologia & Sociedade*, v. 32, 4 set. 2020. DOI: https://doi.org/10.1590/1807-0310/2020v32240218. Acesso em: 30 out. 2021.

CRETELLA JÚNIOR, José. *Comentários à Constituição de 1988*. Rio de Janeiro: Forense Universitária, 2002.

DECLARAÇÃO de Alma-Ata. Conferência Internacional sobre cuidados primários de saúde. 12 setembro 1978. Disponível em: https://bvsms.saude.gov.br/bvs/publicacoes/declaracao_alma_ata.pdf. Acesso em: 29 out. 2021.

DIÁRIO DA CÂMARA DOS DEPUTADOS. Brasília: Câmara dos Deputados, ano 65, n. 118, 6 ago. 2010. Ata da 171ª Sessão da Câmara dos Deputados, ordinária, da 4ª Sessão Legislativa Ordinária, da 53ª Legislatura, em 05 de agosto de 2010. Discurso do Sr. Jair Bolsonaro (PP-RJ. Sem revisão do orador.). p. 36348-36349. Disponível em: http://imagem.camara.gov.br/Imagem/d/pdf/DCD06AGO2010.pdf#page=86. Acesso em: 29 out. 2021.

DIAS, Bruno C. Revista Ciência & Saúde Coletiva e ENSP debatem sobre vulnerabilidade. *ABRASCO*, 31 ago. 2017. Disponível em: https://www.abrasco.org.br/site/noticias/saude-da-populacao/revista-ciencia-saude-coletiva-e-enspfiocruz-debatem-sobre-vulnerabilidade/30383/. Acesso em: 30 out. 2021.

ELIAS, N. *A solidão dos moribundos*: seguido de envelhecer e morrer. Rio de Janeiro: Jorge Zahar, 2001.

ESTUDO reforça indícios de que pobres e indígenas são mais vulneráveis à covid-19. *BBC News Brasil*, 23 set. 2020. Disponível em: https://www.bbc.com/portuguese/brasil-54274684. Acesso em: 30 out. 2021.

FERREIRA, Lola; SANTOS, Sanara. Isolamento social limita acesso de população a tratamento transexualizador no SUS. *Gênero e Número*, 16 abr. 2020. Disponível em: https://www.generonumero.media/isolamento-acesso-trans-saude/. Acesso em: 8 out. 2021.

FRICKER, M. *Epistemic Injustice*: Power and Ethics of Knowing. New York: Oxford University Press, 2007.

FUNDAÇÃO OSWALDO CRUZ (FIOCRUZ). *Contaminação por mercúrio se alastra na população Yanomami*. 2019. Disponível em: http://informe.ensp.fiocruz.br/noticias/46979. Acesso em: 2 ago. 2020.

FUNDAÇÃO OSWALDO CRUZ (FIOCRUZ). *Risco de espalhamento da Covid-19 em populações indígenas*: considerações preliminares sobre vulnerabilidade geográfica e sociodemográfica. 4º relatório sobre risco de espalhamento da Covid-19 em populações indígenas. 2020. Disponível em: https://www.arca.fiocruz.br/handle/icict/40980. Acesso em: 2 jun. 2020.

GÊNERO E NÚMERO; SEMPREVIVA ORGANIZAÇÃO FEMINISTA. Sem parar: o trabalho e a vida das mulheres na pandemia. [*S. l.*]: [*s. n.*], [2020?]. Disponível em: https://mulheresnapandemia.sof.org.br/wp-content/uploads/2020/08/Relatorio_Pesquisa_SemParar.pdf. Acesso em: 30 out. 2021.

GOVERNO faz propaganda de homem rural armado no Dia do Agricultor. *O Tempo*, Politica, 28 jul. 2021. Disponível em: https://www.otempo.com.br/politica/governo-faz-propaganda-de-homem-rural-armado-no-dia-do-agricultor-1.2519181. Acesso em: 29 out. 2021.

GRAGNOLATI, M. *et al*. *Growing old in an older Brazil: implications of population aging on growth, poverty, public finance and service delivery*. Washington: World Bank, 2011.

HALLAL, P. C. et al. *SARS-CoV-2 antibody prevalence in Brazil: results from two successive nationwide serological household surveys*. Lancet Glob Health, v. 8, n. 11, p. e1390-e1398, 2020. DOI: 10.1016/S2214-109X(20)30387-9.

HORTA, Bernardo L. *et al*. Prevalence of antibodies against SARS-CoV-2 according to socioeconomic and ethnic status in a nationwide Brazilian survey. *Revista panamericana de salud publica - Pan American journal of public health*, v. 44, p. e135, oct. 2020. DOI:10.26633/RPSP.2020.135. Acesso em: 3 out. 2021.

INSTITUTO DE ESTUDOS SOCIOECONÔMICOS (INESC). *Um país sufocado*: Balançodo Orçamento Geral da União 2020. Brasília: INESC, 2021. Disponível em: https://www.inesc.org.br/wp-content/uploads/2021/04/BGU_Completo-V06-1.pdf. Acesso em: 28 out. 2021.

LIMA, R. S. F. Direito à saúde e critérios de aplicação. *Direito Público*, n. 2, p. 112-132, 2006.

MANCUSO, Brunna. Órfãos da Covid-19: uma geração invisível. *CNN Brasil*, 19 jun. 2021. Disponível em: https://www.cnnbrasil.com.br/nacional/orfaos-da-covid-19-uma-geracao-invisivel/. Acesso em: 30 out. 2021.

MARKS, S. Human rights and root causes. *The Modern Law Review*, p. 57-78, 2011.

MBEMBE, A. *Necropolítica*: biopoder, soberania, estado de exceção, política de morte. Trad. Renata Santini. São Paulo: N-1, 2018.

MEDINA, M. G. *et al.* Atenção primária à saúde em tempos de Covid-19: o que fazer? *Cadernos de Saúde Pública*, Rio de Janeiro, v. 36, n. 8, ago. 2020.

MENDES SANTOS. Os Aspectos Ideológicos da Emenda Constitucional N. 95 (Novo Regime Fiscal) e o Efeito Cliquet. *Revista Âmbito Jurídico*, ano XXII, n. 191, dez. 2019. Disponível em: https://ambitojuridico.com.br/revista-ambito-juridico/revista-ambito-juridico-no-191-ano-xxii-dezembro-2019/. Acesso em: 25 set. 2021.

MENDONÇA, M. H. M. *et al.* (orgs.). *Atenção primária à saúde no Brasil*: conceitos, práticas e pesquisa. Rio de Janeiro: Fiocruz, 2018.

MINISTRO do Meio Ambiente defende passar “a boiada” e “mudar” regras enquanto atenção da mídia está voltada para a Covid-19. *G1*, 22 maio 2020. Disponível em: https://g1.globo.com/politica/noticia/2020/05/22/ministro-do-meio-ambiente-defende-passar-a-boiada-e-mudar-regramento-e-simplificar-normas.ghtml. Acesso em: 30 out. 2021.

MORAES, A. *Direito constitucional*. 17. ed. São Paulo: Atlas, 2005.

MUNDIM, Marília. *Covid-19*: casos entre privados de liberdade aumentam 287% em 90 dias. *Agência CNJ de Notícias*, Brasília, 14 out. 2020. Disponível em: www.cnj.jus.br/covid-19-casos-entre-privados-de-liberdade-aumentam-287-em-90-dias/. Acesso em: 15 set. 2021.

NETO, Antônio; DUARTE, Daniele; TRENTIN, Melisanda; CARVALHO, Sandra. *O Impacto da Covid-19 na Defesa dos Direitos Humanos no Bras*il. [*s. l.*]: Observatório para a Proteção dos Defensores dos Direitos Humanos e Justiça Global, 2021. Disponível em: www.global.org.br/wp-content/uploads/2021/02/Rapport-Br%C3%A9sil2021port.pdf. Acesso em: 10 set. 2021.

ORGANIZAÇÃO DAS NAÇÕES UNIDAS (ONU). *Plano de Ação Internacional Contra o Envelhecimento 2002*. Trad. Arlene Santos. Brasília, 2003. (Série Institucional em Direitos Humanos; v. 1).

ORGANIZAÇÃO DAS NAÇÕES UNIDAS (ONU). *Los Derechos Humanos em el Centro de La Respuesta*. DIRECTRICES RELATIVAS A LA COVID-19 . Alto Comisionado 8 de maio de 2020.

ORGANIZAÇÃO DAS NAÇÕES UNIDAS (ONU). OHCHR. *Directrices relativas a la COVID-19*. 08/05/2020. Available at: <www.ohchr.org/Documents/Events/COVID-19_Guidance_SP.pdf>. Visited: July 22, 2020.

ORGANIZAÇÃO DOS ESTADOS AMERICANOS (OEA). Comissão Interamericana de Direitos Humanos (CIDH). Resolução n. 01/2020: Pandemia e Direitos Humanos as Américas. Adoptado pela CIDH/OEA em 10 de abril de 2020. Available at: <https://www.oas.org/pt/cidh/decisiones/pdf/Resolucao-1-20-pt.pdf>. Visited: July 22, 2020.

ORGANIZAÇÃO MUNDIAL DA SAÚDE (OMS). *Documentos básicos*. 48. ed. Genebra, 2014.

PASSARINHO, Nathalia. 3 erros que levaram à falta de vacinas contra covid-19 no Brasil. *BBC Brasil*. 23 fev. 2021. Available at: https://www.bbc.com/portuguese/brasil-56160026. Visited Oct 21, 2021

PIOVESAN, F. A Constituição Brasileira de 1988 e os tratados internacionais de direitos humanos. *EOS Revista Jurídica da Faculdade de Direito*, ano 2, v. 2, n. 1, p. 20-33, 2008.

REDE BRASILEIRA DE PESQUISA EM SOBERANIA E SEGURANÇA ALIMENTAR (Rede PENSSAN). *Inquérito Nacional sobre Insegurança Alimentar no Contexto da Pandemia da Covid-19 no Brasil*. 2021. Disponível em http://olheparaafome.com.br/VIGISAN_Inseguranca_alimentar.pdf. Acesso em: 3 out. 2021.

REDE BRASILEIRA DE PESQUISA EM SOBERANIA E SEGURANÇA ALIMENTAR. *Vigisan*: Inquérito Nacional sobre Insegurança Alimentar no Contexto da Pandemia da Covid-19 no Brasil. Rio de Janeiro, 2021.

ROMERO, D. H. *et al.* Idosos no contexto da pandemia da Covid-19 no Brasil: efeitos nas condições de saúde, renda e trabalho. *Cadernos de Saúde Pública*, v. 37, n. 3, 2021.

SAFATLE, Vladimir. *Para além da necropolítica*. São Paulo: n-1 edições, 2020. Available at <www.n-1edicoes.org/textos/191>. Visited: Oct 21, 2021.

SANCHES, Mariana; MAGENTA, Matheus. Brasil tem 1 órfão por covid a cada 5 minutos: "Pensamos que crianças não são afetadas, mas é o oposto". *BBC News Brasil*, 22 jul. 2021. Disponível em: https://www.bbc.com/portuguese/brasil-57923377. Acesso em: 30 out. 2021.

SÁNCHEZ, A. *et al.* Covid-19 nas prisões: um desafio impossível para a saúde pública? *Cadernos de Saúde Pública*, n. 36, 2020. Disponível em: https://www.scielo.br/j/csp/a/ThQ4BfJJYngFJxv8xHwKckg/?format=pdf&lang=pt. Acesso em: 15 set. 2021.

SÁNCHEZ, Alexandra; SIMAS, Luciana; DIUANA, Vilma; LAROUZE, Bernard. COVID-19 nas prisões: um desafio impossível para a saúde pública? *Cadernos de Saúde Pública*, v. 36, 8 maio 2020. DOI: https://doi.org/10.1590/0102-311X00083520. Acesso em: 30 out. 2021.

SANTARELLI, M. *Missão sobre violações ao direito à alimentação escolar na pandemia de Covid-19*: casos do Estado do Rio de Janeiro e do município de Remanso Bahia (BAHIA). São Paulo: Plataforma DHESCA, 2020.

SERRANO, Pedro. Todas as vidas são iguais. *Revista Carta Capital*, 8 abr. 2020.

SILVA, Tatiana Dias; NATALINO, Marco Antônio Carvalho; PINHEIRO, Marina Brito. População em situação de rua em tempos de pandemia: um levantamento de medidas municipais emergenciais. Instituto de Pesquisa Econômica Aplicada (IPEA); Diest; Disoc, Nota Técnica n. 74, jun. 2020. Disponível em: http://repositorio.ipea.gov.br/handle/11058/10078. Acesso em: 30 out. 2021.

SINDISAÚDE CAXIAS DO SUL. Brasil fez a pior gestão do mundo na pandemia. *SINDISAÚDE Caxias do Sul*, 10 fev. 2021. Disponível em: http://www.sindisaude.com.br/home/noticias-destaque/brasil-fez-a-pior-gestao-do-mundo-na-pandemia.html. Acesso em: 30 out. 2021.

SOBREIRA, Vinícius. "A gente tem vivido o terror": veneno, tiros e prisões contra camponeses na Mata Sul. *Brasil de Fato - Pernambuco, Recife - PE*, Política, 13 maio 2021. Disponível em: https://www.brasildefatope.com.br/2021/05/13/a-gente-tem-vivido-o-terror-veneno-tiros-e-prisoes-contra-camponeses-na-mata-sul. Acesso em: 29 out. 2021.

SOCIEDADE MARANHENSE DE DIREITOS HUMANOS. *Violações dos direitos humanos no Brasil: denúncias e análises no contexto da Covid-19*. Passo Fundo: Saluz, 2021.

STRECK, L. L. *Coronavírus, o consequencialismo e o dilema do trem*: matar o gordinho? 2 abr. 2020. Disponível em: https://www.conjur.com.br/2020-abr-02/senso-incomum-covid-19-consequencialismo-dilema-trem-matar-gordinho. Acesso em: 13 set. 2021.

TAVARES, A. R. *Curso de direito constitucional*. 7. ed. São Paulo: Saraiva, 2009.

VIEIRA, F. S.; SERVO, L. M. S. Covid-19 e coordenação federativa no Brasil: consequências da dissonância federal para a resposta à pandemia. *Saúde Debate*, v. 44, ed. esp. 4, dez. 2020. DOI: https://doi.org/10.1590/0103-11042020E406. Acesso em: 24 out. 2021.

YENILMEZ, M. I. Economic and social consequences of population aging the dilemmas and opportunities in the twenty-first century. *Appl Res Qual Life*, n. 10, p. 735-752, 2015.

ZHANG, W. *Manual de Prevenção e Controle da Covid-19 segundo o Doutor Wenhong Zhang*. São Paulo: Polo Books, 2020.

## Sites

BRASIL. Ministério da Saúde. Covid-19. Disponível em: https://covid.saude.gov.br/. Acesso em: 28 out. 2021.

BRASIL. Ministério da Saúde. Disponível em: www.saude.gov.br. Acesso em: 28 out. 2021.

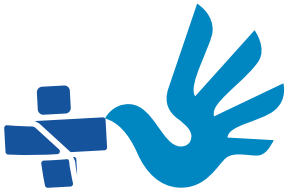
BRASIL. Senado Federal. Disponível em: www.senado.leg.br. Acesso em: 28 out. 2021.

ARTICULAÇÃO DOS POVOS INDÍGENAS DO BRASIL (APIB). Disponível em: https://emergenciaindigena.apiboficial.org. Acesso em: 28 out. 2021.

CAMPANHA DESPEJO ZERO. Disponível em: https://www.campanhadespejozero.org. Acesso em: 28 out. 2021.

MULHERES NAPANDEMIA. Disponível em: https://mulheresnapandemia.sof.org.br. Acesso em: 28 out. 2021.

AGÊNCIA NACIONAL DE VIGILÂNCIA SANITÁRIA (ANVISA). Disponível em: https://www.gov.br/anvisa/pt-br. Acesso em: 28 out. 2021.



# Direito Humano à Saúde na Pandemia

SMDH
Em defesa da vida

monitoramentos dos direitos humanos no Brasil

CNDH

CNS Conselho Nacional de Saúde

**Fórum Nacional de Defesa do Direito Humano à Saúde**