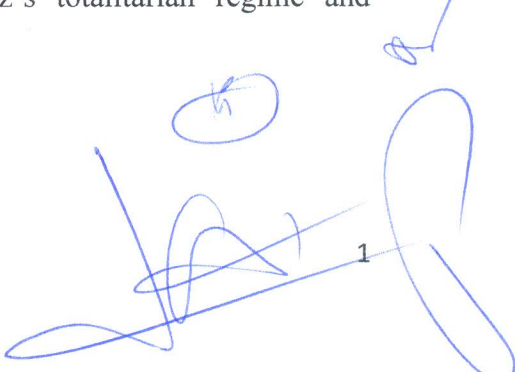


HONORABLE CHIEF PROSECUTOR OF INTERNATIONAL CRIMINAL COURT, MRS. BENSUDA.

HÉLIO PEREIRA BICUDO, Brazilian Lawyer, bearer of Brazilian Identity Card. n. 5.888.644; **JANAINA CONCEIÇÃO PASCHOAL**, Brazilian Lawyer, Criminal Law Professor, bearer of Brazilian Identity Card n. 24.130.055-1, with address at Pamplona Street, 1.119, apartment 41, Jardim Paulista, São Paulo/SP; **MARISTELA BASSO**, Brazilian Lawyer, International Law Professor, bearer of Brazilian Identity Card no. 5010373446, with address at Rua Dr. Gabriel dos Santos, 564, apartment no. 11, Higienópolis, São Paulo/SP; **JORGE COUTINHO PASCHOAL**, Brazilian Lawyer, bearer of Brazilian Identity Card n. 42.271.338-7, with address at Pamplona Street, 1.119, apartment 41, Jardim Paulista, São Paulo/SP; respectfully report before Your Honor **CRIMES AGAINST HUMANITY** committed by **NICOLÁS MADURO**, who transformed Venezuela into a totalitarian Dictatorship, violating and systematically abusing fundamental human rights, for the factual and legal grounds set forth below.

1. GENERAL FRAMEWORK OF ATROCITIES COMMITTED BY MADURO AND THE NECESSITY OF THE INTERNATIONAL CRIMINAL COURT'S INTERVENTION

Venezuela has suffered throughout its history several crises. It is possible to point political, economic and social crises, accompanied by disrespect and violation of human rights. But none of these crises can be compared to that currently underway in the country. The first violations started during Hugo Chávez's totalitarian regime and worsened in President Maduro's government.



1

In the past, Venezuela has managed to build a rule of law, consolidating itself as a democracy in the mid-twentieth century. For a while, Venezuela has been one of the most important and prosperous countries in Latin America.

Despite all development and prosperity, Venezuela began to collapse¹, with the rise of Hugo Chávez and of the Partido Socialista Unido de Venezuela (United Socialist Party) to the power. Chávez created a regime that is conventionally called the 'Bolivarian Republic'. He legalized his own powers with the approval of a new Constitution, in 1999.

The Bolivarian Republic has been endorsed for successive reelections, and ever since, there has been no alternation in the political arena. There are, in this context, numerous suspicions of fraud in the electoral process. Even the Company entrusted with the elections, SMARTIMATIC, denounced the inadmissible frauds. In other words, the Company alleged manipulation of the results².

Despite the already authoritarian character of Chávez's tenure, it was only recently, with Maduro's government, that the tyrannical system became more entrenched, especially in the last few years. There are no doubts that Venezuela has become a bloodthirsty Dictatorship.

There is no longer a system of checks and balances between the Executive, Legislative and Judiciary powers, since all of them are currently under the rule and influence of President Maduro, especially with the New Constituent Assembly (NCA), composed only of governors, indeed, imposed to people. The NCA composed only of Maduro's supporters, holds absolute authority over all instances in the Venezuelan state.

In turn, Maduro's dictatorial government has pursued all types of opposition to his regime, concentrating in his hands, practically, all the powers of State, with broad

¹ How Venezuela went from a rich democracy to a dictatorship on the brink of collapse. Available at: <https://www.vox.com/world/2017/9/19/16189742/venezuela-maduro-dictator-chavez-collapse>. Access on 30 November 2017; Venezuela rights suffer under Chavez. Available at: <https://www.hrw.org/news/2008/09/18/venezuela-rights-suffer-under-chavez>;

https://www.transparency.org/news/feature/corruption_and_human_rights_violations_in_venezuela
² Venezuela Reported False Election Turnout, Voting Company Says. Available at: <https://www.nytimes.com/2017/08/02/world/americas/venezuela-election-turnout.html>. Access on 30 November 2017.

support of the Judiciary, which no longer plays the limiting role of supervising the other powers.

The Parliament accuses the Supreme Court of serving the Executive, nullifying the decisions of the Legislative, which, not so long ago, was composed by a majority of deputies from the opposition.

Recently, at the height of the institutional crisis between the Powers, Venezuelan Supreme Court considered assuming functions of the Legislative³.

Aside from the threats to Democracy, the country has a very worrisome economic situation. Inflation is the highest in the globe, reaching over 600% per year. According to the International Monetary Fund, it will reach 2350% in 2018⁴. In such a scenario, the basic rights of the population that still remain will be over. In 2016, poverty reached 81.8% of the population⁵.

There is severe food shortage, spreading misery, which is depicted very often in the press with images with the endless queues of people waiting for the opportunity to buy basic products, such as flour, milk, olive oil and sugar. Scarcity affects Venezuelans⁶.

In order to have a dimension of the misery, even zoological animals have been stolen in order to serve as food⁷. Venezuelans who are overseas have been sending supplies and hygiene products to help relatives and friends.

³ Tribunal Supremo da Venezuela assume funções do Congresso. Available at: <http://veja.abril.com.br/mundo/tribunal-supremo-da-venezuela-assume-funcoes-do-congresso/>; See also: Venezuela opposition allege coup as supreme court seizes power. Available at: <https://www.theguardian.com/world/2017/mar/30/venezuela-president-nicolas-maduro-national-assembly>. Access on 30 November 2017.

⁴ IMF Says Venezuela's Inflation Rate May Rise Beyond 2,300% in 2018. Available at: <https://www.bloomberg.com/news/articles/2017-10-10/imf-sees-venezuelan-inflation-rate-rising-beyond-2-300-in-2018>. Access on 30 November 2017.

⁵ ENCOVI 2016: A Tragedy in Numbers. Available at: <https://www.caracaschronicles.com/2017/03/02/encovi-2016-tragedy-numbers/>. Access on 30 November 2017.

⁶ Food queues, grave-robbing, hyperinflation: escaping Venezuela's nightmare. Available at: <http://www.theage.com.au/good-weekend/a-cry-for-my-country-the-tragedy-of-venezuela-through-the-life-of-one-man-who-got-out-20170809-gxsgos.html>. Access on 30 November 2017.

⁷ Venezuela: ladrões roubam animais de zoo para comer, diz polícia. Available at: <http://veja.abril.com.br/mundo/venezuela-ladros-roubam-animais-de-zoo-para-comer-diz-policia/>. See also the following news: Thieves stealing Venezuela zoo animals to eat them, say police

Seemingly, Venezuela also ran out of medicines in pharmacies and hospitals. The Catholic Church itself alerted several people have died of hunger and lack of medicines⁸. Venezuelan Infectious Disease Society has issued a warning for the country's health crisis, due to the lack of drugs to treat serious diseases such as AIDS, dengue, zika Virus⁹.

Migratory flow from Venezuelans is increasing, with impact on neighboring countries, such as Brazil, sparking a migrant diaspora.

Recently, Peruvian Foreign Minister, Ricardo Luna, and Canadian Foreign Minister, Chrystia Freeland, have met the United Nations Secretary-General, Antonio Guterres, in order to find ways of solving the humanitarian crisis in Venezuela¹⁰.

While the vast majority of the population suffers, on the account the dissemination of misery, there are serious concerns regarding the corruption since the times of President Chávez's governments and, even more so, under Maduro's ruling. The former Venezuelan General Attorney, Luisa Ortega Díaz, was removed, due to the corruption investigation she conducted. She had to flee the country for fearing political persecution¹¹.

According to former General Attorney, the company at the center of the corruption scandal in Brazil, Odebrecht, offered bribes of USD 100 million to deputy Diosdado Cabello – strong man in Maduro's government – through a Spanish company, TSE Arietis, whose owners would be his cousins¹².

<https://www.theguardian.com/world/2017/aug/17/thieves-stealing-venezuela-zoo-animals-to-eat-them-say-police>. Access on 30 November 2017.

⁸ No Food, No Medicine, No Respite: A Starving Boy's Death in Venezuela. Available at: <https://www.nytimes.com/2016/12/25/world/americas/venezuela-hunger.html>. Access on 30 November 2017.

⁹ Long-eradicated diphtheria reappears in Venezuela; government blames the CIA. Available at: <http://www.foxnews.com/health/2016/10/21/long-eradicated-diphtheria-reappears-in-venezuela-government-blames-cia.html>. See also: Venezuela's humanitarian crisis is worse than you think. Available at: <https://www.devex.com/news/venezuela-s-humanitarian-crisis-is-worse-than-you-think-88943>. Access on 30 November 2017.

¹⁰ Freeland ups pressure on Venezuela to solve crisis. Available at: <https://www.pressreader.com/canada/calgary-sun/20171031/281887298568243>; Also: Peru fears Venezuela headed toward civil war: foreign minister. Available at: <https://www.reuters.com/article/us-venezuela-politics-peru/peru-fears-venezuela-headed-toward-civil-war-foreign-minister-idUSKBN1AQ0FY>. Access on 30 November 2017.

¹¹ Former Venezuelan Attorney General Flees to Colombia, Offered Asylum. Available at: <https://venezuelanalysis.com/news/13323>. Access on 30 November 2017.

¹² Venezuela ex-prosecutor: I have proof of Maduro corruption. Available at: <http://www.bbc.com/news/world-latin-america-41031469>. Access on 30 November 2017.

It must be noted that, recently, Luisa Ortega Diaz filed a complaint against Maduro, providing evidences of the corruption scandals and human rights violations; listing 8,290 deaths caused by the Bolivarian regime¹³.

The Former Attorney General lists 1,777 murders in 2015 by police and military personnel; 4,667 in the same circumstances in 2016, and by June 2017 other 1,846 deaths, all caused by Maduro's Dictatorship¹⁴.

The present complaint does not bring the documents, since they are not public, but, considering the facts reported in the international press – in several Countries, at least an investigation must start.

Venezuela submitted itself to the jurisdiction of the International Criminal Court, signing the Rome Statute in 1998¹⁵.

This Court is vested with the power to investigate and punish the crimes against humanity committed by Maduro. Meanwhile, murders, systematic torture, mass imprisonment, for political reasons, are taking place in Venezuela and the crisis is deepening. It lies in the hands and minds of the ICC the opportunity to interrupt this course of events in Venezuela.

There is a serious and deep crisis in the country, with the violation of human rights and concentration of even more power in Maduro's hands¹⁶.

The establishment of a new Constituent Assembly opens another stormy stage for Venezuelans. Rules will be drawn according to the whims of the United Socialist Party of Venezuela. And the Party belongs to Maduro.

This fact shows that the institutions do not work in Venezuela, since all powers are concentrated in the hands of the dictator. **For this reason, the intervention of**

¹³ Venezuela's president accused of crimes against humanity. Available at: <http://www.independent.co.uk/news/world/americas/venezuela-maduro-latest-news-crimes-against-humanity-accusations-icc-a8059551.html>. Access on 30 November 2017.

¹⁴ Ex-procuradora da Venezuela acusa regime de Maduro de ter cometido mais de 8.000 assassinatos. Available at: https://brasil.elpais.com/brasil/2017/11/16/internacional/1510850769_180858.html. Access on 30 November 2017.

¹⁵ Rome Statute of the International Criminal Court. Available at: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-10&chapter=18&clang=en

¹⁶ 40 countries protest Venezuela's new assembly amid fraud accusations. Available at: <https://www.theguardian.com/world/2017/aug/02/venezuela-voting-fraud-corruption-allegations-protests>. Access on 30 November 2017.

the International Criminal Court is necessary. There is no independent power in Venezuela.

Demonstrating the degree of corruption of institutions, recently elections were held in Venezuela, with a wide victory of the government candidates, despite the low popularity of the regime. Frauds were denounced by the international community¹⁷.

The instability in the country is so grave, that members of the Judiciary have also suffered reprisals from the government. For instance, three Venezuelan judges of Supreme Court, Beatriz Ruiz, Jose Fernando Nunez and Elenis Del Valle Rodríguez have sought asylum from the Chilean embassy in the country¹⁸.

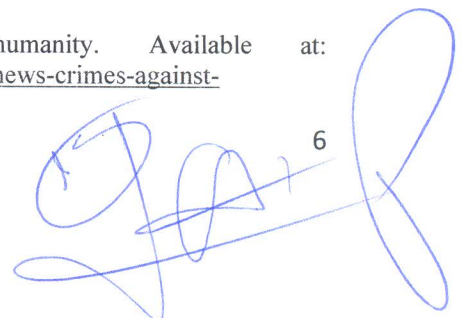
As General Attorney Ortega Díaz stated in her own words, **“Nicolás Maduro and his government should pay for these crimes against humanity just as they must also pay for the hunger, misery and hardship they’ve inflicted on the Venezuelan people.”** (...) **“We have been forced to turn to an international organisation, because there is no justice in Venezuela.”**¹⁹,

Her complaint should suffice as means to begin the investigation and prosecution, notwithstanding this, the aforementioned Brazilian Lawyers want to show solidarity and support for Ortega Díaz and the victims she represents.

¹⁷ In this regard, the President of the Higher Electoral Tribunal in Brazil, the Supreme Court Minister Gilmar Mendes, has sent a letter to the Inter-American Institute of Human Rights and Electoral Promotion requesting the suspension of Venezuela from electoral bodies in South America. See: TSE quer suspender Venezuela de organismos eleitorais sul-americanos. Available at: <https://www.conjur.com.br/2017-ago-04/tse-suspender-venezuela-organismos-eleitorais-sul-americanos>. Access on 30 November 2017.

¹⁸ Venezuelan magistrates who sought asylum in Chile arrive in Santiago. Available at: <http://www.epa.eu/politics-photos/diplomacy-photos/venezuelan-magistrates-who-sought-asylum-in-chile-arrive-in-santiago-photos-53842313>. Access on 30 November 2017.

¹⁹ Venezuela's president accused of crimes against humanity. Available at: <http://www.independent.co.uk/news/world/americas/venezuela-maduro-latest-news-crimes-against-humanity-accusations-icc-a8059551.html>. Access on 30 November 2017.



6

2. THE VIOLATION OF HUMAN RIGHTS AND THE CRIMES AGAINST HUMANITY COMMITTED BY MADURO: THE POLITICAL PERSECUTIONS, ARBITRARY PRISONS, SEXUAL ASSAULTS, TORTURES, THREATS, KIDNAPPING AND DEATHS CAUSED BY THE DICTATORSHIP

Among the many reports of serious human rights violations, there is the so-called "tomb" (La Tumba), prison where students and political dissidents are arrested. Some of them have been there for years, without any rights of defense.

The prison, whose name already indicates its finality, suppresses dissidents. It is five floors below ground, without light or any airing. There, prisoners are tortured. It is not a coincidence the tomb is located at the Bolivarian National Intelligence Service building²⁰.

The first to denounce the existence of this kind of prison internationally was the President of Colombia, Andrés Pastrana. He assured that in Venezuela, there are dozens of political prisoners and aberrant cases of human rights violations, of which the very existence and operation of "La Tumba" was an example. Students are held imprisoned, without seeing the light of the sun²¹.

These are the cases of the students Lorent Saleh, Gabriel Valles and Gerardo Carrero, who were taken to the tomb in 2014. Saleh and Valles, unfortunately, are still there²².

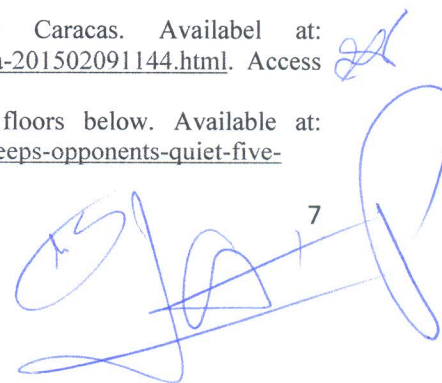
According to the report of the human rights lawyer Tamara Sujú Roa:

"In 'the grave', five stories below the surface, there are no sounds, no windows, no natural light or ventilation. Only the passage of the subway is heard, above the head. The seven cells of two by three meters are continuously aligned, one behind the other, so that detainees cannot be seen. White and brown walls, gray bars, with an opening where they put food. White cement

²⁰ Political protesters are left to rot in Venezuela's secretive underground prison. Available at: <http://www.news.com.au/finance/economy/world-economy/political-protesters-are-left-to-rot-in-venezuelas-secretive-underground-prison/news-story/62b3b855e6f4be85cafb2928368fd2dd>. Access on 30 November 2017.

²¹ «La tumba», siete celdas de tortura en el corazón de Caracas. Available at: <http://www.abc.es/internacional/20150210/abci-tumba-celdas-tortura-venezuela-201502091144.html>. Access on 30 November 2017.

²² Venezuelan prison labeled 'The Tomb' keeps opponents quiet five floors below. Available at: <http://www.foxnews.com/world/2015/08/17/venezuelan-prison-labeled-tomb-keeps-opponents-quiet-five-floors-below.html>. Access on 30 November 2017.



bed, white cement table. The detainees spend 24 hours a day protected by cameras and microphones. They just stretch their legs when they ring an internal bell to go to the bathroom, and there are times when they do not take them out, so they have a container (vacinica) intended for that emergency. There is no other color. Just white and gray. There is no sound, only their voices, there is no sun, no moon, no time, because they do not have a clock, so they have no idea of the time, and they do not know if it is really day or night"²³

According to relatives, young detainees often can't sleep, in the first month of detention the lights were kept on 24 hours a day; a kind of torture, which leaves no marks²⁴. All these young people are sick, with diarrhea, vomiting, high fever and hallucinations.

The visit of relatives is not, as a rule, permitted, and their lawyers are not easily accessible.

According to ABC news²⁵, "lawyer Omar Mora Tosta, director of the non-governmental organization called 'Justice and Proceedings', points out that in the 'tomb' the jailers practice 'white torture' or 'white death', which ends up breaking the will of detainees to force them to sign documents in which they plead guilty and commit third parties. So far, the detainees have resisted torture and have not signed any statement", says Mr. Tosta²⁶.

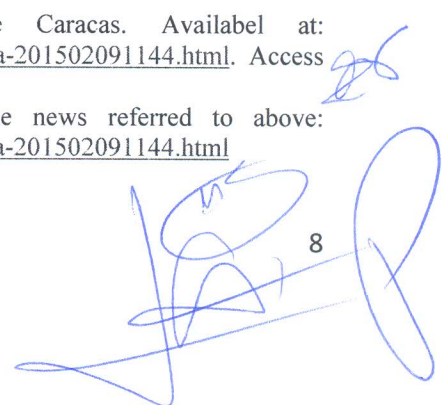
The serious crimes described are not punctual or isolated events. They are a method of government. This repressive method has been used for years! Torture, persecution, sexual abuse and murders are "modus operandi". This procedure describes the soul of the Bolivarian regime, a dictatorship disguised as social democracy.

²³ «La tumba», siete celdas de tortura en el corazón de Caracas. Availabel at: <http://www.abc.es/internacional/20150210/abci-tumba-celdas-tortura-venezuela-201502091144.html>. Access on 30 November 2017.

Political protesters are left to rot in Venezuela's secretive underground prison. Availabel at: <http://www.news.com.au/finance/economy/world-economy/political-protesters-are-left-to-rot-in-venezuelas-secretive-underground-prison/news-story/62b3b855e6f4be85cafb2928368fd2dd>. Access on 30 November 2017.

²⁵ «La tumba», siete celdas de tortura en el corazón de Caracas. Availabel at: <http://www.abc.es/internacional/20150210/abci-tumba-celdas-tortura-venezuela-201502091144.html>. Access on 30 November 2017.

²⁶ Our free translation into English, based on what was told in the news referred to above: <http://www.abc.es/internacional/20150210/abci-tumba-celdas-tortura-venezuela-201502091144.html>

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There are also well-known prisons of political opposition leaders, such as the case of Leopoldo Lopez, who has been imprisoned since February 2014. In 2015, Leopoldo Lopez was sentenced to 14 years in prison in a skewed process. In his appeal to the Inter-American Court of Human Rights, he obtained a favorable opinion²⁷, but the Venezuelan Judiciary did not comply with the decision of the International Court.

Recently, Lopez stayed more than 90 days without being able to see his lawyers, and, practically, an isolated month in a tower, in the Ramo Verde military prison²⁸. Although he was granted authorization for house arrest in 2017, Leopoldo Lopez was again taken to prison, for alleged violation of house arrest rules²⁹.

Opponents to the regime have their properties confiscated; authorities who are investigating the government end up being either themselves persecuted, or dismissed. It was the case of the Former Attorney General of Venezuela, Luisa Ortega Díaz.

When she was dismissed, Rodrigo Janot, Former Head of the Attorney's Office in Brazil, followed by other Attorney's Office in Latin America, condemned the fact³⁰. The note of the Prosecutors of Mercosur countries described Luisa's dismissal as a **"clear attack on the autonomy and independence of the Venezuelan public prosecutor"**³¹.

²⁷ Inter-american Court of Human Rights. Case Lopes Mendoza v. Venezuela. Available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_233_ing.pdf; see also: O momento em que líderes opositores são presos em suas casas de madrugada na Venezuela. Available at: <https://noticias.r7.com/internacional/o-momento-em-que-lideres-opositores-sao-presos-em-suas-casas-de-madrugada-na-venezuela-01082017>. Access on 30 November 2017.

²⁸ Venezuela Denies Family, Lawyers Access to Leopoldo López as Dissident Remains Missing. Available at: <http://www.breitbart.com/national-security/2017/05/05/venezuela-denies-family-lawyers-access-to-leopoldo-lopez-as-dissident-remains-missing/>. Detido desde 2014, opositor Leopoldo López vai a prisão domiciliar na Venezuela. Available at: https://brasil.elpais.com/brasil/2017/07/08/internacional/1499510421_745076.html. Access on 30 November 2017.

²⁹ Venezuela: Maduro condemned after opposition duo arrested in midnight raids. Available at: <https://www.theguardian.com/world/2017/aug/01/venezuela-maduro-government-opposition-leaders>. Access on 30 November 2017.

³⁰ CNMP condena destituição de procuradora-geral da Venezuela. Available at: <https://www.conjur.com.br/2017-ago-07/cnmp-condena-destituicao-procuradora-geral-venezuela>. Access on 30 November 2017.

³¹ DECLARAÇÃO DOS PROCURADORES GERAIS E FISCALES GENERALES DOS ESTADOS PARTE E ASSOCIADOS DO MERCOSUL DIANTE DA DESTITUIÇÃO DA PROCURADORA GERAL DA REPÚBLICA BOLIVARIANA DA VENEZUELA LUISA ORTEGA DÍAZ. Available at: <https://www.conjur.com.br/dl/mp-mercosul.pdf>. According to the note: "With this illegal act, the rule of law is profoundly undermined, especially in its facet of administration of justice, which directly affects all the inhabitants of Venezuela, because they do not have an autonomous and independent institution that defends the fundamental rights of victims and defendants and conduct investigations in an independent and impartial

Luisa Ortega Díaz has lost the right to hold any kind of office in Venezuela. She also had her assets frozen, being ordered not to leave the country. Even her family was threatened. The reason? Luisa broke with the government of Nicolás Maduro³².

Also the former Mayor of Caracas, Antonio Ledezma was persecuted by the regime, for political reasons. In November, he had to leave his country, fearing a possible kidnapping by the security forces³³. In widely publicized press interview in Madrid, Ledezma said: "there was an idea to revoke the house arrest benefit and take me to the grave. I believe that, enclosed in the tomb, I am not as useful as I can be in exile"³⁴.

Ledezma's fear is not unfounded, because this is the reality of persecutions against opponents in Venezuela.

Consider the case of Deputy Wilmer Azuaje, arrested since May, kidnapped on a military plane, arrested and victim of physical and psychological torture, according to several Venezuelan opposition leaders³⁵.

The opposition leader María Corina Machado also denounced that Deputy Azuaje "is brutally tortured physically and psychologically. He's been kidnapped for 114 days. We demand his immediate release!"³⁶

Regarding the arbitrariness of prisons, it is important to remember that, recently, even Brazilian journalists were arrested in Venezuela, just for trying to report a

manner ... The military siege to the Venezuelan Attorney General's building on Saturday is only the visible sign of this attack on the autonomy of the institution, an attack that was aggravated by the overthrow of the legitimate head of the Venezuelan Public Ministry" (free translation) Access on 30 November 2017.

³² Procuradora-geral da Venezuela diz que governo está ameaçando sua família. Available at: <https://noticias.r7.com/internacional/procuradora-geral-da-venezuela-diz-que-governo-esta-ameacando-sua-familia-13062017>. Access on 30 November 2017.

³³ Antonio Ledezma, Venezuelan Opposition Leader, Flees to Colombia. Available at: <https://www.nytimes.com/2017/11/17/world/americas/antonio-ledezma-venezuela-colombia.html>. Access on 30 November 2017.

³⁴ Opositor diz que saiu da Venezuela por medo de sequestro. Available at: <https://noticias.r7.com/internacional/opositor-diz-que-saiu-da-venezuela-por-medo-de-sequestro-20112017>. Access on 30 November 2017.

³⁵ Deputy Tomás Guanipa says that Deputy Wilmer Azuaje was abducted by officers of the Sebin and asks to act fast . Available at: <https://venezuela.liveuamap.com/en/2017/2-may-deputy-toms-guanipa-says-that-deputy-wilmer-azuaje>. Access on 30 November 2017.

³⁶ Opositores venezuelanos dizem que deputado preso está sendo torturado. Available at: <https://noticias.r7.com/internacional/opositores-venezuelanos-dizem-que-deputado-preso-esta-sendo-torturado-24082017>. Access on 30 November 2017.

work not completed by Odebrecht that is at the center of the Brazilian Corruption scandal³⁷.

People considered opponents, usually, are forbidden to leave the country. It happened, for instance, with Leopoldo Lopez's wife, Lilian Tintori, who intended to meet important world leaders, like Emmanuel Macron (France), Angela Merkel (Germany), Mariano Rajoy (Spain) and Theresa May (United Kingdom), to expose the arbitrariness of Maduro's dictatorship³⁸.

To silence the opponents, Venezuelan Constituent Assembly, which is made up of government officials, has approved a kind of "Anti Hate Law", providing till 20 years of imprisonment for those who publish "harmful" messages to the regime³⁹.

This authoritarian law allows the State to cut TV signals, such as the recent cases of "Caracol Television" and Spanish CNN.

Last, but not least, it is important to report the bloody events that have taken place, recently. During the popular manifestations against the dictatorship, hundreds of people were arrested, dozens were killed, thousands were injured, as a result of truculent actions, never seen before in South America. Sexual assaults have been reported as well.

Ten youths were arrested on May 15, in the State of Aragua, and subjected to various abuses, including rapes⁴⁰. One of them was forced to kneel, had his arms immobilized, with a hood in his head, and had the anus inserted by a tube. And it was not an isolated case⁴¹.

In 70% of the cases reported, there was some kind of sexual abuse: the detainees were naked, touched, forced to stand in positions showing their private parts and

³⁷ Jornalistas brasileiros são presos na Venezuela. Available at: <http://veja.abril.com.br/mundo/jornalistas-brasileiros-sao-presos-na-venezuela/>. Access on 30 November 2017.

³⁸ Venezuela stops activist Lilian Tintori from leaving the country. Available at: <http://edition.cnn.com/2017/09/03/americas/venezuela-stops-activist-lilian-tintori-from-leaving/index.html>. Access on 30 November 2017.

³⁹ Venezuela's new "anti-hate" law seeks to silence media. Available at: <https://cpj.org/2017/11/venezuelas-new-anti-hate-law-seeks-to-silence-medi.php>. Access on 30 November 2017.

⁴⁰ 'Gritava e chorava...tive tanto medo que me mije!': as denúncias de tortura contra manifestantes na Venezuela. Available at: <https://noticias.r7.com/internacional/gritava-e-choravative-tanto-medo-que-me-mije-as-denuncias-de-tortura-contra-manifestantes-na-venezuela-30062017>. Access on 30 November 2017.

⁴¹ Colombian Man Details Sexual Assault by Venezuelan Soldiers During Deportation. Available at: <http://www.breitbart.com/national-security/2015/09/03/colombian-man-details-sexual-assault-by-venezuelan-soldiers-during-deportation/>. Access on 30 November 2017.

some were victims of rape, says the lawyer Tamara Sujú, director of the studies for Latin America based in the Czech Republic, which analyzes the democracies in the region⁴².

Several international organizations have pointed out the criminal acts practiced by Maduro. These reports prove the systematic violation of human rights.

Tamara Sujú, who coordinated the Non-Governmental Organization Criminal Forum, visited several Venezuelan prisons since 2002, when the first accusations of torture arose; according to Sijú, the NGO has already "documented 600 cases of torture, of which 200 occurred after 2014"⁴³.

Erika Guevara, director of Amnesty International for the Americas⁴⁴, declared: "what is happening in Venezuela is unprecedented in the recent history of the country, it is very worrying" (...) "It is one of the worst human rights violations in the continent, due to the seriousness of the facts, their systematic nature, the lack of independence of the Powers and the impunity that exists"⁴⁵.

Even the United Nations Human Rights Office of the High Commissioner has prepared a very deep study, exposing all the human rights violations and abuses in the context of protests, especially between April and July, 2017⁴⁶. Furthermore, the Human Rights Watch and the Penal Forum documented 88 cases involving at least 314 people who were victims of serious human rights violation⁴⁷.

⁴² 'Gritava e chorava...tive tanto medo que me mije!': as denúncias de tortura contra manifestantes na Venezuela. Available at: <https://noticias.r7.com/internacional/gritava-e-choravative-tanto-medo-que-me-mije-as-denuncias-de-tortura-contra-manifestantes-na-venezuela-30062017>. Access on 30 November 2017.

⁴³ Tortura na Venezuela é denunciada a tribunal internacional. Available at: <http://www.gazetadopovo.com.br/ideias/tortura-na-venezuela-e-denunciada-a-tribunal-internacional-0edtcpuwec9dfhotijlvdfv9w>. Access on 30 November 2017.

⁴⁴ Venezuela: Repression taken into people's living rooms as home raids surge. Available at: <https://www.amnesty.org/en/latest/news/2017/10/venezuela-allanamientos-ilegales-en-aumento-mientras-la-represion-llega-a-hogares/>. Access on 30 November 2017.

⁴⁵ 'Gritava e chorava...tive tanto medo que me mije!': as denúncias de tortura contra manifestantes na Venezuela. Available at: <https://noticias.r7.com/internacional/gritava-e-choravative-tanto-medo-que-me-mije-as-denuncias-de-tortura-contra-manifestantes-na-venezuela-30062017>. Access on 30 November 2017. (free translation).

⁴⁶ Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017. Available at: http://www.ohchr.org/Documents/Countries/VE/HCReportVenezuela_1April-31July2017_EN.pdf. Access on 30 November 2017.

⁴⁷ - <https://www.hrw.org/report/2017/11/29/crackdown-dissent/brutality-torture-and-political-persecution-venezuela>

3. THE PUNISHMENT OF SERIOUS CRIMES AGAINST HUMANITY AND THE NEED OF ICC'S INTERVENTION

Every fact described above points to one direction: the rising of a criminal State in Venezuela and the rupture of the social contract. The social contract executed by the People, once in force in the country, for the democratic regime which Venezuelans had accepted, is long gone. The concentration of power solely in Maduro's hands, the absence of separation of powers, and the ongoing physical and psychological violence practiced against its citizens constitute sufficient indications that the Venezuelan State is no longer under control of the Venezuelan People.

The current Venezuelan State has not only become contrary to democratic principles, but has dived even deeper than that: it has become a criminal State. The criminal State has no legitimacy at all, and instead of protecting the People, it turns against them, crushing either their moral or physical integrity.

The crimes against humanity committed by the State put the theory of international liability of the State in a new perspective, due to the internal violation of international norms capable of immediately making a State liable regardless of the existence of guilt or malice. The criminal State's liability is strict.

Aiming at curbing and punishing this criminal behavior and, above all else, at protecting human dignity, the ICC has been molded by the international community.

“The Rome Statute that created the International Criminal Court represents a decisive milestone in the evolution of inter-state international law to humanitarian law, within which criminal law stands out as the ultimate safeguard of human rights against human dignity, through punishment of international crimes.”⁴⁸

International Criminal Law was designed and instituted for serious situations such as those mentioned above, offenses to basic values of international coexistence, disrespect for human rights, especially when there is no observance by the State, the main aggressor to these principles.

⁴⁸ PAIS, Ana Isabel Rosa. *O direito internacional e a responsabilidade dos superiores hierárquicos (International law and the accountability of hierarchical superiors)*. Coimbra Editora, 2013, p. 157 (Free translation)

When the internal institutions of a Member state have no means of suppressing attacks on human rights, International Criminal Law must intervene.

When mankind has either forgotten or relegated its recent past to distant and impersonal memories, International Criminal Law must intervene.

When the international community of States does not give sufficient and efficient attention to solving the so-called matter of internal politics, International Criminal Law must intervene.

And that is so, because one must never forget. One must never forget how easily violence can be systematically applied by those who have the exclusive control of force.

The International Criminal Court, by means of the competence – not to say mission – attributed to it, is an important international instrument that keeps the memory of the history of humanity alive, so that we do not forget who we are, what we are capable of, or what we must never let reoccur. That is why Roméo A. Dallaire's words remain so important to this day:

“The following is my story of what happened in Rwanda in 1994. It's a story of betrayal, failure, naïveté, indifference, hatred, genocide, war, inhumanity and evil. Although strong relationships were built and moral, ethical, and courageous behavior was often displayed, they were overshadowed by one of the fastest, most efficient, most evident genocides in recent history. In just one hundred days over 800,000 innocent Rwandan men, women and children were brutally murdered while the developed world, impassive and apparently unperturbed, sat back and watched the unfolding apocalypse or simply changed channels. Almost fifty years to the day that my father and father-in-law helped to liberate Europe – when the extermination camps were uncovered and when, in one voice, humanity said, “Never again” – we once again sat back and permitted this unspeakable horror to occur. We could not find the political will nor the resources to stop it. Since then, much has been written, discussed, debated, argued and filmed on the subject of Rwanda, yet it is my feeling that this recent catastrophe is being forgotten and its lessons submerged in ignorance and

apathy. The genocide in Rwanda was a failure of humanity that could easily happen again.”⁴⁹

The International Criminal Court is the main judicial body for combating international crimes and as set out in its preamble (Rome Statute), there are the following duties to act, when present these circumstances:

“Conscious that all peoples are united by common bonds, their cultures pieced together in a shared heritage, and concerned that this delicate mosaic may be shattered at any time, Mindful that during this century millions of children, women and men have been victims of unimaginable atrocities that deeply shock the conscience of humanity, Recognizing that such grave crimes threaten the peace, security and well-being of the world, Affirming that the most serious crimes of concern to the international community as a whole must not go unpunished and that their effective prosecution must be ensured by taking measures at the national level and by enhancing international cooperation, Determined to put an end to impunity for the perpetrators of these crimes and thus to contribute to the prevention of such crimes, Recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for international crimes, Reaffirming the Purposes and Principles of the Charter of the United Nations, and in particular that all States shall refrain from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, Emphasizing in this connection that nothing in this Statute shall be taken as authorizing any State Party to intervene in an armed conflict or in the internal affairs of any State, Determined to these ends and for the sake of present and future generations, to establish an independent permanent International Criminal Court in relationship with the United Nations system, with jurisdiction over the most serious crimes of concern to the international community as a whole. Emphasizing that the International Criminal Court established under this Statute shall be complementary to national criminal jurisdictions, Resolved to guarantee lasting respect for and the enforcement of international justice”

All acts above constitute crimes against humanity and were ordered by Maduro’s government. As shown, the Venezuelan institutions are not able to act on their own, since the regime in force is a totalitarian dictatorship. Then, if nothing is done, the crimes will remain unpunished and the victims will not be protected.

⁴⁹ DALLAIRE, Roméo A. *Shake hands with the devil: the failure of humanity in Rwanda*. Vintage Canada: Toronto, 2004, pp. xvii-xviii.

This Court's action is urgently required, and its action is within the purview of Article 1 (complementary action to State action, when it does not have conditions to punish crimes and protect victims) and Article 17, since Venezuela is clearly unwilling and unable to carry out neither the investigation nor the prosecution.

In any case, any lawsuit concerning the crimes committed by Maduro, if placed in Venezuela, will be a mock trial, a fraud. For sure, this mockery would be made for the purpose of shielding the President from criminal responsibility for crimes within the jurisdiction of the Court referred to in article 5.

In this regard, it should be noted that even ordinary crimes could not be investigated in Venezuela, such as corruption cases involving the Brazilian Company Odebrecht and Maduro's government, since the General Attorney herself was forced to flee the country for fearing persecution.

According to the Rome Statute, all the conditions for this Court to act are present, and it is a duty to act before the barbarities that have been taking place in Venezuela, which have been shocking the entire international community. Let's see:

Venezuela accepted the jurisdiction of this Court with respect the crimes referred to in article 5, as provided in article 12.

The crimes occurred after the entry into force of the Statute, especially in recent years, with Maduro's government, in accordance with articles 11 and 24.

Among the various crimes committed are crimes against humanity and crimes of genocide, all of which are described in articles 5 (*a* and *b*), 6 and 7 of Rome Statute, deliberately committed against the Venezuelan people, more precisely against those who do not support or are not subservient to the dictatorship. According to article 6 (Statute), genocide means:

- (a) **Killing members of the group;**
- (b) **Causing serious bodily or mental harm to members of the group;**
- (c) **Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;**

The genocide crime generally has a more specific configuration, reserved for certain groups, especially due to certain characteristics, although there are authors who bring political issues⁵⁰.

In the case, the crimes have been practiced more broadly, against all those who oppose Maduro's regime. Thus it is a clear case of crimes against humanity.

Likewise, these facts constitute crimes against humanity, since, as provided in article 7, "for the purpose of this Statute, 'crime against humanity' means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack", as:

- Murder;
- Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international Law;
- Torture that means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused;
- Rape or any other form of sexual violence of comparable gravity;
- 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;
- Enforced disappearance of persons, the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time;
- Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Well, all the conducts described above are being practiced in Venezuela, systematically and on a large scale, given the hundreds of deaths caused, the violence of the military authorities, the arbitrary arrests, the sexual assaults, the tortures practiced, in order to frighten the population, the threats of state agents, the expropriations, forcing people to flee their country, fearful of reprisals, all this setting a state of exception, which has been happening for years in the country.

⁵⁰ NETO, José Cretella. *Curso de direito internacional penal (International criminal Law)*. Ijuí: Unijuí, 2008, p. 337.

For all the above, for all the series of events narrated, which are public, it is not possible ignore what has been happening in Venezuela, so there is no doubt that the responsibility rests on President Maduro, who concentrates in his hands all the powers. Mens rea is present!

There is no way to separate criminal conduct from a totalitarian state of those of its dictator.

Precisely, the Statute aims to punish acts of the state leaders, who, often, for not performing directly the conduct, intend to hide behind the acts of subordinates.

In this sense, the law is clear when mentioning, in article 27, in its paragraphs 1 and 2, “this Statute shall apply equally to all persons without any distinction based on official capacity. In particular, official capacity as a Head of State or Government, a member of a Government or parliament, an elected representative or a government official shall in no case exempt a person from criminal responsibility under this Statute, nor shall it, in and of itself, constitute a ground for reduction of sentence. 2. Immunities or special procedural rules which may attach to the official capacity of a person, whether under national or international law, shall not bar the Court from exercising its jurisdiction over such a person.”

As provided in article 25, paragraph 3 “In accordance with this Statute, a person shall be criminally responsible and liable for punishment for a crime within the jurisdiction of the Court if that person:

(a) Commits such a crime, whether as an individual, jointly with another or through another person, regardless of whether that other person is criminally responsible;

(b) Orders, solicits or induces the commission of such a crime which in fact occurs or is attempted;

(c) For the purpose of facilitating the commission of such a crime, aids, abets or otherwise assists in its commission or its attempted commission, including providing the means for its commission;

(d) In any other way contributes to the commission or attempted commission of such a crime by a group of persons acting with a common purpose. Such

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contribution shall be intentional and shall either: (i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of a crime within the jurisdiction of the Court; or (ii) Be made in the knowledge of the intention of the group to commit the crime;

(e) In respect of the crime of genocide, directly and publicly incites others to commit genocide.

Article 28 also provides liability in case of omission, which is not the case for, but even if it is alleged that there was no commission or act by the President, the Rome Statute provides: “With respect to superior and subordinate relationships not described in paragraph (a), a superior shall be criminally responsible for crimes within the jurisdiction of the Court committed by subordinates under his or her effective authority and control, as a result of his or her failure to exercise control properly over such subordinates, where:

(i) The superior either knew, or consciously disregarded information which clearly indicated, that the subordinates were committing or about to commit such crimes;

(ii) The crimes concerned activities that were within the effective responsibility and control of the superior; and

(iii) The superior failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution”

Of course, it is not possible to say that Maduro's conduct is based on omission, since crimes are practiced with his knowledge, quite typical of what is conventionally called “**control over an organization**” (Claus Roxin) and so this court has been taking into account by adducing “**the cases most relevant to international criminal law are those in which the perpetrator behind the perpetrator commits the crime through another by means of "control over an organisation" (Organisationsherrschaft)**”⁵¹.

⁵¹ Human rights violations and abuses in the context of protests in the Bolivarian Republic of Venezuela from 1 April to 31 July 2017. Available at: https://www.icc-cpi.int/CourtRecords/CR2008_05172.PDF, (p. 168). Access on 30 November 2017.

“Despite some criticism of this doctrine, the Chamber notes that the drafters of the Rome Statute sought to establish a mode of commission in article 25(3)(a) of the Statute which encompasses the commission of a crime through a non-innocent individual (i.e. responsible) acting as an instrument. Accordingly, contrary to suggestions of Germain Katanga's Defence at the hearing on 11 July 2008, 661 assigning the highest degree of responsibility for commission of a crime — that is, considering him a principal — to a person who uses another, individually responsible person to commit a crime, is not merely a theoretical possibility in scarce legal literature, but has been codified in article 25(3)(a) of the Statute”⁵².

“The most important reason for this Chamber's deciding for this mode of liability is that it has been incorporated into the framework of the Statute. The crimes falling within the jurisdiction of this Court — those of “the most serious [...] concern to the international community as a whole”, and which “threaten the peace, security, and well-being of the world” — will almost inevitably concern collective or mass criminality.⁶⁶⁴ The Chamber finds that by specifically regulating the commission of a crime through another responsible person, the Statute targets the category of cases which involves a perpetrator's control over the organisation”⁵³.

According to Jorge de Figueiredo Dias, a respected Portuguese Author, following the Claus Roxin's lessons, the theory of control over the organization can be applicable, as in the hypothesis of a political, military or police organization that seizes the state, as the Nazi state, the Communist regime or the military dictatorships in Latin America⁵⁴, emphasizing that today Venezuela is in fact a military dictatorship.

⁵² International Criminal Court. SITUATION IN THE DEMOCRATIC REPUBLIC OF THE CONGO IN THE CASE OF THE PROSECUTOR v. Germain Katanga and Mathieu Ngudjolo Chui. Decision on the confirmation of charges. Available at: https://www.icc-cpi.int/CourtRecords/CR2008_05172.PDF, (p. 168)

⁵³ *Idem ibidem*. Available at: https://www.icc-cpi.int/CourtRecords/CR2008_05172.PDF, (p. 169). Access on 30 November 2017.

⁵⁴ DIAS, Jorge de Figueiredo. *Questões fundamentais do direito penal revisitadas (Fundamental questions of criminal law revisited)*. São Paulo: RT, 1999, p. 366.

4. REQUEST FOR CRIMINAL INVESTIGATION: VENEZUELA'S SITUATION IS A MATTER OF GREAT CONCERN WORLDWIDE

Considering that The United Nations and human rights organizations, such as Amnesty International, have already reported violations in Venezuela on several occasions.

Considering that in August 2017, in response to the brutal repression against protesters in April 2017, the United Nations denounced that at least 5000 people were detained by the Venezuelan armed forces in a widespread and systematic manner⁵⁵. In addition to a total of 124 dead, about 2000 people were injured.

Considering that also at the Organization of American States, the situation of Venezuela has been discussed at the initiative of its Secretary General, Mr. Almagro⁵⁶, and hearings have been held to support probable action at the International Criminal Court.

Considering that several authorities in Latin America have risen against the Venezuelan authoritarian regime and crimes against humanity perpetrated by their regime. In this regard, Senators from Colombia and Chile recently, on 18 July 2017, lodged a complaint with the Office of the Prosecutor of the Court, which lists various crimes committed, such as torture, segregation apartheid, selective homicides, kidnappings and deportations.

Considering that Venezuela's own Attorney General, who had to flee the country, being another victim of Maduro's regime, filed a complaint for the crimes committed in Venezuela.

Finally, considering all the facts presented in this petition, which are well known throughout the world, and have already been the subject of many other complaints, since there is a reasonable basis to proceed with an investigation, respectfully we require Your Honor shall start this investigation. Venezuelans need ICC's help!

⁵⁵ UN slams 'widespread and systematic use of excessive force' in Venezuela. Available at: <http://www.telegraph.co.uk/news/2017/08/08/un-slams-widespread-systematic-use-excessive-force-venezuela/>. Access on 30 November 2017.

⁵⁶ OAS Chief Almagro Praises Israel, Condemns Venezuela. Available at: <https://www.telesurtv.net/english/analysis/OAS-Chief-Almagro-Praises-Israel-Condemns-Venezuela-20170810-0030.html>. Access on 30 November 2017.

In order to testify the facts above, the following witnesses are listed and the following documents are attached.

1- Sandro Barboza de Araújo

Rua Carlos Cirilo Jr, 92; Jornalismo- TV
Morumbi, São Paulo, SP, CEP 05614-000, Brazil

2- Josenildo Tavares Paula

Rua Carlos Cirilo Jr, 92; Jornalismo- TV
Morumbi, São Paulo, SP, CEP 05614-000, Brazil



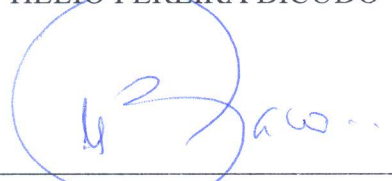
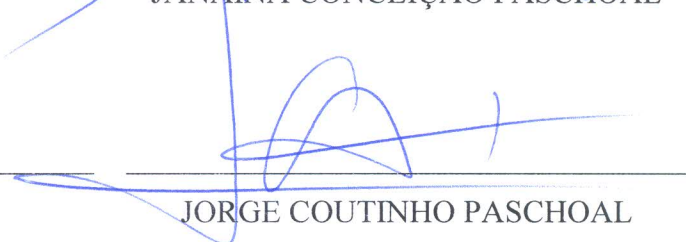
3- Yamileh Saleh

Urbanización Valle de Camoruco
Avenida Orinoco, Prebo, Residencia Luxor
Apartamento 1b, Valencia Estado Carabobo, Venezuela

4- Lilian Tintori

8va Transversal, entre 3ra y 4ta Avenida de Los Palos Grandes, Caracas, Venezuela

São Paulo, the Eighth of December, 2017.

	
_____ HÉLIO PEREIRA BICUDO	_____ JANAÍNA CONCEIÇÃO PASCHOAL
	
_____ MARISTELA BASSO	_____ JORGE COUTINHO PASCHOAL