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## THE FINANCIAL OVERVIEW OF BRAZILIAN MASSIVE INDEBTEDNESS AND THE POLITICAL AND LEGAL CAUSES THAT GENERATED THIS SERIOUS SOCIOECONOMIC PROBLEM IN BRAZIL

The legal principles in Brazil approved by the Legislative Branch in the performance of the Banks are against the principles defended by the World Bank.

The serious risk that Brazil runs from having the dignity of its people harmed by the merciless collection by the banks of extremely high interest totally incompatible with the principles of justice, fight against poverty and fight against non-social development, which are the principles defended by the Bank Worldwide.



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In a recent survey, the National Confederation of Trade in Goods, Services and Tourism and the specialized press reported that 65.3% of Brazilian families have debts and financing with banks and financial institutions that are part of the National Financial System.

The survey in the survey considers as overdue accounts payable by overdraft, credit card, personal loan and car and real estate financing.

However, it is observed that in SFN there are approximately 70 types of loan and financing contracts, which are from the Bank Credit portfolio for individuals and companies, from the Rural Credit portfolio (Law 4,829/65), Commercial Credit (Law 6,840/66) and Industrial Credit (Decree-Law 413/69). The survey only focused on the Bank Credit portfolio, which on average has 60 types of loan agreements between short and long-term loans and asset financing. Thus, it is correct to say that the debts of Brazilians are much greater than those declined in the press informed by this research, which only took into account five types of loan agreements that generated those five types of debt and financing.

The number of households with overdue accounts increased from 23.8% in January to 24.1% in February 2019. This survey was carried out two years ago and in 2020 the survey found that the percentage of households that are unable to paying its debts in arrears, thus entering into the condition of defaults with banks, had 9.6% from January 2020 to 9.7% in February last year. In February 2019 this percentage was 9.2%.

The largest volume of non-performing companies in 2019 is in the services sector, with 50.2% and trade had a 40.4% margin in December 2019.

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Research and news in the press also inform that of these indebted families, 78.6% of the debts are with the credit card, that the interest in this year of 2021 has varied, depending on each bank and financial institution from 300% to 739, 56% per year, according to the interest table of all SFN members published monthly by BACEN. This is the scenario behind the scenes of the economy and society in relation to the personal finances of individual and corporate credit borrowers in Brazil, although the reality is much more worrying than what this research presented in percentages.

In the National Financial System, banks and financial institutions operate on loan and financing contracts (mutual) on 70 types of debt on average and banks and finance companies are free to charge any remunerative interest rate under the free market competition rule and the law of supply and demand.

In this scenario of financial war, BACEN has published monthly the interest rates charged by all banks and financial institutions that operate in SFN, in the Special Check loan, Banco do Brasil SA - 7.56% per month and 139.74% per year ; Itaú Unibanco S.A - 7.66% per month and 142.58% per year; Banco Safra S.A - 7.85% per month and 147.61% per year; Banco Bradesco S.A - 7.90% per month and 148.98% per year; Banco Santander S.A - 7.91% per month and 149.35% per year, just to mention the five (5) largest banks operating in Brazil, in a list of 39 banks and financial institutions listed in this interest table published by BACEN. This interest rate charged by these banks mentioned above is for the period from 29.05.2020 to 06.06.2020.

On the credit card that commits 65.3% of the debts of Brazilian families, the rates are ruthlessly higher, with Banco do Brasil S.A - 8.59% per month and 168.68% per year; Banco Bradesco S.A - 10.43% per month and 228.84%

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per year; Banco Safra S.A - 11.09% per month and 253.37% per year; Banco Triângulo S.A 19.39% per month and 738.88% per year; Banco Crefisa S.A 19.40% per month and 739.56% per year. (BACEN publication, table of interest charged by SFN banks from May 29, 2020 to June 4, 2020). As shown by the publications in Brazil, the fees charged by the 39 banks that operate in the SFN are very high and unfair, which go against the policy to combat social injustice and against the policy to combat the eradication of poverty, policies that are the foundations of the countries developed and with a high degree of human and social development.

In 1988 with the promulgation of the Federal Constitution, art. 192 of the Magna Carta was the safeguard of the legal limitation of unrestrained and unfair interest charges that had been imposed on Brazilians by bankers, but which was abruptly revoked because it was not regulated by members of the legislative branch. Thus, to this day, Brazilian citizens and companies have no constitutional law and no ordinary federal law that protects them as credit borrowers in the SFN, noting that in these 30 years from 1988 to the present day, the interest rates have been very high. and incompatible with the borrowers' production capacity. A social injustice with harmful consequences for the generations of parents, children and grandchildren as it is 70 (seventy) years of lawless Brazil in this area of the economically active and productive society in Brazil.

Contrary to this chaotic picture above, the World Bank, whose Master Policy is founded on three fundamental principles of combating poverty, combating social injustice and enhancing human dignity and social development, whose study the World Bank demonstrated that in 76 developed and developing countries there is a strong concern of the Legislative Power (motivated and demanded by organized civil society) to

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create and improve bills that protect citizens and businesses, which are the driving forces that generate sustainable revenues and GDP, against the speculative voracity of unequal interest charges by banks and financial institutions. In this study commissioned by the World Bank, in October 2014, it was found that 32 countries established relative ceilings and 24 countries established absolute interest rate ceilings. In the Brazilian case, the limit for overdraft, e.g. it is an absolute of 8% per month on average. And this study for example demonstrates that the maximum rate for the French in overdraft - découvert (descubierta) - was 13.81% per year, following the same levels as interest rates on credit cards, while here in Brazil the rates of interest on overdraft facilities reached 149.35% per year and credit card interest has been charged at an interest rate of up to 739.5% per year.

Faced with this harmful reality for the productive society, and a worrying scenario for a people victim of a segmented, unfair political-legal system and subjugated by economic and financial power, with the aggravation of a scenario of economic recession and unemployment created by the pandemic resulting from the COVID, it is the moment for organized civil society to uncross the arms and the mind and go out in defense of the approval of a Bill that limits in a fair and coherent way the harmful and unfair collection that is of the extremely high and abusive rates of remunerated interest charged freely by banks and financial institutions in Brazil. Concomitantly, however, each citizen and each company should request a review of the amounts of the debit balance of its debts and financing with the most recent sense of justice, in this area, taken by the Judiciary in defense and delivery of Justice to Brazilians, by the favorable decisions of the Superior Court of Justice (STJ) and the main State Courts, which in numerus clausulus, refute several illegal elements practiced by

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banks in the formation of the quantum of Brazilian debts. These decisions are being handed down by the main State Courts such as those in São Paulo, Paraná, Minas Gerais and Rio Grande do Sul, as well as by the Court in the final instance, the Superior Court of Justice.

Justice, in recent judgments, has condemned the banks to remove the following illegal elements nullifying the clauses of the banks' adhesion contracts, not allowing the collection of default interest, as it understands that due to the illegalities practiced, the banks are in default; the permanence commission charge, the collection of interest on interest (anatocism) is nullified; nullifying changes in charges in default situations; nullifying remunerative interest rates that exceed the monthly average of the average remunerative interest rate published by BACEN for each type or type of debt or financing, which in Brazil's financial system is around seventy (70) types, sixty (60) types in typical bank credit, and 10 (ten) operations in the rural credit and industrial credit portfolio, the development portfolios for the development of agriculture and national industries.

The Judiciary is delivering justice in a heroic initiative to express all the principles of primary law, in the absence of a specific ordinary law that defends the population as a whole, fighting with the few sparse laws that have this situation in a boiling situation of injustice that the population and companies live in Brazil. Remember that while the STF has decisions often motivated by political-legal principles, the STJ and the State Courts are strictly legalistic and jurisdictional inasmuch as their decisions are strictly motivated by virtue of the law or the General Principles of Law. We must honor those magistrates who have not been subjugated to the economic

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and financial power that subjugate the driving forces of productivity in society.

These elements declared illegal by the STJ, as a court of last resort in decisions on infraconstitutional matters, are not sufficient to restore justice, social peace and rescue the human dignity of Brazilians, as the situation requires the elaboration and approval of a Bill of Law by the Legislative Power so that Brazil can enter in a correct path, like the 76 countries mentioned by the World Bank, in the same line of the politicians of the emerging countries that value and defend the principles of economic growth with social justice, fight against poverty and defense and protection of the fundamental rights of the person and human dignity. Brazil is against the policy of the World Bank, which has in these five (5) pillars the foundation of its policy worldwide followed by developed countries and by bodies such as the UN and FAO.

It is a serious risk that Brazil runs from having the dignity of its people harmed for generations as this heavy burden of unjust debts undermines the development of the human person, as it robs peace, physical and emotional health, good education and the leisure, the family economic structure being compromised for years or decades, degrading the self-esteem of children and adolescents who are deprived of comfort, good schools, dentists, doctors, cultural and leisure trips, social life and well fundamental elements for psychological health in the unconscious and for social and human development, in addition to the fact that rampant injustice is the cause of family and family conflicts all kinds of psychological disorders and sadnesses of the soul, in addition to the increase in social conflicts and crime.

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Organized civil society needs to act urgently in defense of its fundamental rights, demanding a Bill to reverse this situation of social injustice resulting from the lack of a law that protects fundamental rights in taking credit at fair levels and protected by ordinary law. "Fair! Fair! Fair law for everyone!" It should be the slogan on the streets while there is time for the sun of justice to shine!

To conclude, instead of the people, the civil society, and the business class of the country being organizing themselves for the elaboration of bills of law in this area that has fatigued 65.3% of the families with debts that sleep, because these debts it has in its formation core elements that make up the unjust and illegal quantum an debeatur, which lead debts to become a serious social problem (which could be avoided), who have proposed the Bill are the parliamentarians who represent the banks and the Financial Institution.

On February 10, 2021, the Chamber of Deputies recently voted PLP (Complementary Law Project) n. 19/2019, which deals with the autonomy of the Central Bank of Brazil to create fixed mandates for the directors and for the presidents of BACEN that do not coincide with the mandates of elected presidents of the Republic. This Bill aims to determine and create by law the absolute autonomy of the BACEN in relation to the Executive Power, although the BACEN is a body that is part of the Executive Power and to this Power it must be linked and subordinate. It would be like analogously creating, through the Complementary Law, autonomy for a federal body of great importance for the Judiciary, giving this body autonomy to be detached from the internal corporate decisions of the Judiciary and have absolute autonomy to decide internally and decide on external issues with the approval of this Complementary Law. In this

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Complementary Law, BACEN will have absolute autonomy to take internal decisions and to take external decisions of interest to Brazilians and Brazil, and this responsibility falls to the Executive Branch. Unfortunately, this Complementary Bill was approved by the Federal Senate and the Law that gives autonomy to the Central Bank came into force on February 25, 2021. It is Complementary Law no. 179.

Data contained in the doctoral thesis presented at USP by the Law Scientist Eric Gil Dantas (2019) show that 53% of the 24 directors appointed to BACEN during the Real Plan period and the second Dilma Government, originated outside BACEN and the State itself, these directors came from banks and financial institutions. The thesis also shows that in the BACEN's Economic Policy directorates the index of directors who come from banks rises to 88% and also that those directors who left BACEN in this period 74% returned to work as executives and directors of banks and financial institutions operating on SFN loan agreements.

So it's time for Brazil and Brazilians to wake up because behind the scenes political forces are working behind the scenes, checking what they can bring in additional benefits to increase the wealth and fortunes of the banking sector and financial institutions operating in Brazil in a meltdown. from the policy to fight injustice and the obstacle to economic and social development with inhumane interest policies incompatible with the principles of fighting social injustice, combating policies that go against human valorization.

The legal principles and laws in Brazil approved by the legislative power that give autonomy to the BACEN, as well as restricted and annulled the right of Brazilians in art. 192 of CF / 88, in this area of loan operations that are the

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object of the business of banks and financial institutions are against the Policy and the principles of Human, Economic and Social development defended worldwide by developed countries.

It is of fundamental importance to initiate an awakening of citizenship for justice and legality that each citizen and each entrepreneur, who form Brazilian society, has the conscience and awakens the spirit of citizenship and through financial professionals (economists, accountants and specialized legal auditors) Experts and specialists in this area carry out a Technical Expertise to determine the legal value based on the STJ's position on the last decisions made, the debts and financing of each family and each company that is in this financial debt circle, growing every day, and requires, based on Law No. 13,140, of January 26, 2015, the opening of a reasonable period for negotiation, for amicable settlement in an out-of-court settlement with banks and financial institutions with a view to easing and restoring balance and good to be social and human in this terrible situation because the Brazilian people are passing by, maximally in these difficult times of recession and onomic because of the world pandemic. The Law guarantees this initiative and this right to extrajudicial recalculation of debts and financing as a mechanism created by the State in the amicable solution of conflicts in individual, collective and diffuse rights.

This awareness of the productive agents of society massively indebted is necessary to proceed, using their constitutional right to safeguard their individual rights, carrying out recalculation of their debts and financing through financial experts, as the voracity and ruthless practices of unfair interest on the part of banks and financial institutions in the last 30 years (CF / 88) is immoral and hurts the dignity of the human person, as it is the main cause responsible for material (impoverishment) and psychological

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decay (emotional illnesses) ) of those who are hostages and victims of banks and financial institutions, due to the basic needs that lead credit and financing borrowers to carry out loan operations for the acquisition of housing, health treatment, education of children, purchase of vehicles for locomotion and work and attempt to improve the standard of living by undertaking in companies that end up succumbing in the face of an unfair legislative political situation that contributes greatly to bankruptcies and requests for judicial reorganization by business organizations, due to the debts and financing they do not have. in its quantum elements the values of righteousness and justice.

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