

## **Human Rights and Indigenous Communities**

### ***Valley of the River Ribeira, São Paulo, Brazil***

The EAACONE – The Black Communities Support and Coordination Team of the Valley of the River Ribeira (Vale do Ribeira) – São Paulo, is a non-governmental, nonprofit entity, registered in the CNPJ [National Juridical Person Registry] under the Number 007.023.227/0001-00, with headquarters at: Rua Leônicio Marques de Freitas, Nº 63, Centro – Eldorado, Estado de São Paulo, whose objectives, among others, are to stimulate and seek alternatives for the economic, cultural, educational and social development of the communities. It also provides legal guidance to the Afro-Brazilian and Quilombola [descendants of former fugitive slaves] communities, judicially and extra-judicially representing their interests before public and private organs. It encourages and develops the full exercise of citizenship by means of popular education thus improving the quality of life of the population and encourages partnerships, local dialogue and solidarity among the different social segments. Furthermore it participates together with other active like-minded entities in achieving common interests in the context of the serious situation experienced by the Valley of the River Ribeira because of conflict of interests between traditional communities and mega projects which understand development as the take-over of natural resources and subsequently treat them as a commercial commodity.

Conflicts of interest and injustice have been present in the Valley of the River Ribeira since 1530, when Europeans (Spanish and Portuguese) arrived in search of gold. With mining and the difficulty of using indigenous workers, negro workers from Angola, Mozambique and Guinea were introduced. Most came through the port of Iguape and they were taken from there to other localities such as Iporanga, Apiaí and Ivaporunduva, where the greater concentration of gold mines was found. This exploitation of gold went into decline with the discovery of new areas of mining in Minas Gerais. With this the formation of various groupings of Negros came into being: some already freed, others fugitives and others abandoned by their former masters.

As a rule these populations reside in distant, hard-to-reach places, supporting themselves characteristically by developing traditional productive practices: small subsistence farming combined with activities associated with collecting forest products. The Remnant Quilombo Communities still remain as signs of contradiction between a system of collective spoliation, and a system which values working together and not accumulating. The contrast is between a

community/society based system and excessive individualism. The Quilombo communities demand that all land deeds be collective. The communities are recovering their history and strengthening their organization. Constantly new communities emerge that recognize themselves as Remnants of Quilombos.

As a result of their struggles these Communities currently consist of:

**I) RECOGNIZED AND DEEDED COMMUNITIES**

(not registered in registry office): São Pedro, Ivaoporunduva, Pedro Cubas (Municipality of Eldorado); Pilões, Maria Rosa (Municipality of Iporanga); Galvão (Municipality of Eldorado/Iporanga).

**II) COMMUNITIES ALREADY RECOGNIZED AS QUILOMBOS BUT AWAITING THEIR LAND TITLE:**

Sapatú, André Lopes, Poça (Municipality of Eldorado); Praia Grande, Porto Velho (Municipality of Iporanga); Nhunguara (Municipalities of Eldorado/Iporanga); Mandira (Municipality of Cananéia).

**III) COMMUNITIES IN THE FINAL STAGE OF RECOGNITION:**

Bombas (Municipality of Iporanga); Morro Seco (Municipality of Iguape); Biguazinho (Municipality of Miracatu); Cangume (Municipality of Itaóca)

**IV) – COMMUNITIES INDICATED FOR IDENTIFICATION:**

Abobral Margem Esquerda, Abobral Margem Direita, Boa Esperança, Engenho, Bananal Pequeno, (Municipality of Eldorado); São Paulo Bagre, Santa Maria, Rio das Minas, Palmeiras, Itapitanguí, Porto Cubatão, Varadouro, Ariri, Taquari, (Municipality of Cananéia), Cedro, Reginaldo, Pedra Preta/Paraíso, Ribeirão/Terra Seca (Municipality of Barra do Turvo); Lençol, Padre André I, Padre André II, Taquaruçu (Municipality of Jacupiranga); Patrimônio, Itatins, Aldeia, Coveiro, (Municipality of Iguape); Caiacanga, Peropava (Municipality of Registro); Castelhanos, Desidério, Rio da Claudia, Ribeirão, Jurumirim, Poço Grande (Municipality of Iporanga); Manoel Gomes, Capitão Braz, Vila Andréia, Mandira (Municipality of Cajati); João Surá (Municipalities of Iporanga/Adrianópolis); Praia do Peixe, Porto Velho (Municipality of Adrianópolis).

By its way of relating to nature, this population has preserved natural resources and for this reason today emerges as an important source of mineral wealth, of fauna and flora and an elevated level of biodiversity.

For this reason, EAACONE, in fulfillment of its mission and knowing the situation since all its members live in the region; with a basis in scientific studies, in current laws, and principally in the biblical principles of compassion, justice, solidarity and prophetic witness, hereby presents some of the most pressing problems of the Region of the Valley of the River Ribeira, and requests support and measures to prevent the violation of values and destruction of its people, of its culture and of the region.

**THEREFORE:**

**CONSIDERING** that as explicitly expressed in article 78 of the Federal Constitution, the President of the Republic pledges to maintain, defend and carry out the Constitution, obey and carry out the laws and promote the general well-being of the Brazilian people;<sup>1</sup>

**CONSIDERING** that the Brazilian Federal Constitution, recognizing the importance of the Quilombos in the country's history and of the participation of the Afro-Brazilian population in the construction of our ethnic-cultural identity, and under pressure from popular, social and black movements, was forced to accept that all documents and places bearing historical memory of the communities of runaway slaves be preserved by the public authorities and declared part of Brazilian Cultural Heritage (Article 216, paragraph 5)<sup>2</sup> and still in consideration of the socio-historical reality, guarantee the land deeds of the areas of the surviving Quilombolas so as to assure them the protection of their "modus vivendi";

**CONSIDERING** that the Federal Constitution of Brazil, in its first Title, "OF FUNDAMENTAL RIGHTS" cites the "dignity of the human person" and the "primacy of human rights" among the essential principles on which is based the Federal Republic of Brazil, as a democratic State based on law;<sup>3</sup>

**CONSIDERING** that article 68 of the Act of Transitional Dispositions of the Federal Constitution establishes that **"The definitive right of ownership on the part of survivors of the Quilombos occupying their lands is recognized, it is incumbent on the State to issue their respective land titles;**

**CONSIDERING** that the inclusion of this constitutional precept was motivated by the need to redress a historic injustice committed by the Brazilian slavocratic society against the black people;

**CONSIDERING** that according to preliminary research there are more than 60 Remnants of Quilombos Communities in Valley of the River Ribeira, a significant number of them located in the municipalities of Eldorado, Iporanga and Cananéia, besides twelve indigenous tribes located in the Municipalities of Itariri, Sete Barras, Pariquera Açu and Ilha Comprida;

**CONSIDERING** that future generations have the right to an ecologically balanced environment and that Brazil is one of the countries which has a so-called mega diversity, in which are found natural formations such as a vast tropical savanna lands [*cerrado*], wetlands [*Pantanal*], xeric scrublands [*caatinga*], Atlantic Forest [*Mata Atlântica*], and more than 3.5 millions of square kilometers of tropical forests;

**CONSIDERING** that the Federal Republic of Brazil, has also signed the Convention on Biological Diversity (CBD), that came into effect in the country beginning with its ratification by the National Congress in May of 1994, thus incorporating a principle of international law which has received support from ongoing discussion;

**CONSIDERING** that Articles 23 and 24 of the Federal Constitution establish that the Union, the States, the Federal District and Municipalities have, in common, the incumbency to protect assets of historical, artistic, or cultural value and prevent their waste and destruction, to conserve special landscapes and avoid the destruction of ecosystems;

**CONSIDERING** that the Valley of the River Ribeira comprises a geographical region formed by 25 municipalities in the basin of the Ribeira River and that it possesses a rich natural patrimony epitomized by native forests that cover the mountain range of the Serra de Paranapiacaba, as well as caves, its floodplain, the Estuarine-Lagunar Complex of Cananéia-Iguape-Paranaguá, and its valleys of tributary rivers running from São Paulo to the territory of Paraná;

**CONSIDERING** that the region shelters the greatest biodiversity of the State of São Paulo, preserved by the establishment of numerous protected areas (areas of environmental preservation, nature reserves declared to be national heritage, state parks, ecological stations, and others), and that the region is part of the unit named Atlantic Forest Reserves of the Southeast, internationally recognized as a Natural Heritage Site of Humanity by UNESCO in 1999, and that it encompasses also a great cultural diversity, epitomized by remnants of the Quilombola Communities, as well as caçara and native Indian populations, together with

nuclei of immigrant colonization, as well as small family farmers and traditional fishermen, a large number of archeological sites and urban historical colonial sites;

**CONSIDERING** that the Valley of the River Ribeira forms part of the States of São Paulo and Paraná, and contains the greatest concentration of Remnant of Quilombo Communities in São Paulo, and that the region presents one of the lowest indices of development in the State, being the least urbanized, with a population of 323,174 inhabitants. It has one of the lowest rates of population growth in the State. Most of its people live in rural areas, with activities of subsistence farming and harvesting non-cultivated products from nature;

**CONSIDERING** that the Valley of the River Ribeira is a region that exhibits two noteworthy conditions. The first concerns its environmental characteristics which are quite different from the rest of the State. It is where about half of all the remaining native vegetation of the State may be found. More than 60% of the region is covered by forest vegetation, along with the greatest concentration of parks and state reserves, while on the other hand the region's economic activity is minimal, its infrastructure is deficient and it demonstrates the worst social conditions of São Paulo State;

**CONSIDERING** that, in order to guarantee the effective right to an ecologically balanced environment, it is incumbent upon the Government to demand previous environmental impact studies, with publicity (Article 225, lead and paragraph 1, IV of the Federal Constitution), for the installation of a work or activity which is potentially damaging to the environment;

**CONSIDERING** that on July 17, 2008, the Environment Minister, Carlos Minc, signed three acts and five ministerial directives for the adoption of a series of procedures accelerating environmental licensing, in response to pressure from agribusiness;

**CONSIDERING** that the farming situation of the Valley of the River Ribeira region is characterized by the prevalence of imprecise land titles. A significant proportion of rural properties, especially those of small farmers, have inadequate documentation;

**CONSIDERING** that the Valley of the River Ribeira is also the region that concentrates the greatest number of Remnants of Quilombos Communities. *A QUILOMBO is a black rural community which groups together descendents of*

*slaves living from subsistent farming and where cultural expressions have a strong link with the past;*

**CONSIDERING** that Convention Number 169 of the ILO, ratified by the National Congress, establishes in Article 15 that: “The rights of the peoples concerned to the natural resources on their lands should be especially protected. These rights include the right of these people to participate in the use, administration and conservation of these resources.” In other words, the rights and customs of traditional populations precede the rights established by environmental legislation;

**CONSIDERING** that Decree Number 47,094 of September 18, 2002, creates the Atlantic Forest Biosphere Reserve Committee of the State of São Paulo, including the Management Council of the Biosphere Reserve of the Greenbelt of the City of São Paulo;

**CONSIDERING** that Decree Number 6,321 of December 21, 2007, which regulates activity related to the prevention, monitoring and control of deforestation and alters and adds dispositions to Decree Number 3,179 of September 21, 1999 that, among other provisions, regulates the sanctions applicable to behavior and activities that are harmful to the environment;

**CONSIDERING** that the Valley of the River Ribeira, even though it is a unique region within the State of São Paulo, has been threatened with the project of the construction of four hydroelectric plants on the Ribeira de Iguape River (Tijuco Alto – Municipalities of Adrianópolis/PR and Ribeira/SP, Itaóca – Municipality of Itaóca, Funil – Municipality of Iporanga, Batatal – Municipality of Eldorado), virtually transforming the river into a “stairs” and completely altering life within the region while contributing to a significant acceleration of the process of environmental, social and economic degradation;

**CONSIDERING** that the area likely to be dammed is huge, covering 11 thousand hectares including the more fertile areas of the Ribeira Valley. In these areas likely to be dammed there are places of significant historical interest and Remnants of Quilombo communities which run the risk of being wiped out;

**CONSIDERING** that the Valley of the Ribeira de Iguape River possesses an extremely high archeological potential of great scientific relevance and that as such has been subjected to systematic research since the decade of the 1980s, with continuing projects of academic research being currently conducted;

**CONSIDERING** that there are strong indications, still needing scientific study, of the presence of human beings in the region for at least twelve thousand years;

**CONSIDERING** that according to the Bagé Charter, a federal document which directs public activities regarding the Cultural Landscape, says in Article 2, "...the cultural landscape is the natural environment on which human beings leave the imprint of their actions and forms of expression, resulting in the evidence of the interaction of human beings with nature, and reciprocally, of nature with human beings, subject to spatial and temporal interpretation". According to Article 4 of the Charter, the same operations of intervention and preservation that apply to cultural assets, such as identification, protection, appreciation and others, apply also to the cultural landscape;

**CONSIDERING** that the Ribeira de Iguape River is the only medium-sized river in the State of São Paulo without a dam, its waters are thus free to flow from source to mouth in the Atlantic Ocean;

**CONSIDERING** that, even before its construction, the Tijuco Alto Dam has already caused profound economic and social impact on the region, since many residents of the area have been forced to sell their lands to the Brazilian Aluminum Company – CBA – because of pressure and fear, under threat to sell or risk losing all;

**CONSIDERING** that the area likely to be dammed covers 11 thousand hectares, including the most fertile areas of Valley of the River Ribeira. Within the area subject to flooding are various historical sites, conservation units, towns, Quilombo areas and areas of small farming families, archeological sites, caves and traditional populations which would run the risk of extinction;

**CONSIDERING** that the construction of dams in the Ribeira de Iguape River will significantly change its course, implying high environmental impact within the heart of the Atlantic Forest, bringing socio-economic harm to thousands of families and irreversible damage to the forest;

**CONSIDERING** that the present-day economic model seeks to transform food, energy and all natural recourses into merchandise to attend to the interests, to the profit and to the greed of the large multinational companies;

**CONSIDERING** that the Votorantim group is one of these companies that act within various industrial sectors taking over the land, water, minerals and biodiversity, privatizing what belongs to all. The Votorantim group is already the “owner” of 18 hydroelectric plants in various Brazilian states;

**CONSIDERING** that the extraordinary profits of the company come from the kind of activity they promote that in practice exploits public national resources, and degrades the environment;

**CONSIDERING** that Votorantim Metals is responsible for the release of heavy metals such as zinc and lead into the São Francisco River, in the region of Três Marias/MG. The levels of zinc in the water are five thousand times beyond what is tolerable;

**CONSIDERING** that the Rio Ribeira de Iguape River has high concentrations of lead, resulting from mining practices in the region;

**CONSIDERING** that the lead has settled at the bottom of the river bed and that, with the dams, it will enter into movement contaminating the whole river bed;

**CONSIDERING** that Votorantim is a big producer of paper and cellulose and is responsible for enormous plantations of eucalyptus that in truth become green deserts, substituting the land which should be used for the production of food. Votorantim makes use of 121.2 thousand hectares in São Paulo exclusively for the growth of eucalyptus trees;

**CONSIDERING** that Votorantim consumes about 4% of all electrical energy produced in the country, which corresponds to the consumption of energy of a State like Pernambuco, that has 8 million inhabitants;

**CONSIDERING** that this aluminum producing company is a high energy consumer and, that because it is automated, it generates little employment;

**CONSIDERING** that in all the dams where Votorantim is a partner, the practice of environmental fraud has been present, as in the case of the Barra Grande dam (on the border of the States of Rio Grande do Sul and Santa Catarina). For the building of this dam, the companies falsified the environmental impact report by hiding the existence of 5 thousand hectares of native Atlantic Forest, that were flooded and destroyed;

**CONSIDERING** that in the Environmental Impact Report this industrialist failed to mention ten (10) traditional communities, as was reported by the Federal Public Ministry in a public audience held in the town of Eldorado in July of 2007;

**CONSIDERING** that Votorantim Energy holds half of the shares of VBC Energy, the principal controller of CPFL, the company which distributes energy to the interior of the State São Paulo;

**CONSIDERING** that CPFL sells energy to families at a price of up to seven times higher than its cost. Besides this, it does not divulge the right to the Social Rate for those who consume 200kwh/month or less, thus Votorantim exploits the poorest families of the towns;

**CONSIDERING** that Votorantim wants to construct dams in the Ribeira de Iguape River in order to amplify its capacity for the production and exportation of aluminum in the region of Sorocaba (SP);

**CONSIDERING** that with the increase in the food prices, the cost in São Paulo of the established basic family food basket, (products typically used by a family for a month), became the second highest in the country, at a cost of R\$ 233,92. One of the factors that contributed to this increase is the dominance of transnational companies in Brazilian agriculture. The Votorantim group is a major participant in this;

**CONSIDERING** that the company submitted a new report in 2005 of which two parts are still pending: one in reference to the legal disposition that permits the flooding of caves (two are to be flooded in the area), and another related to the revalidation of the right to use water resources in the Ribeira River, emitted by the National Agencies of Waters (ANA);

**CONSIDERING** that the ITESP Foundation – The Land Institute of the State of São Paulo – on the occasion of the cartographical survey of the Quilombola communities of the middle and upper Ribeira, showed the area designated for flooding by the hydroelectric plants as if the right to hydroelectric use of the Ribeira basin were above the land rights of those who have traditionally farmed and lived here;

**CONSIDERING** that the Federal Public Ministry – Public Defender’s Office of the Republic in Region 3 and of Santos, via Recommendation number 001/2007,

in the exercise of its constitutional and legal authority, in a series of items, questions the activity and the proceedings of IBAMA and recommends to the President of the Brazilian Institute of the Environment and Renewable Natural Resources that it take a series of measures before its decision to concede a Preliminary License for the work;<sup>4</sup>

**CONSIDERING** that the State has an interest in the Quilombola areas that are better preserved and have tourism potential. See *Process 2.006.03.00.029172-9 AG 265684 - Federal Judge - 4<sup>a</sup> Jurisdiction of Santos, whose author is an Association of Quilombo Remnants of the André Lopes neighborhood, contesting the State Secretariat of the Environment;*

**CONSIDERING** the inconsistency of the State in developing a project of ecotourism costing 15 millions of dollars, with the construction of chalets, a health clinic, paths, modes of transportation, while using the Forest Police to constantly inspect the traditional communities under the pretext of protecting the environment, obstructing subsistence farming and beginning administrative, civil and penal processes against them;

**CONSIDERING** that the State has invested millions in the Valley of the River Ribeira, as is indicated in the document produced by the Institute for Sustainable Development and Citizenship of Vale do Ribeira - IDESC;

**CONSIDERING ALL THE ABOVE, WE REQUEST THAT:**

**1** – The Brazilian Government be denounced before the UN for omission because of atrocities committed and disrespect shown for the human rights of minorities, especially of indigenous and Quilombola minorities of the Valley of the River Ribeira - State of São Paulo;

**02** – The Brazilian Government be held responsible and punished for not enforcing the tenets of the Magna Carta, such as the recognition and land entitlement of the traditional populations of the Valley of the River Ribeira, respecting their cultures: Quilombolas, indigenous, and caiçara populations;

**03** - The Brazilian Government be obliged to apply the principle of caution because of the threat of construction of the Tijuco Alta Dam to produce energy for only one industrialist, for the lack of consistency in the studies presented, for the solutions proposed in view of the threats of irreversible social and

environmental damage, and for the absence of any scientific certainty of the viability of the project;

**04** – The Brazilian Government be obliged not to grant a license to Votorantim for the construction of the Tijuco Alto Dam, in the Valley of the River Ribeira, since in the neighboring Municipality of Juquiá 7 dams have been constructed since 1960 without that resulting in the development and the betterment of the life of the local population;

**05** – The Brazilian Government be denounced to the UN for omission because of environmental destruction in the Brazilian forests in the Valley of the River Ribeira, the last continuous remnant of the Atlantic Forest, as well as for the devastation of the Amazon Forest;

**06** – The Brazilian Government be required to respect traditional cultures by limiting the social and environmentally high impact projects in indigenous and Quilombola lands;

**07** – The Brazilian Government be required to adhere to its laws so that all federal agencies seriously and in a transparent manner analyze all concessions of licenses involving the installing of projects with high environmental impact;

**08** – The Brazilian Government be required to prohibit the use of natural resources without a detailed study, conducted by a nationally or internationally recognized institution, and not by technicians contracted by the very enterprise in question, as has been happening up to now;

**09** – The Brazilian Government be required to respect the economic vocation of the region, which has not been happening because of options in favor of the large companies;

**10** – The Brazilian Government be required to combat corruption in all governmental agencies, adopting measures of more transparency in the utilization of public resources and obeying the determinations of Article 37 of the Federal Constitution, where public administration is regulated within the principles of lawfulness, impartiality, morality and publicity of the facts and decisions;<sup>5</sup>

**11** - That the Brazilian Government be required to deal with the question of the Quilombos, not only as the recognition of an enormous injustice practiced in the

past, but as a fact of 21<sup>st</sup> century Brazilian reality. The Quilombola question is new to Brazilian Law, and it is necessary for all people of good will, - above all for the legal profession, for government authorities and those who can contribute to correctly applying the constitutional dispositions, - to seek to understand the question and collaborate so that this historical injustice may be effectively redressed;

**12** – That the Brazilian Government be required to take responsibility for the shortage and waste of fresh water that today represents a threat to the sustainable development and protection of the environment;

**13** – That the Brazilian Government be required to adopt control measures for companies for whom water resources have come to be considered as assets capable of economic quantification and, because of shortages on the planet, that the water resources policies controlling the use of water, be respected so that this asset may be protected;

**14** – That the Brazilian Government be required to adopt public policies so that water, a resource that belongs to all the people and that is indispensable to a healthy quality of life, cannot be denied its juridical nature as an environmental and cultural asset of public use. Its utilization, for this motive, is subject to the maintenance of the ecological balance of the environment and the local culture;

**15** – That the Brazilian Government be required to not treat the environment as a secondary factor when dealing with the development of agribusiness;

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<sup>1</sup> Art. 78

The President and the Vice-President of the Republic shall take office in a session of the National Congress, pledging to maintain, defend and carry out the Constitution, obey the laws, promote the general well-being of the Brazilian people, sustain the union, the integrity and the independence of Brazil.

<sup>2</sup> Art 216, Paragraph 5

All documents and sites bearing historical reminiscence to the ancient communities of runaway slaves are protected as national heritage.

<sup>3</sup>Article 1. The Federative Republic of Brazil, formed by the indissoluble union of the states and municipalities and of the Federal District, is a legal democratic state and is founded on:

I - sovereignty;

II - citizenship;

III - the dignity of the human person;

IV - the social values of labour and of the free enterprise;

V - political pluralism.

Sole paragraph - All power emanates from the people, who exercise it by means of elected representatives or directly, as provided by this Constitution.

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Article 4. The international relations of the Federative Republic of Brazil are governed by the following principles:

- I - national independence;
- II - prevalence of human rights;
- III - self-determination of the peoples;
- IV - non-intervention ;
- V - equality among the States;
- VI - defense of peace;
- VII - peaceful settlement of conflicts;
- VIII - repudiation of terrorism and racism;
- IX - cooperation among peoples for the progress of mankind;
- X - granting of political asylum.

Sole paragraph - The Federative Republic of Brazil shall seek the economic, political, social and cultural integration of the peoples of Latin America, viewing the formation of a Latin-American community of nations.

<sup>4</sup> At. 225, lead and paragraph I, IV

Article 225. All have the right to an ecologically balanced environment which is an asset of common use and essential to a healthy quality of life, and both the Government and the community shall have the duty to defend and preserve it for present and future generations.

Paragraph 1 - In order to ensure the effectiveness of this right, it is incumbent upon the Government to:

- I - preserve and restore the essential ecological processes and provide for the ecological treatment of species and ecosystems;
- II - preserve the diversity and integrity of the genetic patrimony of the country and to control entities engaged in research and manipulation of genetic material;
- III - define, in all units of the Federation, territorial spaces and their components which are to receive special protection. any alterations and suppressions being allowed only by means of law, and any use which may harm the integrity of the attributes which justify their protection being forbidden;
- IV - require, in the manner prescribed by law, for the installation of works and activities which may potentially cause significant degradation of the environment, a prior environmental impact study, which shall be made public;
- V - control the production, sale and use of techniques, methods or substances which represent a risk to life, the quality of life and the environment;
- VI - promote environment education in all school levels and public awareness of the need to preserve the environment;
- VII - protect the fauna and the flora, with prohibition, in the manner prescribed by law, of all practices which represent a risk to their ecological function, cause the extinction of species or subject animals to cruelty.

Paragraph 2 - Those who exploit mineral resources shall be required to restore the degraded environment, in accordance with the technical solutions demanded by the competent public agency, as provided by law.

Paragraph 3 - Procedures and activities considered as harmful to the environment shall subject the infractors, be they individuals or legal entities, to penal and administrative sanctions, without prejudice to the obligation to repair the damages caused.

Paragraph 4 - The Brazilian Amazonian Forest, the Atlantic Forest, the Serra do Mar, the Pantanal Mato-Grossense and the coastal zone are part of the national patrimony, and they shall be used, as provided by law, under conditions which ensure the preservation of the environment, therein included the use of mineral resources.

Paragraph 5 - The unoccupied lands or lands seized by the states through discriminatory actions which are necessary to protect the natural ecosystems are inalienable.

Paragraph 6 - Power plants operated by nuclear reactor shall have their location defined in federal law and may not otherwise be installed.

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<sup>5</sup> CONSTITUTION OF BRAZIL

Article 18. The political and administrative organization of the Federative Republic of Brazil comprises the Union, the States, the Federal District and the Municipalities, all of them autonomous, as this Constitution provides.

Paragraph 1 - Brasília is the federal capital.

Paragraph 2 - The federal territories are part of the Union and their establishment, transformation into States or reintegration into the State of origin shall be regulated by a supplementary law.

Paragraph 3 - The States may merge into each other, subdivide or dismember to be annexed to others or to form new states or federal territories, subject to the approval of the population directly concerned, by means of a plebiscite, and of the National Congress, by means of a supplementary law.

Paragraph 4 - The establishment, merger, fusion and dismemberment of municipalities shall be effected through state law, within the period set forth by supplementary federal law, and shall depend on prior consultation, by means of a plebiscite, of the population of the municipalities concerned, after the publication of Municipal Feasibility Studies, presented and published as set forth by law.

*Paragraph 4: CA nr. 15, September 12th 1996.*

Article 19. The Union, the States, the Federal District and the municipalities are forbidden to:

I - establish religious sects or churches, subsidize them, hinder their activities, or maintain relationships of dependence or alliance with them or their representatives, without prejudice to collaboration in the public interest in the manner set forth by law;

II - refuse to honour public documents;

III - create distinctions between Brazilians or preferences favouring some.

Article 20. The following are property of the Union:

I - the property which presently belongs to it as well as that which may be attributed to it;

II - the unoccupied lands essential to the defense of the boundaries, the fortifications and military constructions, the federal routes of communication and the preservation of the environment, as defined by law;

III - the lakes, rivers and any watercourses in lands within its domain or that wash more than one State, that serve as boundaries with other countries or that extend into foreign territory or proceed there from, as well as bank lands and river beaches;

IV - the river and lake islands in zones bordering with other countries, the sea beaches, the ocean and off-shore islands, excluded the islands which are seats of municipalities, excepted those areas of interest to public service and federal environment unity, and those referred to in article 26, II;

V - the natural resources of the continental shelf and of the exclusive economic zone;

VI - the territorial sea;

VII - tide lands and those added to them;

VIII - the hydraulic energy potentials;

IX - the mineral resources, including those of the subsoil;

X - the natural underground cavities and the archaeological and historic sites;

XI - those lands traditionally occupied by the Indians.

Paragraph 1 - In accordance with the law, the participation in the results of the exploitation of petroleum or natural gas, hydric resources for the purpose of generation of electric power and other mineral resources in the respective territory, continental shelf, territorial sea or exclusive economic zone, financial compensation for the exploitation the reef, is assured to the States, Federal District and the municipalities, as well as to agencies of the administration of the Union.

Paragraph 2 - The strip of land up to a hundred and fifty kilometers in width alongside the terrestrial boundaries, designated as boundary zone, considered essential to the defense of the national territory and its occupation and utilization shall be regulated by law.

Article 21. The Union shall have the power to:

I - maintain relations with foreign states and participate in international organizations;

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II - declare war and make peace;  
 III - ensure national defense;  
 IV - allow foreign forces, in the cases provided for in a supplementary law, to pass through the national territory or to remain therein temporarily;  
 V - declare a state of siege, a state of defense and federal intervention;  
 VI - authorize and control the production and trade of military materiel;  
 VII - issue currency;  
 VIII - manage the foreign exchange reserves of the country and control financial operations, especially those of credit, exchange and capitalization, as well as insurance and private security;  
 IX - prepare and carry out national and regional plans for the ordaining of the territory and for economic and social development;  
 X - maintain the postal service and the national air mail;  
 XI - operate, directly or through authorization, concession or permission, the telecommunications services, as set forth by law, which law shall provide for the organization of the services, the establishment of a regulatory agency and other institutional issues;

*Clause XI added by CA 15, August 15th 1995.*

XII - operate, directly or through authorization, concession or permission:  
 a) the services of sound broadcasting and of sound and image broadcasting;

*Clause XII added by CA 15, August 15th 1995.*

b) the electric power services and facilities and the energetic exploitation of watercourses, jointly with the states wherein those hydro-energetic potentials are located;  
 c) air and aerospace navigation and airport infrastructure;  
 d) railway and waterway services between seaports and national borders or which cross the boundary of a state or territory;  
 e) interstate and international highway passenger transportation services;  
 f) sea, river and lake ports;  
 XIII - organize and maintain the Judicial Power, the Public Prosecution and the Public Legal Defense of the Federal District and territories;  
 XIV - organize and maintain the civil police, the military police and the fire brigade of the Federal District, as well as providing financial assistance to the Federal District for the execution of public services, by means of a specific fund;

*Clause XIV amended by CA 19, June 4th 1998.*

XV - organize and maintain the official services of statistics, geography, geology and cartography of national scope;  
 XVI - classify, for indicative purposes, public entertainment and television programs;  
 XVII - grant amnesty;  
 XVIII - plan and promote permanent defense against public disasters, especially droughts and floods;  
 XIX - establish a national system for the management of hydric resources and define criteria for the concession of the right to their use;  
 XX - establish directives for urban development, including housing, basic sanitation and urban transportation;  
 XXI - establish principles and directives for the national transportation system;  
 XXII - perform the services of maritime, air, and border police;

*Clause XIV amended by CA 19, June 4th 1998.*

XXIII - operate nuclear energy services and facilities of any nature, exercise state monopoly over research, mining, enrichment and reprocessing, industrialization and trade in nuclear ores and their by-products, taking into account the following principles and conditions:

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- a) all nuclear activity within the national territory shall only be admitted for peaceful purposes and subject to approval by the National Congress;
  - b) under regime of permission, authorization is given for the utilization of radioisotopes in research and for medical, agricultural and industrial use;

*Letters b, c, and d of this clause were amended by CA 49, February 8th 2006. The CA suppressed the regime of concession from letter b, removed the expression "as well as for other analogous activities" from letter b, added text of letter c, and turned former letter c into letter d.*

- c) under regime of permission, authorization is given for production, commercialization and utilization of radioisotopes with half-life equal to or shorter than two hours;

- d) civil liability for nuclear damages does not depend on the existence of fault;
- XXIV - organize, maintain and carry out inspection of working conditions;
- XXV - establish the areas and conditions for the exercise of placer mining activities in associative form.

Article 22. The Union has the exclusive power to legislate on:

- I - civil, commercial, criminal, procedural, electoral, agrarian, maritime, aeronautical, space and labour law;
- II - expropriation;
- III - civil and military requisitioning, in case of imminent danger or in times of war;
- IV - waters, energy, informatics, telecommunications and radio broadcasting;
- V - the postal service;
- VI - the monetary and measures systems, metal certificates and guarantees;
- VII - policies for credit, foreign exchange, insurance and transfer of values;
- VIII - foreign and interstate trade;
- IX - guidelines for the national transportation policy;
- X - the regime of the ports and lake, river, ocean, air and aerospace navigation;
- XI - traffic and transportation;
- XII - beds of ore, mines, other mineral resources and metallurgy;
- XIII - nationality, citizenship and naturalization;
- XIV - Indian populations;
- XV - emigration, immigration, entry, extradition and expulsion of foreigners;
- XVI - the organization of the national employment system and conditions for the practice of professions;
- XVII - the judicial organization of the Public Prosecution and of the Public Legal Defense of the Federal District and of the territories, as well as their administrative organization;
- XVIII - the national statistical, cartographic and geological systems;
- XIX - systems of savings, as well as of obtaining and guaranteeing popular savings;
- XX - consortium and lottery systems;
- XXI - general organization rules, troops, material, guarantees, drafting and mobilization of the military police and military fire brigades;
- XXII - the jurisdiction of the federal police and of the federal highway and railway polices;
- XXIII - welfare;
- XXIV - directives and bases of the national education;
- XXV - public registers;
- XXVI - nuclear activities of any nature;
- XXVII - general rules for all types of bidding and contracting, with observance of the art. 37, XXI, in the case of the direct public administration, autarchies and foundations of the Union, States, Federal District and municipalities, and of the art. 173, paragraph 1, III, in the case of public companies and public corporations;

*Clause XXVII amended by CA 19, June 4th 1998. Read comments about the bidding legislation in Brazil*

- XXVIII - territorial defense, aerospace defense, maritime defense, civil defense, and national mobilization;
  - XXIX - commercial advertising.
- Sole paragraph - A supplementary law may authorize the States to legislate upon specific questions related

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to the matters listed in this article.

Article 23. The Union, the States, the Federal District and the municipalities, in common, have the power:

- I - to ensure that the Constitution, the laws and the democratic institutions are respected and that public property is preserved;
- III - to provide for health and public assistance, for the protection and safeguard of handicapped persons;
- III - to protect the documents, works and other assets of historical, artistic or cultural value, the monuments, the remarkable landscapes and the archaeological sites;
- IV - to prevent works of art and other assets of historical, artistic and cultural value from being taken out of the country, destroyed or from being deprived of their original characteristics;
- V - to provide the means of access to culture, education and science;
- VI - to protect the environment and to fight pollution in any of its forms;
- VII - to preserve the forests, fauna and flora;
- VIII - to promote agriculture and cattle breeding and organize the supply of foodstuff;
- IX - to promote housing construction programs and the improvement of housing and basic sanitation conditions;
- X - to fight the causes of poverty and the factors leading to substandard living conditions, promoting the social integration of the unprivileged sectors of the population;
- XI - to register, monitor and control the concessions of rights to research and exploit hydric and mineral resources within their territories;
- XII - to establish and to implement an educational policy for traffic safety.

Sole paragraph - A supplementary law shall establish rules for the cooperation among the Union and the States, the Federal District and the municipalities aiming at the attainment of balanced development and well-being on a nationwide scope.

Article 24. The Union, the States and the Federal District have the power to legislate concurrently on:

- I - tax, financial, penitentiary, economic and urbanistic law;
- II - budget;
- III - trade boards;
- IV - costs of forensic services;
- V - production and consumption;
- VI - forests, hunting, fishing, fauna, preservation of nature, defense of the soil and natural resources, protection of the environment and control of pollution;
- VII - protection of the historic, cultural and artistic heritage, as well as of assets of touristic interest and landscapes of outstanding beauty;
- VIII - liability for damages to the environment, to consumers, to assets and rights of artistic, aesthetic, historical, and touristic value, as well as to remarkable landscapes;
- IX - education, culture, teaching and sports;
- X - establishment, operation and procedures of small claims courts;
- XI - judicial procedures;
- XII - social security, protection and defense of health;
- XIII - legal assistance and public defense;
- XIV - protection and social integration of handicapped persons;
- XV - protection of childhood and youth;
- XVI - organization, guarantee s, rights and duties of the civil policies.

Paragraph 1 - Within the scope of concurrent legislation, the competence of the Union shall be limited to the establishment of general rules.

Paragraph 2 - The competence of the Union to legislate upon general rules does not exclude the supplementary competence of the States

Paragraph 3 - If there is no federal law or general rules, the States shall exercise full legislative competence to provide for their peculiarities.

Paragraph 4 - The supervenience of a federal law over general rules suspends the effectiveness of a state law to the extent that the two are contrary to each other.

Article 25. The States are organized and governed by the Constitutions and laws they may adopt, in

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accordance with the principles of this Constitution.

Paragraph 1 - All powers that this Constitution does not prohibit the States from exercising shall be conferred upon them.

Paragraph 2 - The states shall have the power to operate, directly or by means of concession, the local services of piped gas, as provided for by law, it being forbidden to issue any provisional measure for its regulation.

*Paragraph 2 amended by CA 5, August 15th 1998. The original text determined that the concession should be granted to State companies only. The amendment allowed the privatization of the gas companies.*

Paragraph 3 - The States may, by means of a supplementary law, establish metropolitan regions, urban agglomerations and micro-regions, formed by the grouping of adjacent municipalities, in order to integrate the organization, the planning and the operation of public functions of common interest.

Article 26. The property of the States includes:

I - surface or subterranean waters, flowing, emerging or in deposit, with the exception, in this case, of those resulting from work carried out by the Union, as provided by law;

II - the areas, on ocean and coastal islands, which are within their domain, excluding those under the domain of the Union, the municipalities or third parties;

III - the river and lake islands which do not belong to the Union;

IV - the unoccupied lands not included among those belonging to the Union.

Article 27. The number of Deputies in the Legislative Assembly shall correspond to three times the representation of the State in the Chamber of Deputies and, when the number of thirty-six has been reached, it shall be increased by as many members as the number of Federal Deputies exceeding twelve.

Paragraph 1 - The term of office of the State Deputies shall be four years and the provisions of this Constitution shall be applied to them in what refers to the electoral system, inviolability, immunities, remuneration, loss of office, leave of absence, impediments and incorporation into the Armed Forces.

Paragraph 2 - The remuneration of the State Deputies shall be established in each legislative term, for the subsequent one, by the Legislative Assembly as provided by articles 150, II, 153, III, and 153, paragraph 2, I, in the proportion of seventy-five percent, at most, of the remuneration established, in legal tender, for the Federal Deputies.

*The Paragraph 2 was originally amended by CA 1, March 31st 1993. Present text was established by CA 19, June 4th 1998.*

Paragraph 3 - The Legislative Assemblies shall have the power to provide upon their internal regulations, police and the administrative services of their Secretariat and to fill in the respective offices.

Paragraph 4 - The law shall provide for people's initiative in the legislative proceedings of the States.

Article 28. The election of the Governor and the Vice-Governor of a State, for a term of office of four years, shall be held on the first Sunday of October, in the first round, and on the last Sunday of October, in the second round, as the case may be, of the year preceding the one in which the term of office of their predecessors ends, and they shall take office on January 1 of the following year, in accordance, otherwise, with the provisions of article 77.

*Article 28, caput, amended by CA 16, June 4th 1997. The Amendment changed the dates of election and of taking office.*

Paragraph 1 - The Governor who takes another post or function in the direct or indirect public administration shall lose his office, with the exception of the taking of office by virtue of public entrance examination and taking into account the provisions in article 38, I, IV and V.

Paragraph 2 - The remuneration of the Governor, Vice-Governor and the State Secretaries shall be fixed by law of initiative of the Legislative Assembly, in accordance with the provisions of arts. 37, XI, 39,

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paragraph 4, 150, II, 153, III, and 153, paragraph 2, I.

*The entire Paragraph 2 was added by CA 19, June 4th 1998.*

Article 29. Municipalities shall be governed by organic law, voted in two readings, with a minimum interval of ten days between the readings, and approved by two-thirds of the members of the Municipal Chamber, which shall promulgate it, observing the principles established in this Constitution, in the Constitution of the respective state and the following precepts:

I - election of the Mayor, Vice-Mayor and Councilmen for a term of office of four years, by means of direct election held simultaneously throughout the country;

II - election of the Mayor and Vice-Mayor on the first Sunday of October of the year preceding the end of the term of office of those they are to succeed, subject, in the case of municipalities with over two hundred thousand voters, to the provisions set forth in article 77;

*Clause II amended by CA 16, June 4th 1997. The Amendment changed the dates of election and of taking office.*

III - investiture of the Mayor and Vice-Mayor on January 1 of the year subsequent to the year of the election;

IV - number of councilmen in proportion to the population of the municipalities, in accordance with the following limits:

a) a minimum of nine and a maximum of twenty-one in municipalities with up to one million inhabitants;

b) a minimum of thirty-three and a maximum of forty-one in municipalities with over one million and under five million inhabitants;

c) a minimum of forty-two and a maximum of fifty-five in municipalities with over five million inhabitants;

V - the remuneration of the Mayor, the Vice-Mayor and the Councilmen stipulated by the Municipal Chamber in each legislature for the subsequent one, in accordance with the provisions set forth in articles 37, XI, 150, II, 153, III, and 153, paragraph 2, I;

*The entire Paragraph 2 was added by CA 19, June 4th 1998.*

VI - the remuneration of the City Councilmen shall be fixed by the respective Councils each term for the next one, with due regard to this Constitution, observed the established by the respective Organic Laws and the following maximum limits:

a) in municipalities with up to 10,000 (ten thousand) inhabitants, the remuneration of the Councilmen will be of up to 20% (twenty percent) of the remuneration of the State Deputies;

b) in municipalities with 10,001 (ten thousand and one) up to 50,000 (fifty thousand) inhabitants, the remuneration of the Councilmen will be of up to 30% (thirty percent) of the remuneration of State Deputies;

c) in municipalities with 50,001 (fifty thousand and one) up to 100,000 (one hundred thousand) inhabitants, the remuneration of the Councilmen will be of up to 40% (forty percent) of the remuneration of State Deputies;

d) in municipalities with 100,001 (one hundred thousand and one) up to 300,000 (three hundred thousand) inhabitants, the remuneration of the Councilmen will be of up to 50% (fifty percent) of the remuneration of State Deputies;

e) in municipalities with 300,001 (three hundred thousand and one) up to 500,000 (five hundred thousand) inhabitants, the remuneration of the Councilmen will be of up to 60% (sixty percent) of the remuneration of State Deputies;

f) in municipalities with more than 50,00 (five hundred thousand) inhabitants, the remuneration of the Councilmen will be of up to 75% (fifty-five percent) of the remuneration of State Deputies;

Clause VI and all its letters added by CA 25, February 14th 2000.

VII - The total expenditure with the remuneration of the Councilmen shall not exceed the amount of five

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percent of the revenue of the Municipality;

*Clause VII added by CA 1, March 31st 1992.*

VIII - inviolability of the Councilmen on account of their opinions, words and votes while in office and within the jurisdiction of the municipality;

IX - prohibitions and incompatibilities, while in the exercise of the office of City Councilman, similar, where applicable, to the provisions of this Constitution for the members of the National Congress and of the Constitution of the respective State for the members of the Legislative Assembly;

X - trial of the Mayor before the Court of Justice;

XI - organization of the legislative and supervisory functions of the Municipal Chamber;

XII - cooperation of the representative associations in municipal planning;

XIII - public initiative in the presenting of bills of specific interest to the municipality, the city or the neighborhoods, by means of the manifestation of at least five percent of the electorate;

XIV - loss of the office of mayor, as provided in article 28, paragraph 1.

Article 29-A. The total expenditure of the Legislative Power of municipalities, included the remuneration of Councilmen and excluded the expenditures with the retired, shall not exceed the following percentages of the summation of the tax revenues and the transfers determined by paragraph 5 of article 153 and by articles 158 and 159, which effectively occurred in the previous year:

I - 8% (eight percent) in Municipalities with a population of up to 100,000 (one hundred thousand) inhabitants;

II - 7% (seven percent) in Municipalities with a population from 100,001 (one hundred thousand and one) up to 300,000 (three hundred thousand) inhabitants;

III - 6% (six percent) in Municipalities with a population from 300,001 (three hundred thousand and one) up to 500,000 (five hundred thousand) inhabitants;

III - 5% (five percent) in Municipalities with a population of over 500,000 (five hundred thousand) inhabitants.

Paragraph 1- The Municipal Council shall not spend more than 70% (seventy percent) of their revenue with pay rolls included the expenses with remuneration of Councilmen.

Paragraph 2- The following shall constitute crimes of liability by the Mayor:

I - remit funds to the Legislative Power which exceed the limits set forth by this article;

II - do not remit funds to the Legislative Power until the 20th (twentieth) day of each month; or

III - remit funds to the Legislative Power in amount shorter than the prescribed by the Budgetary Law.

Paragraph 3. The disrespect of the prescribed by Paragraph 1 of this article shall constitute crime of liability by the President of the Municipal Council.

*Article 29-A included by CA nr. 25, Feb. 14th 2000*

Article 30. The municipalities have the power to:

I - legislate upon matters of local interest;

II - supplement federal and state legislations where pertinent;

III - institute and collect taxes within their jurisdiction, as well as to apply their revenues, without prejudice to the obligation of rendering accounts and publishing balance sheets within the periods established by law;

IV - create, organize and suppress districts, with due regard for the State legislation;

V - organize and render, directly or by concession or permission, the public services of local interest, including mass-transportation, which is of essential nature;

VI - maintain, with the technical and financial cooperation of the Union and the state, programs of pre-school and elementary school education;

VII - provide, with the technical and financial cooperation of the Union and the state, health services to the population;

VIII - promote, wherever pertinent, adequate territorial ordaining, by means of planning and control of use, apportionment and occupation of the urban soil;

IX - promote the protection of the local historic and cultural heritage, with due regard for federal and state legislation and supervision.

Article 3. Supervision of the municipality shall be exercised by the municipal legislature, through outside control, and by the internal control systems of the municipal executive branch, in the manner called for by law.

Paragraph 1 - Outside control of the Municipal Chamber shall be exercised with the assistance of the state or municipal Court of Accounts, or of the Municipal Councils or Courts of Accounts, where they exist.

Paragraph 2 - The prior report issued by the competent agency, on the accounts to be rendered annually by the Mayor, and shall not prevail only by a decision of two-thirds of the members of the City Council.

Paragraph 3 - The accounts of the municipalities shall remain, for sixty days annually, at the disposal, for examination and consideration, of any taxpayer, who may question their legitimacy, as the law provides.

Paragraph 4 - The creation of municipal courts, councils or agencies of accounts is forbidden.

Article 32. The Federal District, which may not be divided into municipalities, shall be governed by an organic law, voted in two readings, with a minimum interval of ten days, and approved by two-thirds of the Legislative Chamber, which shall enact it, in accordance with the principles set forth in this Constitution.

Paragraph 1 - The legislative powers reserved to the States and municipalities are attributed to the Federal District.

Paragraph 2 - The election of the Governor and the Vice-Governor, complying with the rules of article 77, and of the District Deputies shall coincide with that of the state Governors and Deputies, for a term of office of the same duration.

Paragraph 3 - The provisions of article 27 apply to the District Deputies and the Legislative Chamber.

Paragraph 4 - A federal law shall provide for the use, by the Government of the Federal District, of the civil and military polices and the military fire brigade.

Article 33. The law shall provide for the administrative and judicial organization of the territories.

Paragraph 1 - The Territories may be divided into municipalities, to which the provisions of Chapter IV of this Title shall be applied, insofar as pertinent.

Paragraph 2 - The accounts of the Government of the Territory shall be submitted to the National Congress, with the prior opinion of the Court of Accounts of the Union.

Paragraph 3 - In the federal Territories with over a hundred thousand inhabitants, in addition to the Governor, appointed as set forth in this Constitution, there shall be judicial agencies of first and second instances, members of the Public Prosecution and Federal Public Legal Defenders; the law shall provide for the elections to the Territory Chamber and its decision-making powers.

Article 34. The Union shall not intervene in the States or in the Federal District, except:

I - to maintain national integrity;

II - to repel foreign invasion or that of one unit of the Federation into another;

III - to put an end to serious jeopardy to public order;

IV - to guarantee the free exercise of any of the powers of the units of the Federation;

V - to reorganize the finances of a unit of the Federation that:

a) stops the payment of Its funded debt for more than two consecutive years, except for reasons of force majeure;

b) fails to deliver to the municipalities the tax revenues established in this Constitution, within the periods of time set forth by law;

VI - to provide for the enforcement of federal law, judicial order or decision;

VII - to ensure compliance with the following constitutional principles:

a) republican form, representative system and democratic regime;

b) rights of the human person;

c) municipal autonomy;

d) rendering of accounts of the direct and indirect public administration

e) the application of the mandatory minimum of the income resulting from State taxes, including those originating from transfers, in the maintenance and development of education and in public health services.

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*Letter 'e': CA nr. 29, September 13th 2000, added the words "and in public health services". Notice that this letter had been added to the original text by CA nr. 14, September 12th 1996.*

Article 35. The state shall not intervene in its municipalities, neither the Union in the municipalities located in a federal territory, except when:

- I - the funded debt is not paid for two consecutive years, without reasons of force majeure;
- II - the due accounts are not rendered, in the manner prescribed by law;
- III - the minimum required amount of the municipal revenues has not been applied in the maintenance and development of education and in public health services;

*The words "and in public health services" were added by CA nr. 29, September 13th 2000.*

IV - the Court of Justice grants a petition to ensure observance of the principles indicated in the state Constitution or to provide for the enforcement of the law, judicial order or decision.

Article 36. The issuance of a decree of intervention shall depend:

- I - in the case of article 34, IV, on a request from the coerced or impeded Legislative or Executive Power or on a requisition from the Supreme Federal Court, if the coercion is exercised against the Judicial Power;
- II - in case of disobedience to a judicial order or decision, on a requisition from the Supreme Federal Court, the Superior Court of Justice or the Superior Electoral Court;
- III - on the granting of a petition from the Attorney-General of the Republic by the Supreme Federal Court, in the case of article 34, VII, and in the case of refusal of enforcement of federal law;

*Final words added by CA nr. 45, Dec. 8th 2004. Clause IV revoked by CA nr. 45, Dec. 8th 2004. Former text of clause IV established the Superior Tribunal of Justice as competent body to decree intervention in cases of refusal of enforcement of federal law; the CA nr. 45 assigned that competence to the Supreme Court.*

Paragraph 1 - The decree of intervention, which shall specify the extent, the period and the conditions of enforcement and which, if pertinent, shall appoint the intervenor, shall be submitted to the National Congress or the State Legislative Assembly for consideration, within twenty-four hours.

Paragraph 2 - If the National Congress or the Legislative Assembly are not in session, a special session shall be called within the same twenty-four hours.

Paragraph 3 - In the case of article 34, VI and VII, or article 35, IV, when the consideration by the National Congress or the Legislative Assembly may be waived, the decree shall be limited to suspending the enforcement of the impugned act, if such measure suffices to restore normality.

Paragraph 4 - Upon cessation of the reasons that caused the intervention, the authorities removed from their offices shall return to them, unless there is some legal impediment.

Article 37. The direct or indirect public administration of any of the powers of the Union, the States, the Federal District and the municipalities, as well as their foundations, shall obey the principles of lawfulness, impersonality, morality, publicity, efficiency and also the following: