

# Criminal Responsibility of Municipal Mayors: Aspects of Formal Social Control in the Brazil

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## Abstract

The initial objective of this work is to elaborate a quantitative survey of police inquiries initiated by crimes committed by Municipal Mayors, with a specific spatial and temporal cut, which are defined in Decree-Law n° 201/67, to explain them from the perspective of Theory the Differential Association, inserting them in the concept of white collar crime and, in this perspective, recognizing them as a criminological phenomenon; as main objective, based on legal-scientific, quantitative and qualitative research, of documentary and bibliographic nature, developed from the socio-legal-critical method, the data concretely raised in the police inquiries will be analyzed, investigating a possible correlation between these crimes and the Index of Human Development—HDI of the studied region and the probable consequences resulting from it. The white-collar crime defined by Sutherland to explain the social process learning to criminal practice, explains that the criminal behavior is the result of the individual's learning through differential assimilation, therefore, from the biological predisposition.

## Keywords

Crimes of Responsibility, Differential Association Theory, Federal Police, Decree-Law No. 201/67, Human Development Index—HDI

## 1. Introduction

The criminal liability of Mayors is one of the most relevant legal issues today. The Municipality is the federative entity closest to citizens: it is up to it to implement public policies essential to society; the mayors, in turn, are given re-

sponsibility for various funds and programs aimed at the social and urban development of the municipalities, resources that are directed, essentially, to basic education, health and housing.

In this sense, a culture of accountability of municipal managers for resources allocated to the implementation of these policies has historically been built. Some well-intentioned mayors generally suffer due to the low technical quality of their advisory services, which ends up leading to civil and criminal responsibilities, however, in most cases, there are pretensions of enrichment, through illicit, anti-legal and culpable practices.

Thus, the Federal Police has been recording and investigating the *modus operandi* of mayors whose acts manifest the clear aim of misusing municipal assets, producing negative impacts on the financial life of the municipalities and on the quality of life of their residents.

Effluent from the police investigations analyzed, as an aspect in great evidence, as the private interests, overlap the collective benefits and motivated by this, they resort to the distribution of positions and public functions among relatives and co-workers with the clear intention of maintaining political groups in the power for long periods.

Along this path, as a recurring fact it appears that the production of goods and services, on a large scale, oversees companies contracted by default of the legal bidding rules, allowing private favoring and undeclared financing of political campaigns with public resources.

The crimes of responsibility of mayors, object of our investigation, are confirmed in Article 1, items I to XXIII of Decree-Law No. 201 of February 27, 1967, having been expanded by items XVI to XXXIII of Law No. 10,028, of 19 October 2000 (Brasil. Presidência, 2019d).

In such a context, the mayor is guaranteed criminal jurisdiction by prerogative of function in the State Court of Justice and the Federal Regional Court, depending on the origin of the appeals, which also alters the powers of the judicial police to investigate the facts, but, in any case, concentrates the judgment in a single body, often leading to the phenomenon of the prescription of the State's punitive claim.

Within the material and formal perspectives explained above—which are considered complex—it is necessary, for a better understanding of the object studied, that a criminological analysis of this phenomenon be carried out and, for this, as a theoretical framework and analytical tool; we will use the Differential Association Theory developed by the American sociologist Edwin Hardin Sutherland (1883-1950), who advocates that criminal behavior is the result of the individual's learning through assimilation, different, therefore, from the biological predisposition or circumstances of socio-spatial organization.

In the author's conception, all behavior can be learned, be it virtuous or criminal, and will be assimilated according to the contact that the individual maintains with that behavior. According to the same theory, the dominant val-

ues in the group with which the individual relates and lives are that they will teach the crime and reinforce the criminal conduct that is fixed in interaction with other people, through communication processes.

From these postulates, Sutherland (1983) developed the concept of white collar crime—a metaphor for those who wear a suit and tie—like that committed by a person of respectability and high social and economic status, practiced in the exercise of the profession and that can generate consequences as serious as any other criminal conduct, although the effects resulting from them are not perceived as incisively or immediately by society because they affect it diffusely.

Sutherland's conception allows us to shed light on real factors that would determine the occurrence of white-collar crime, precisely because it is practiced by occupants of prestigious public or corporate positions and of good financial standing, so that the classic approach to crime, that associates it as originating from biological factors, from poverty or from social and urban disorganization, does not allow, in crimes with such characteristics, to understand the issue that affects this problem.

Despite such theorizing, the numbers report that white-collar crimes do not receive due attention in official crime control statistics, so there are not enough notifications to qualify the extent of the damage, a basic assumption of Criminology (Sutherland, 1983). Thus, a considerable part of the conduct analyzed, here called the hidden number of criminalities, does not even receive due attention from the persons and institutions responsible for the investigation and, consequently, the application of the control rules resulting from the right to punish exercised by the institutionalized agents of the State will be impaired criminal state power.

Based on the assumption that criminal behavior in white-collar crimes is carried out by a person occupying a position or public function and, in most cases, by the person directly responsible for the implementation of public policies as vectors of social services, added to the flagrant statistical weakness, our research interest, initially, is to quantify this type of crime in the investigations initiated by the Federal Police in the confrontation of the problem in the State of Maranhão to shed get some light on the subject.

In this regard, it was found that in the last 10 (ten) years, 14 (fourteen) operations were carried out considered special by the Federal Police in Maranhão, due to the high degree of injury to the municipalities of Maranhão, which culminated in the execution of preventive arrest warrants, search, and seizure, hijacking of movable and immovable property, and blocking bank accounts, among many other precautionary measures.

It is important to note that the Federal Police in Maranhão, within the scope of the Regional Superintendence in São Luís and in the decentralized police stations located in Caxias and Imperatriz<sup>1</sup>, currently has the largest load of police investigations in Brazil related to the diversion of public funds destined to 217

<sup>1</sup>Data collected until December 2019 at the Federal Police Superintendence in Maranhão.

(two hundred and seventeen) municipalities in the state. In all, between 2010 and 2019, 889 police investigations were initiated, of which 549 (five hundred and forty-nine) police investigations are ongoing (16 inquiries by Federal Public Prosecution Quotas—MPF) and 340 police investigations were reported, all of which were initiated based on the crimes provided for in Article 1 of Decree-Law No. 201/67.

Based on the information collected in the aforementioned inquiries, the purpose of the present work unfolds in the following approaches: 1) to survey the police inquiries initiated by the crimes committed by mayors and, under the perspective of the Differential Association Theory, to discuss the crimes of responsibility foreseen in Decree-Law n° 201/67, with the initial objective of bringing indications that allow to reveal the magnitude of the problem; 2) carry out a concrete survey of the amount indicated as resources diverted from their legal purposes in the surveys and their correlation with the low development rates of Maranhão municipalities, given the lack of implementation of public policies due to the deviations of these funds and the possible consequences generated in the within the scope of the Human Development Index—State HDI.

To achieve the purposes proposed in the study, the analytical categories of Sutherland's (Sutherland, 1937; Sutherland, 1947; Sutherland, 1983; Sutherland, 2015). Differential Association Theory were adopted, which included documentary research and bibliographic research, using the analytical induction procedure from the Znaniecki (1924) sociological method, in addition to the research strategy evaluative, understood as a modality of applied social research, starting from the abstract to the concrete, with the use of several evaluation measures (HDI and Average), represented by the definition of variables and indicators. These indicators will be measured quantitatively and qualitatively, developing an articulated dialogue between these two forms of approach (Silva, 2001; Cohen & Franco, 2011; Franco, 2005; Devore, 2016). For this, we follow the following steps: 1) Definition of the conduct to be explained, in this case white collar crime; 2) Formulation of a conjecture or hypothesis explaining the conduct; 3) Analysis of cases in the light of the hypothesis in order to proceed with the validation, rectification or falsifiability of the hypothesis (Popper, 1974; Minayo, 2018); 4) Reflection on the analysis procedure and explanatory limits for producing practical certainties and establishing a valid explanatory theory, Franco (2005), Devore (2016) and Bussab and Moretin (2017)<sup>2</sup>.

The strategy of such a specific methodological perspective starts from the construction of a database based on what appears in the surveys surveyed, namely: 1) the normative and quantitative parameters of the conduct of the public agent defined within the scope of the Mayors' Responsibility Law (Decree-Law n° 210/67) and related legislation; 2) the values indicated in the police in-

<sup>2</sup>The analysis of the collected data was subjected to statistical treatment to assist in the understanding of the phenomenon, in view of the volume of data analyzed and the need to expand the perception of such phenomenon. In that sense, cf. Franco (2005), Devore (2016) and Bussab and Moretin (2017).

quiries as an object of deviation, as well as data not included in the police inquiries referring to the HDI of Maranhão municipalities.

The place for the collection of data contained in police inquiries was the Regional Superintendence in São Luís, a Federal Police unit located in the capital of Maranhão, currently responsible for receiving and controlling *notitia criminis* regarding crimes of responsibility practiced by Mayors, in terms of Decree-Law No. 201/67. Data collection took place through the individual consultation of each case and the monitoring of procedures within the scope of investigations by the Federal Police of Maranhão<sup>3</sup>.

## 2. Criminological Aspects of Crimes Practiced by Mayors

### 2.1. The Differential Association Theory

The Differential Association Theory is inserted among the Sociological Schools of Consensus (Veras, 2006)<sup>4</sup> and has as a major reference the works of Sutherland (1937, 1947, 1983, 2015)<sup>5</sup>. It appeared in the United States, in the post-world war period, in 1929, marked by the crisis resulting from the Crash of the New York Stock Exchange.

In 1933, the American President, Franklin Roosevelt, defended the nation and Congress in his plan to combat economic depression, the New Deal, which included, among complementary measures, consistent investments in public policies, infrastructure, and job creation.

This package generated the so-called Welfare State, a model of active State interference on the market, establishing new rules for business and expanding control over economic activity. Even before the Crash, the United States had experienced periods of intense prosperity driven by broad margins for corporate profits and solid consumption in the domestic market, which eventually resulted in the expansion of the American economy to other parts of the monetized world. Roosevelt's interventionist measures met with resistance from the economic elite, which, camouflaged under free competition and free enterprise, practiced criminal offenses in the pursuit of more profits.

It is in this scenario that Sutherland (1983) starts to study the behaviors that underlie the Differential Association Theory.

<sup>3</sup>The collections of information about police inquiries were extracted from the Registry Office System of the Regional Superintendence of the Federal Police in Maranhão (SISCART). The data analysis tools used in this research were the Police Inquiry System (SISCART) and Business Intelligence (BI), both from the Federal Police, in addition to Microsoft Excel 365 software for the treatment of numerical data.

<sup>4</sup>According to Veras (2006: p. 15 ff.), These Sociological Schools are based on the premise that society and its organisms are maintained by the consensus of members around common values considered relevant to the whole community. Society is considered a stable, balanced system, closed in on itself and tending towards conservation. Society (larger structure) is formed by a set of structures (educational, legal, family, cultural, etc.) that act in harmony, each with a specific function in the whole. It was Durkheim's works that laid the foundations for Consensual Criminal Sociology in the 20th century.

<sup>5</sup>For the correct understanding of the subject and deepening in one of the most respected theories on the causes of crime, it is necessary to see cfr. the classic works of Sutherland (1937, 1947, 1983, 2015).

Based on the principles of the Chicago School<sup>6</sup>, which would not be sufficient to explain criminality, since they advocated a direct relationship between the city, its organization and the practice of crimes, Sutherland (1983) elaborates a criticism against this criminological approach.

Thus, in contrast to the explanation of the sociologists of Chicago, who related the practice of crimes to the areas with the highest rate of social and urban disorganization—contiguous to the areas where the most disadvantaged populations live, such as towns and peripheries—and, therefore, the location in the city, which crime would be most committed, Sutherland points out the incompleteness of such arguments, opposing it head-on and then presents the reasons for justifying the crimes committed by the elites.

It is important to note that the Chicago School emerges as a criticism of the theses from the individual Lombrosian perspective, having been influenced by American industrialization and by the radical change in urban spaces. This transformation, according to this Sociological School, was closely related to the causes of crime, and its understanding lay in the study of forces external to the individual, especially those allocated to the geographical areas where the criminals lived<sup>7</sup>.

Sutherland (2015) opposes the idea that crime occurs only among the poor and marginalized and states that any standard behavior—be it virtuous or criminal—can be assimilated and incorporated according to the form and frequency of the interaction between the individual and this individual standard behavior, that is, the dominant values in the social group with which the individual relates, will teach the crime and the criminal conduct, through communicative mechanisms.

In this perspective<sup>8</sup>, the author gradually elaborates his postulates, based, initially, on seven propositions that became, in later editions of his works, nine propositions, concerning the process of self-inclusion of the individual in criminal behavior. Are they:

1) Criminal behavior is learned.

2) Criminal behavior is learned by interacting with other people in the communication process.

<sup>6</sup>Shaw and McKay (1942) carried out a survey spanning more than ten years in the geographic area of Chicago for the study of juvenile delinquency, collecting statistical data on crime and distributing it over Ernest Watson Burgess's concentric circles. As a result, they verified the predominance of juvenile crime to a stable degree over time, in Zone II. They concluded that it was the characteristics of the area, and not its inhabitants, that determined the quantum of delinquency - since the movement of immigrants was constant. What caused delinquency was social disorganization, that is, a break between the official institutions of society and the community. In Zone II, families were unstructured; schools, disorganized; religious service, scarce; leisure, almost nonexistent; and political groups, few influential. When this breach occurred, adults were unable to control young people, who had permanent contact with older criminals who passed on the crime values to them. On the subject, in a descriptive perspective, cf. Veras (2006).

<sup>7</sup>For further depth on the theme, with studies that bring a clear correlation between the postulates of the Sociological School of Chicago and the spatial propensity for the occurrence of certain types of crime, faced, therefore, the criticism of Sutherland, consult Guimarães (2007, 2013, 2019); Guimarães & Pereira (2014).

<sup>8</sup>Thus, Sutherland (1947: p. 6 ff., free translation) which, throughout his work, has perfected and expanded such propositions.

3) The main part of learning criminal behavior occurs in the privacy of personal groups.

4) When criminal behavior is learned, learning includes a) techniques for committing crime, which are sometimes very complex, sometimes very simple; b) the specific orientation of motives, driving, rationalizations and attitudes.

5) The specific orientation of motives and driving is learned from definitions of legal codes as favorable or unfavorable.

6) The person becomes delinquent due to the excess of definitions favorable to the violation of the law, which prevail over those in opposition to the violation of the law. This is the defining principle of differential association.

7) Differential associations can vary in frequency, duration, priority, and intensity. This is to say that associations with criminal behavior and, equally, with anti-criminal behavior suffer variations in these same aspects.

8) The process of learning criminal behavior through association with criminal and anti-criminal standards involves all the mechanisms peculiar to any other learning.

9) While criminal behavior is an expression of general needs and values, it cannot be explained by this general need and values since non-criminal behavior is also an expression of the same needs and values.

The Differential Association Theory aroused great acceptance among the criminological community because it basically faces two paradigms of the pathological causes of crime: 1) social pathologies and 2) personal pathologies (biological or psychological).

In summary: legalistic or criminal behaviors are learned because of associations with other individuals<sup>9</sup>, giving what can be most effective of this learning conducted within intimate personal groups.

## 2.2. The Differential Association and White-Collar Crimes

The motivational sources of behavior are, therefore, the same for both the criminal and the law-abiding conformist, the distinction persisting in the fact that the pursuit of goals, by the first, is done with the use of illicit means. Differential association then emerges as a product of socialization in which criminal and conformist are guided by generally identical principles (Ferro, 2008).

From the Differential Association Theory, Sutherland forges the expression white-collar<sup>10</sup> crime presented in a lecture at the 34<sup>th</sup> Annual Meeting of the American Sociological Society, in 1939<sup>11</sup>. From that conference, entitled The <sup>9</sup>For Baratta (2011: p. 76 ff.), As well as the Differential Association Theory, all Subcultures Theory end up constituting not only a paradigm of opposition to the normative and ethical theory of culpability, but a denial of the principle itself of guilt, as individual ethical responsibility, which is presented as the foundation of the penal system.

<sup>10</sup>This term was used in opposition to the “blue collars”, the blue overalls used by the workers.

<sup>11</sup>Sutherland (2015) reiterates his interest in the crimes committed by economic elites when he assumes the Presidency of the American Sociological Society (American Sociological Society). At the time of his inauguration, in 1939, he gave the lecture “The White-Collar Criminal” (The White-Collar Criminal). The term was incorporated into scientific language in the United States and in several other countries, such as France (*Crime en Colblanc*), Italy (*Criminalità in Coletti Bianchi*) and Germany (*Weisse-Kragen-Kriminalität*).



White-Collar Criminal, there was a strong interest in the study of the criminal phenomenon worldwide, given the new perspectives and angles emerging from the investigation of a certain form of law violation that was previously ignored by positivist criminological schools.

Sutherland (2015) classified as a specific category for the analysis of criminal behavior, called white-collar crime or white-collar crime, conduct practiced by respected and prestigious individuals in the social environment and in the professional environment, thus inaugurating a sociological concept, say, open, but that highlights the two main elements of these crimes: the social prestige of their authors and the professional purpose of the behavior.

Sutherland's (2015) research<sup>12</sup> meant a rupture in overcoming the traditional paradigm that established the causal relationship between crime and individual factors and psychosocial pathologies.

Studies have shown that white-collar crimes were armored immune against effective criminalization, as such types of criminals of selectivity and criminal labeling and, consequently, stigmatization, from the drafting of laws to the performance of formal social control bodies.

Dodging the official database—which always focused on property crimes, drug trafficking and homicides, the author approached 7 (seven) types of crimes: 1) restriction on trade; 2) use of a rebound; 3) copyright infringement; 4) misleading advertising; 5) violation of labor rights; 6) financial manipulation; and, 7) violation of war laws, all of which are conducts not related to negative economic conditions. On the other hand, they led some companies to the top of economic success, which, in fact, generates great strangeness if it permeates the etiological relationship between crime and poverty (Veras, 2006; Baratta, 2011)<sup>13</sup>.

The great businessman or prestigious politician is not seen as having a natural or acquired deviation. He occupies a position of high social adherence, and is recognized as a man of success and public notoriety. However, according to data from Sutherland (1947), there were few who did not commit crimes in the exercise of their activities.

The damage done to society by white collar crimes is much more extensive compared to that generated by common criminality taken as a social problem. The bankruptcy of a bank, the diversion of millions of reais for health care or the scrapping of the public school system, for example, can generate losses much higher than the total amount deducted in thefts in the country for an entire year.

<sup>12</sup>It was by analyzing the behavior of the 70 largest American corporations that Sutherland (2015: p. 41 ff.). Deepened his studies to develop the theory of differential association, whose main objective would be to develop a general explanatory theory for the criminal phenomenon. More details on the subject, cf. Ferro (2008: p. 151 ff.).

<sup>13</sup>The etiological macrosociology aims to understand the causes of crime, as an ontological data, resulting from social structures. The bases of this approach consist of three premises: the causal determination of the facts, the quantification of the phenomenon and the neutrality of the scientist (observer). The macrosociology of social reaction analyzes, from another perspective, the criminalization process carried out by the organs of criminal prosecution. It attributes the phenomenon of criminalization to a political nature - in the sense of the exercise of power. For further details on the topic, cf. Veras (2006) and Baratta (2011).



Thus, such types of crimes, notably, when practiced by political leaders of the executive powers, could function as the triggers of a nation's backwardness and ignorance and, as a result, bring in impoverishment and fragmentation of the country social fabric<sup>14</sup>.

From this line of thought, it is possible to affirm that, dogmatically, white-collar crime does not differ from ordinary crime practiced by the popular classes. However, in the criminological sphere, there are several possibilities that present themselves as drivers of the criminal phenomenon and, obviously, the mechanisms that trigger criminality based on social disorganization and urban degradation do not reach the *modus operandi* and the prejudice of crimes of white-collar<sup>15</sup>.

In this way, the most significant point of difference between the white-collar criminal and the common criminal is in the concept that they themselves hold about themselves and the public opinion about them. The common criminal, professional thief perceives himself as a criminal and is thus considered by society, while the white-collar criminal, a businessman, sees himself as a respectable citizen and so is also considered by the public<sup>16</sup>.

Another aspect of violations of the laws by businessmen is the complexity of the operation and the extent to which they radiate, since they do not consist of a simple and direct attack by one person against another with a well-defined author and victim, as are the property crimes of theft or theft, for example. The *iter criminis* is sophisticated, just as the harm of white-collar crime is widespread (Sutherland, 2015).

### 3. Dogmatic Analysis of the Mayor's Criminal Responsibility in Decree-Law No. 201/67

Corruption is presented in Brazil as one of the causes of the collapse of social and economic public policies aimed at the realization of social rights, so that the diversion of public resources causes negative impacts, although in different proportions to the population, reducing the quality of education, health, and safety, compromising human dignity<sup>17</sup>.

It is evident that the diversion of funds destined to social services and human development implies impacts on the quality and access to fundamental rights, resulting in an increase in the demand for unmet health care, public educational deficiency, and precarious basic infrastructure, among others, installment defi-

<sup>14</sup>In the perception of Baratta (2011: p. 197), the crimes of the powerful are characterized by having a comprehensive safe-conduct for such illegal practices, and the relationship of this type of criminality with the dominant groups politically and economically is clear. They are, therefore, in an area of significant social harm, largely left immune from the process of criminalization and effective penalization, but socially much more damaging, no doubt, than the diversion practiced by the less favored social classes who are criminalized and persecuted with much more constancy and intensity.

<sup>15</sup>For a better understanding of the subject, cf. Guimarães (2019), which, from the perspective of the Sociological School of Chicago, addresses the fundamentals of formal social control, the justification of order and the legitimation of its effective instruments.

<sup>16</sup>This is the view of Sutherland (2015: p. 338 ff.), When analyzing the learning of white-collar crime.

<sup>17</sup>The term "corruption" here was used in a comprehensive and generic way to express behaviors and practices that aim to misuse public assets, not being restricted only to the typical conduct provided for in Articles 317 and 333 of the Brazilian Penal Code (Brasil. Presidência, 2019b).

cits (Almeida, 2008, 2019)<sup>18</sup>.

Corruption means a transaction between those who corrupt and those who allow themselves to be corrupted. It is a particular way of exercising illegal and illegitimate influence.

The phenomenon of corruption is accentuated with the existence of an imperfect representative system and with discriminatory access to decision-making power. This variable is based on the degree of security enjoyed by the elite in power. The greater the risks or insecurity to the conservation of power by legal means, the greater the threat of resorting to illegal means and corruption to remain in it (Bobbio et al., 1995).

Furthermore, corruption is generally defined as abuse of public power for private benefit. It is the greatest obstacle to economic and social development as it distorts the authority of laws and weakens the institutional base necessary for instability and economic growth (World Bank, 2000).

In this sense, it is possible to infer that in practice corruption causes the annihilation of the State's capacity to guarantee and execute public policies focused on human rights, especially when it comes to social rights, which require considerable investments for their implementation (Ramos, 2002).

As a corollary of this conception, we can affirm that acts of corruption against the State cause the violation of rights, considered in its diffuse or collective form, which depend on state action for its implementation, but which remain unenforceable because of the dishonest act (Almeida, 2008).

In this context, it appears that the municipality as a member of the federal system in Brazil demands special attention. As a result, institutional responsibility for the rational management of public funds and the day-to-day monitoring of state expenditures must be present as a sanctioned of illicit acts and an inhibitor of conducts that are not in the public interest (Brossard, 1994).

Thus, it is necessary for the mayors to be held accountable, based on the regulation of Decree-Law No. 201/67<sup>19</sup>, which lists, in its article 4, the political-administrative infractions. In these violations of a political-administrative nature, it is the responsibility of the City Council, following the rite described in Article 5, to analyze the conduct and decide on the termination of the mandate.

We chose to strictly observe the criminal responsibility of the municipal manager when characterizing the conduct specified in Article 1 of Decree-Law No. 201/67, perpetrated by him as the highest authority of the municipal executive.

The crimes are called responsibility, but strictly speaking, are functional crimes that adopt only the mayor as an active subject. Therefore, using terminological rigor, the crimes provided for in Article 1 are functional crimes, while the offenses typified in Article 4 are political-administrative offenses. In this article, the terminology adopted in Decree-Law No. 201/67 will be maintained, treating

<sup>18</sup>On the subject, cf. Almeida (2008), Rose-Ackerman and Palifka (2016), Almeida (2019) who, in several aspects, analyze the effects of corruption in the field of social development.

<sup>19</sup>See the Law of Responsibility of Mayors and Councilors (Brasil. Presidência, 2019a).

functional crimes as crimes of responsibility.

The mayor's criminal responsibility is direct and personal, without prejudice to the recognition of co-authorship due to the participation of municipal secretaries, councilors, public servants and even private individuals, who will be prosecuted jointly by the competent court, in common state or federal crimes or in electoral offenses in the latter case, by means of their full body or by fractional composition (Article 29, X. of the 1988 Federal Constitution), while regularly exercising their office.

It is noteworthy that the Federal Supreme Court - STF, in several precedents, has understood that the extinction of the mayor's term of office does not prevent the initiation of the process for the practice of the crimes provided for in Art. 1 of Decree-Law No. 201/67, having established such understanding in Precedent 702<sup>20</sup>.

Upon the end of the mandate, loss or forfeiture, jurisdiction is transferred to the respective first-degree court, under the terms of Precedent 702 of the Supreme Court and the police investigation or criminal proceeding descends to the original instance as it stands<sup>21</sup>.

Dogmatically, it is understood that the crimes defined as of responsibility foreseen in Decree-Law 201/67 are intentional, that is, it is necessary that the municipal manager have the intention to harm the municipal public patrimony, or to assume the risk of producing this result.

Thus, in addition to the materiality of the act, the intention to practice it against the legal rules that govern it is required. What is dispensed with is the valuation of the result for the classification of the crime. If the accused's procedure, although irregular, was inspired by the public interest, there is no crime to punish. Thus, it has been consolidated in the Brazilian jurisprudence (Meirelles, 1977; Meirelles, 2006).

In the first fifteen items of Article 1 of the Decree-Law, all crimes of responsibility are recorded in the form provided for in the original project. The other items (from XVI to XXIII) were included after the enactment of Complementary Law No. 101/2000<sup>22</sup>, when a new parameter of responsibility for the fiscal management of public affairs was instituted, aimed at controlling public spending and expenses, through thorough monitoring financial activities of the State<sup>23</sup>.

Despite being functional crimes, they are not linked to the crimes against public administration provided for in the Penal Code (Articles 312 to 326)<sup>24</sup>, constituting autonomous and specific figures of the mayors and his substitutes, who are his only active subjects. The taxable person will always be the municipality, affected by assets and administrative values that the law protects. Responsibility

<sup>20</sup>Precedents of the Supreme Federal Court (Brasil. Supremo Federal Court. HC 77013, 1998; HC 73131, 1996; HC 72033, 1995; RE 149544, 1995; HC 71296, 1995; HC 70671, 1995; HC 71474, 1995; HC 71991, 1995; HC 69850, 1994).

<sup>21</sup>Judged by the Federal Supreme Court (Brasil. Supremo Tribunal Federal. AP 933 QO, 2016).

<sup>22</sup>Institutes the Fiscal Responsibility Law (Brasil. Presidência, 2019e).

<sup>23</sup>Institutes the Mayors' Responsibility Law (Brasil. Presidência, 2019a).

<sup>24</sup>According to the Brazilian Penal Code (Brasil. Presidência, 2019b).

crimes are crimes of public action (Article 1, § 1)<sup>25</sup>, which means that the police authority can officially initiate an investigation (Brasil. Presidência, 2020b), if it is aware of the crime by its own knowledge or by communication from anyone with sufficient evidence elements to start investigations (Castro, 2002; Costa, 2002).

Each conviction, in the main penalty, entails the mandatory application of accessory penalties, such as loss of the position of mayor and disqualification for a period of 5 (five) years for the exercise of any public or elected office, without prejudice to the civil reparation for damage caused to public or private property (Article 1 § 2). The accessory penalty of loss of office has the same nature of criminal sanction as the main detective penalty without any political connotation, since it results solely and exclusively from the classification of the functional crime, and not from the governmental conduct of the punished person, which could only be investigated in another case before the City Council (Pantuzzo, 2000; Costa, 2002; Ramos, 2002).

The two most serious crimes—appropriation or embezzlement of public assets or rents and the use of these assets or rents for personal or other profit—defined in items I and II of Article 1 of Decree-Law No. 201/67, are punished with imprisonment from 2 (two) to 12 (twelve) years, which makes them unaffordable. The other items (III to XXIII) are secured and with the possibility of conditional suspension of sentence (*sursis*) not exceeding 2 (two) years<sup>26</sup>.

With the edition of the Fiscal Responsibility Law<sup>27</sup>, conducts were imposed on public managers aiming at fiscal balance (Castilho, 1996; Ferreira, 1996)<sup>28</sup>. However, in view of the fear of not being complied with only with administrative rules, Law 10,028/2000<sup>29</sup> was published in which the main statements were penalized, giving rise to items XVI to XXIII of Decree-Law No. 201/67.

#### 4. The Federal Police's Performance in the Results of Responsibility Crimes and the Correlation with Low Human Development Index of Maranhão

The Federal Police is the body with the constitutional attribution to investigate criminal offenses to the detriment of goods, services and interests of the Union and its autonomous entities (Article 144, §1, I, of the CF)<sup>30</sup>, as well as to act, exclusively, as union judicial police functions (Article 144, §1, IV, of the Constitution). The performance of this body in investigations involving diversion of public funds is traditionally related to corruption.

<sup>25</sup>According to the Mayors' Responsibility Law (Brasil. Presidência, 2019a).

<sup>26</sup>Precedents of the Supreme Federal Court (Brasil. Supremo Federal Court. HC 75193/MG, 1997; HC 76521 MC/RJ, 1997; HC 76605 MC/SP, 1998; RHC 79460, 1999; AI 266297/PR, 2000; RCL 2103/RS, 2002; HC 85751, 2005; HC 86248, 2005; HC 86007, 2005; AP 432/MG, 2013; AP 595/SC, 2014; SL 888 MC/MA, 2015; HC 146065/AL, 2018; HC 176665/SP, 2019).

<sup>27</sup>Changes to the Penal Code and other rules (Brasil. Presidência, 2019e).

<sup>28</sup>Specifically, on the impacts of the Fiscal Responsibility Law in the context of the criminal liability of Mayors, cf. Castilho (1996) and Ferreira (1996).

<sup>29</sup>Changes to the Penal Code and other rules (Brasil. Presidência, 2019d).

<sup>30</sup>Constitutional rules (Brasil. Presidência, 2020a).

Investigations on corruption in the Federal Police Regional Superintendencies located in the Maranhão States are carried out through the Precincts for the Prevention and Suppression of Corruption and Financial Crimes (DELECOR)<sup>31</sup>. DELECOR's has the statutory attribution to receive the news crimes that deal with embezzlement and are regularly forwarded by the General Accountings Court—TCU, and the Attorney General of the Union—MPF.

The crime news analyzed here deals, ordinarily, with embezzlement of funds transferred by the Federal Government to fund activities relevant to the municipalities, such as the Fund for Maintenance and Development of Elementary Education and the Valorization of Teaching—FUNDEF, later called the Maintenance Fund and Development of Basic Education and Appreciation of Education Professionals—FUNDEB; funds from the National Program for Strengthening Family Farming—PRONAF; School Meals Program—PNAE and the National Health Foundation—FUNASA, Unified Health System—SUS, among other agreements<sup>32</sup>.

From the data available in the Notary Systems of the Regional Superintendence of the Federal Police—SISCART, the existence of 549 (five hundred and forty-nine) police investigations in progress was identified, based on the crimes provided for in Article 1 of Decree-Law No. 201/67, in Maranhão<sup>33</sup>.

In comparison to the sum of all inquiries in progress in Brazilian states (2,993 inquiries), Maranhão points to the largest active collection of inquiries (549 inquiries) initiated based on crimes of responsibility, a concentration of 18.34% of the national collection.

It is possible to observe in data base that the five largest collections of police inquiries, in progress, established to investigate crimes of responsibility are in the states of Northeast Brazil, totaling a volume of 1745 police inquiries (58.30%), where, according to characterization development, lies the largest portion of the population with a deficit in access to social rights, specifically to education, health and income, the basis for calculating the MHDI produced by UNDP<sup>34</sup>.

Regarding the duration, it was observed that police investigations are normal-

<sup>31</sup>The Police Station for Preventing and Suppressing Corruption and Financial Crimes (DELECOR) was generically named Police Station for the Prevention of Financial Crimes (DELEFIN), the nomenclature was updated in accordance with Circular Letter No. 12/2012 of DICOR/PF, complemented by the Memorandum-Circular n° 05/2012 of November 23, 2012. DELECOR's were subordinate to the Regional Police Offices for Investigating and Combating Organized Crime (DRCOR's), which, in turn, is linked to the Regional Superintendencies, according to Ordinance No. 2877/2011 of the Ministry of Justice and Ordinance 1252/2017, Internal Regulations of the Federal Police Department (Brasil. Ministério da Justiça e Segurança Pública, 2020a).

<sup>32</sup>Information on the transfer of federal funds to the municipalities, check the Federal Government's Transparency Portal (Brasil, 2020). An important choice about the abacus education for school children in Brazil is that used only special education for blind school children, however, there is not exist this program in Maranhão State. In others State on the Brazilian Federation was observed that Program has a difficult for the teachers application of the math method using abacus or soroban.

<sup>33</sup>The collections of information on police inquiries, duly authorized, were extracted from the Registry Office System of the Regional Superintendence of the Federal Police in Maranhão (SISCART).

<sup>34</sup>UNDP report (Organização das Nações Unidas, 2010, 2013, 2015, 2019).

ly reported in up to 03 (three) years, although this matter has high turnover and in more complex cases it is relativized by the need for expert or judicial contributions. This fact reiterates the evidence of the high number of *notitia criminis*, calling for diversion of funds practiced by mayors and councilors, every year in Maranhão.

Regardless of the time observed, the current collection of the Regional Superintendence of Maranhão keeps 280 police inquiries (51%) within 3 years or more, in progress, being explained by successive requests for precautionary measures to the judiciary or by the return of the police inquiry (quota) by the Public Prosecutor's Office based on article 16 of the Penal Procedure Code<sup>35</sup>, considerably extending the time required for its conclusion.

Investigations related to the diversion of funds often do not produce conclusive results of authorship and materiality, even if the police authority uses all ordinary means to investigate the misuse of resources (Nucci, 2019)<sup>36</sup>.

It is important to note that, in addition to the Federal Police, control of these resources could have been carried out through the role of parliament through a Parliamentary Commission of Inquiry (CPI) or Bicameral Parliamentary Commission of Inquiry (CPMI), which is one of the instruments provided for in the Constitution for federal senators and deputies to exercise its functions, which is to supervise public administration. Therefore, a CPI or CPMI has investigative powers specific to judicial authorities.

The creation and functioning of parliamentary commissions of inquiry are provided for in the Federal Constitution (art. 58). They are regulated in the Internal Regulations of the Federal Senate (Arts. 145 to 153) and by Laws n° 1579/1952, 10,001/2000 and 10,679/2003, and were not the subject of this work.

A considerable portion of surveys require precautionary measures as strategies to reach the complex networks of relationships with elaborate metrics of discrete distances; “facade” companies; bank accounts in the name of “oranges”; joint venture, with a view to the diversion and concealment of large amounts of public money, in a first phase of the conduct, later, they use the same complex means for money laundering, so that the breach of bank, fiscal and financial secrecy, breach of telematic secrecy and telephone interception is a minimum measure to establish the necessary links and paths for understanding and demonstrating the materiality and authorship of a crime<sup>37</sup>.

In this sense, when it is possible to gather police inquiries or facts linked in a network, in their ostensive stage, coordinated movements are made, called spe-

<sup>35</sup>The Public Prosecutor's Office will not be able to request the return of the investigation to the police authority, except for new steps, which are essential to the offer of the complaint. This hypothesis configures the situation of police inquiries called quotas, ongoing investigations that already record the existence of a report (Brasil. Presidência, 2019c).

<sup>36</sup>Witness Hearing, Interrogation, Reconstitution of Facts, Expert Evidence, etc. For further details on the flow of the Police Inquiry, see Nucci (2019).

<sup>37</sup>In the last 10 years, it was found that 41 (forty-one) representations were presented with judicial requests for invasive precautionary measures in the Regional Superintendence System of the Federal Police in Maranhão - SISCART (Brasil. Ministério da Justiça e Segurança Pública, 2020b).

cial operations by the Federal Police. In the last 10 (ten) years, 14 (fourteen) special operations were carried out in Maranhão, due to their particularities, such as the high volume of resources involved through a complex network of relationships and the high degree of injury to the municipalities of Maranhão, culminating in simultaneous compliance various interventions such as preventive arrest warrants, search and seizure, kidnapping of movable and immovable property and blocking of bank accounts, among other various precautionary measures in prison<sup>38</sup>.

For an approximation of this collection of police inquiries and an understanding of the complexity of these facts, we analyzed at the Federal Police Superintendence in Maranhão, the inquiries initiated to investigate offenses against the resources of the National Education Development Fund (FNDE), Fund for Maintenance and Development of Education Basic and Valorization of Education Professionals (FUNDEF), Fund for Maintenance and Development of Basic Education and Valorization of Education Professionals (FUNDEB), Unified Health System (SUS) and National Health Fund (FUNASA), the main sources federal resources in which police investigations have been opened in the past ten years<sup>39</sup>. The values of the funds and agreements that had a destination other than that programmed in the period analyzed are of the order of approximately R\$4104625523.13 (four billion, one hundred and four million, six hundred and twenty-five thousand, five hundred and twenty-three reais and thirteen cents)<sup>40</sup>.

The amount with a destination other than the public interest represents an amount of R\$39205212.69 (thirty-nine million, two hundred and five thousand, two hundred and twelve reais and sixty-nine cents) per month. Considering the average cost of approximately R\$313.25 (three hundred reais and twenty five cents) to maintain one student per month, in the state public school, the amount deviated, only from federal resources, destined to the municipalities would be enough to maintain 125,156 students enrolled in the municipal education system for a period of 10 years, this represents 8.5% of the number of enrollments in municipal schools across the state, 6.85% of enrollment in the entire state (public/private) education network (Maranhão, 2020).

The diversion of these resources is directly reflected in the State's Human Development Index (HDI), precisely because they should be used for education, health and improving the quality of life of the population, criteria that are used to counter the purely economic data used to measure the countries' wealth and

<sup>38</sup>In 2010, RAPINA V, VI and VII and ORTHOPERA II operations were launched; year 2011 the operations GRANDE MANGUE, USURA and ASTÁGES; year 2012 the ALIEN operation; year 2013 the CHECK WHITE, ASA BRANCA and ACAUÁ operations; in 2015 the operations ÉDEN and ATALEA and in the year 2018 the operation HYBRIS, according to a survey carried out in the Notary System of the Regional Superintendence of the Federal Police in Maranhão—SISCART (Brasil. Ministério da Justiça e Segurança Pública, 2020b).

<sup>39</sup>Police Inquiry System (Brasil. Ministério de Justiça e Segurança Pública, 2019).

<sup>40</sup>The data on the misappropriated amounts were also collected in the Regional Superintendence of the Federal Police in Maranhão (SISCART) Notary Public System (SISCART) are only illustrative since the system only presents this information from 2015.



analyze development based on the inclusion of other factors.

Currently, the Human Development Index (HDI)<sup>41</sup> is calculated based on these three main aspects of the population: income, education, and health, so that the HDI improves when these aspects evolve, despite their limitations, since it does not consider other factors, such as: sustainability, income distribution and other important social elements.

In terms of health, to calculate the HDI, life expectancy is considered, in the sense that this factor observes the longevity of populations. In the field of education, the adult literacy rate, and the level of education of the population in general are assessed. The income factor focuses on the standard of living and is measured by GDP per capita, which would be the Gross Domestic Product divided by the population, in addition to the PPC (Purchasing Power Parity), which performs the calculations to exclude the differences between the appreciation of the different currencies of the countries.

Thus, for the HDI to be calculated, an average weighting is carried out between these three factors, which must have the same weight, since health, education and income are considered equally important elements to guarantee the human development of the population. The result varies from 0 to 1, so that the closer to the maximum value, the greater the human development of a given location.

Maranhão, in its geopolitical aspect, spatially distributes 217 (two hundred and seventeen) municipalities settled in its territory, equivalent to 3.90% of the national area and whose population exceeds 7.07 million inhabitants, which corresponds to 3.37% of the Brazilian population. The State has the eighth territorial area and the tenth population contingent, among the States of Brazil (Fibge, 2019).

The Human Development Index (HDI) of Maranhão, historically, has occupied the last positions. In 2010, it was the penultimate placed in the ranking of States, reaching 0.639 scale points from 0.5 to 1.00 of the HDI. If we consider the 28 indicators, in 2010, Maranhão had suffered performance in social indices, data released by the United Nations Development Program (UNDP) of the United Nations (UN). According to the survey of the Program, of the 217 (two hundred and seventeen) municipalities in the State, none of them have a very high HDI (equal to or greater than 0.800), 4 (four) of them have a high HDI (between 0.700 and 0.799), 55 (fifty-five) have average HDI (between 0.600 and 0.699), 154 (one hundred fifty-four) have low HDI (between 0.500 and 0.599) and 4 (four) have very low HDI (less than 0.500).

Currently, the state's average HDI is 0.687 (considered average) and is the second lowest in Brazil. The Northeast Region is one of the regions with the lowest income MHDI in Brazil, with only 12 municipalities with an index above the national average (0.739). The State of Maranhão has the lowest income

<sup>41</sup>The Human Development Index is measured by the long-term progress of three basic dimensions of human development: income, education, and health (United Nations, 2019).

<sup>42</sup>Cfr, UNDP Report (Organização das Nações Unidas, 2010, 2013, 2015, 2019).

MHDI municipalities in Brazil<sup>42</sup>.

In Maranhão, people have lower life expectancy at birth, according to data from the Municipal Human Development Index (MHDI). The indices, which show variation from 2016 to 2017, were calculated by the Institute for Applied Economic Research (IPEA), based on the National Household Sample Survey (PNAD) of the Brazilian Institute of Statistical Geography (IBGE)<sup>43</sup>.

The Brazilian Municipal Human Development Index (HDI-M Radar) was practically stable in 2016 to 2017, going from 0.776 to 0.778, on a scale of 0 to 1. The three dimensions that cover the survey - income, education, and longevity - the worst result was per capita income, which fell from R\$842.04 to R\$834.31 in 2016 in 2017 or represents a fall of 0.92%.

The question of longevity, according to or survey, shows the growth trend in all units of the Federation. In 2017, two polarized units or indicators: Distrito Federal, with the highest life expectancy, and Maranhão, with the lowest. Besides Maranhão (70.85 years), Piauí (71.23) and Rondônia (71.53) had the lowest values for life expectancy, while Distrito Federal (78.87), Minas Gerais (77.49), Santa Catarina (76.97) and Rio de Janeiro (76.48) have the highest life expectancy at birth.

Maranhão also ranks last in terms of per capita household income. The federative units with the highest values are Distrito Federal (R\$1681.05), São Paulo (R\$1133.15) and Rio Grande do Sul (R\$1073.02). The average per capita household income in the Federal District, in 2017, was four times higher than that of a family in Maranhão (R\$387.34).

Regarding the Education index, Maranhão (0.073) appears among the states with the greatest upward trends but is behind Amazonas (0.100) and Pará (0.076). The Federal District (0.030) and Acre (0.029) were the ones that presented the smallest trends of progress for the period. Although all units showed significant advances in the period, it was observed that, between 2016 and 2017, the index fell in 11 of them and the states that have the highest HDI have more difficulty in changing their indexes.

In the UN inequality report through UNDP, he informs that Brazil, together with Sub-Saharan Africa and the Middle East, are the regions with the highest inequality rates on the planet, where less than 10% of the population concentrates more than 60% of income national (United Nations, 2019).

Therefore, the characterization produced with data from national and international organizations reveals, in a very punctual way, the deficit situation of the Brazilian State, in general and of the State of Maranhão, in a very particular way, demonstrating the high degree of dependence in the face of investment in public policies aimed at human and social development.

This hypothesis gains strength as, when observing the data collected from the Federal Police in Maranhão, in its Regional Superintendence, the volume of notitia criminis regarding the diversion of decentralized federal public resources to

<sup>43</sup>Data were collected in the repository of the Institute of Applied Economic Research (IPEA, 2020).

the municipalities of Maranhão is verified.

The data collected, case by case (Brasil. Ministério de Justiça e Segurança Pública, 2019), revealed, in comparison to the reports of the Federal Police, in the period analyzed (2010 to 2019), a marked concentration of investigations and other investigation procedures in Maranhão, evidencing the greater load of police investigations in Brazil opened based on article 1 of Decree-Law No. 201/1967.

Responsibility crimes committed by mayors are very significant. Within the scope of the investigations carried out by the Federal Police, in the period from 2010 to 2019, counterfeit invoices for the purchase of school meals and overpricing in the purchase of products and services were found. In other investigations (Brasil. Ministério de Justiça e Segurança Pública, 2019), there was a lack of accountability for expenses incurred, and the use of various federal funds and agreements for the development and eradication of poverty in municipalities diverted to the payment of electoral support in municipal elections and the purchase of luxury vehicles for private use (Brasil. Ministério de Justiça e Segurança Pública, 2019).

An aggravating factor in the problem situation is that companies contracted to provide services, works or products - common practice - resort to overbilling, or non-compliance with contracts, causing diffuse losses to the entire structure of the municipalities and to society.

Police investigations often describe public schools without any infrastructure, streets with open sewers, hospitals and health centers without medicines or doctors, and queues with months of waiting for simple outpatient care, even with contracts concluded with the public entity for forecasting such works, products, and services.

As showed in the database, the five largest collections of police inquiries related to the diversion of funds by mayors are from the Northeast Region, with Maranhão as the record holder, followed by the States of Bahia, Piauí, Ceará and Pernambuco. In comparison with the HDI-M, it is possible to observe that among the five worst States four are from the Northeast in the following order, namely: Alagoas (0.683), Maranhão (0.687), Piauí (0.697), Pará (0.698) and Sergipe (0.702). The five states with the highest HDI-M in Brazil are, respectively, Distrito Federal (0.850), São Paulo (0.826), Santa Catarina (0.808), Rio de Janeiro (0.769) and Paraná (0.792), situated in the high range human development.

Maranhão had the worst rates in terms of longevity and income and has achieved a significant advance in education in the last ten years, although it is still at a very low level compared to other Brazilian states. It is precisely these questions, which were diverted more than four billion reais in the last ten years from Union funds, which should be directed towards the implementation of public policies for the municipalities of Maranhão and were identified in the collection of inquiries by the Federal Police in Maranhão.

It is also possible to observe that the states that have the best HDI-M have an inexpressive load of police inquiries, except for São Paulo and Rio Janeiro, al-

though other factors are not evaluated, such as: population, number of municipalities and resources employed, availability and structure of the institutions of the justice system to ascertain the facts now analyzed.

In summary, the data exposed and analyzed here reveal a direct correlation between the criminal conduct practiced by Mayors and municipal administrators, the material difficulties experienced by the communities receiving the inclusive constitutional benefits undermined by the high amount of diverted resources which should be destined for implementation of public political policies in the municipalities of Maranhão, materialized in the largest load of inquiries initiated in the Federal Police, regarding the crime provided for in Article 1 of Decree-Law 201/67 and the second worst Human Development Index (HDI) in the country.

## 5. Conclusion

From all the above, and initially supported by the methodological proposal, it is concluded that all the knowledge produced in the scope of Law, based on the understanding that its object of study is the legal phenomenon and, through the adoption of the critical socio-legal method it must be problematized from and as an end to improvements in social relations, this research has reached its main aim by uniting theory and concrete social relations as a way to stimulate knowledge and deepen the debate on the chosen theme.

Of paramount importance, also, is the conclusion that the criminal phenomenon has several facets, in it is multifactorial, with several possibilities of criminological interpretation of its causes and effects, with the Differential Association Theory and the theoretical-explanatory elaboration of white-collar crimes, among those we believe to be justified in carrying out this task.

Furthermore, in what concerns the essence of the research proposal, its main object, it is understood that the investigation of the crimes provided in Article 1 of Decree-Law No. 201/67 practiced by mayors is of paramount importance, since it is from the municipal administrations that elementary public policies are implemented to guarantee access and increase social rights, such as health, education and work, to citizens and residents in the area of the assessed territory.

The conclusion is clear: according to which the police investigations analyzed show how private interests overlap with collective benefits, in such a way that the criminal behavior in white collar crimes, *in casu* carried out by the occupier of political office in the Municipal Executive, is an obstacle to the implementation of public policies, which is aggravated by the statistical weakness and the bureaucratic difficulties in facing the problem in the State of Maranhão.

In addition, it was concluded that the crimes studied here are among the reasons for their existence to the lack of understanding or inability to act by civil society, absolutely dependent on a historical relationship built through ties of personal and family dependence, given that, in all the observed cases, kinship ties and socially understood relationships were verified in the intimacy of political groups, able to distort their various forms and techniques of offense against

heritage and public interest.

In this perspective, it is clear that crimes are practiced with the ability to function as feedback mechanisms for dependency relationships and become unattainable, as noted, due to the complex networks of relationships with elaborate metrics of discrete distances, companies of “facade”; bank accounts in the name of “oranges”; joint venture, with a view to the embezzlement and concealment of large amounts of public money, being converted into money laundering, fiscal and financial crimes that are unlikely to be achieved by an analogical bureaucracy, with the consequence of prescription and impunity, capable of encouraging their perpetration .

As the main object of the research that is now finalizing, to investigate the correlation between the crime committed by public managers, especially Mayors, and the Human Development Index—HDI presented in a given geographical context, the hypothesis of the existence of a high number was raised of police investigations initiated to investigate this specific crime, with the spatial cut from the State of Maranhão and the temporal cut, due to the data available, between the years 2010 and 2019, as well as, delimiting the scope of the Federal Police , as a way to better investigate the phenomenon.

With such a conclusion, the perception was reached that in the State of Maranhão, according to the data collected and presented, the existence of one of the worst indicators (HDI) in the country was detected and, in this sense, characterized the State as an equal deficit social, health, education and income, revealed by UNDP—UN, in the Reports of the years 2010, 2013, 2015 and 2019.

With the information on the HDI of the State of Maranhão already raised, and the high poverty rate of the Maranhão municipalities proved, the data on the Police Investigations initiated by the Federal Police in Maranhão were analyzed to investigate the crimes studied here, concluding that the largest load of police inquiries in progress in Brazil on the matter is found in the State of Maranhão.

Altogether, 549 (five hundred and forty-nine) police investigations were analyzed by the survey in the period studied, a concentration of 18.34% of the national collection, being the largest load in Brazil and the total diversion of public resources investigated in such procedures police reach a figure that exceeds the incredible sum of four billion reais.

It is concluded, therefore, that the numbers indicate, in a very valid way, that the municipal management of the resources developed from interests, that do not come close to the public interest, and, that is, in the opposite sense, private interests as primary focus, and, whether economic or political, it has a marked impact on human development indicators and, by doing so, stimulates situations of precariousness and deficit, reflected in the limitations related to non-access to basic constitutional benefits that guarantee a dignified existence.

Thus, we conclude, based on the investigation carried out in the present work, the existence of a correlation between the criminal conduct concretized in the corruption that permeates the municipal administrations—in the crimes practiced by the Mayors—evidenced by the great number of police inquiries initiated

for the investigation of such criminal conduct, in a given time and space, and the irreversible damage caused to the investment and social development that should have been carried out with the decentralized public money of the Federal Government programs, indicating as a direct consequence the low HDI rates in the State of Maranhão.

## Conflicts of Interest

The authors declare no conflicts of interest regarding the publication of this paper.

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