

**IN THE HIGH COURT OF THE REPUBLIC OF SOUTH AFRICA
(GAUTENG LOCAL DIVISION, JOHANNESBURG)**

CASE NO : 2020 / 22913_____

IN THE MATTER BETWEEN:

HOLA BON RENAISSANCE FOUNDATION

APPLICANT

AND

PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

1ST RESPONDED

**MINISTER OF COOPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS**

2nd RESPONDED

AFFIDAVIT

I, the undersigned,

Bontshitswe Preddy Mothopeng Msieleng

Do hereby make oath and state –

1. I am a chairperson of Hola Bon Renaissance Foundation, the African Empowerment and defender of the human race, herein shall be referred to as HBRF. I am duly authorized by the board to Institute this application and to depose to this affidavit on behalf.

2. The facts set out in this affidavit are within my personal knowledge and are to the best of my knowledge, true and correct, unless appears otherwise from the context.

3. The detailed objectives of the applicant are set out in the constitution which is attached to my affidavit in the application as **(Annexure 1 Constitution).....**

A) PARTIES

A1) HBRF

4. Since its inception Hola Bon Renaissance (HBR) Foundation “The African Empowerment” in 2004, it has been a Non-Profit Organization and also non Political aligned/affiliated organization, which aims to address and encourage the communities’ transformation by creating a community that is skilled, self-sustained with a central economic opportunity.
5. HBR Foundation is a voluntary association which is essentially defined by its constitution. Voluntary associations derive their character from their constitutions. (Wilken v Brebner & others 1935 AD 175 at 90). The constitution of the voluntary association will as a rule be construed benevolently and not narrow or restrictively the object is to empower and not to dis-empower the voluntary association from functioning efficiently and effectively (Deutsche Evangelische Kirche zu Pretoria v Hoepner 1911 TDP 218 at 232)

A2) PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

6. The Head of State and head of the national executive; with powers and duties as enshrined in the constitution chapter 5 (The first respondent shall be referred to as the State and/or the President for the purpose of this application)

B) PRESIDENT CABINET HAS Twenty Eight (28) MINISTERS INCLUDES COOPERATIVE GOVERNANCE TRADITIONAL AFFAIRS (COGTA):

7. COGTA Ministry established under the constitution of the Republic of South African, and Ministered by Dr Nkosazana Dlamini Zuma as a member of cabinet and is appointed and report directly to the President ,

B1) NATIONAL DISASTER MANAGEMENT

8. The Department of Cooperative Governance is responsible for disaster management in South Africa.
9. The Disaster Management Act 57, 2002 was promulgated in 2003. The National Disaster Management Centre with functional disaster-management centres and advisory forums were established in eight provinces. The National Disaster-Management Advisory Forum was recognized by the United Nations (UN) as the national platform for reducing disaster risk.
10. South Africa has also made significant progress in respect of the implementation of the Hyogo Framework for Action – a global blueprint which aims to substantially reduce disaster losses by 2015.
11. Through the NDMC, the Department of Cooperative Governance registered unit standards for levels three to seven with the South African Qualifications Authority for a national certificate in disaster risk management. The department also developed regulations for recruiting and using disaster management volunteers

B1a) Section 9 - National Disaster Management Centre

12. The objective of the National Centre is to promote an integrated and co-ordinated system of disaster management, with special emphasis on prevention and mitigating by national, provincial and municipal organs of state, statutory

functionaries. Other role-players involved in disaster management and communities.

B1b) Section 15 - General powers and duties of National Centre

13. The National Centre must, subject to other provisions of this Act, do all that is necessary to achieve its objective as set out in section 9, and. for this purpose-
- (a) must specialise in issues concerning disasters and disaster management;
 - (b) must monitor whether organs of state and statutory functionaries comply with this Act and the national disaster management framework and must monitor progress with post-disaster recovery and rehabilitation;
 - (c) must act as a repository of. and conduit for, information concerning disasters, impending disasters and disaster management;
 - (d) may act as an advisory and consultative body on issues concerning disasters and disaster management 1.0-
 - (i) organs of state and statutory functionaries;
 - (ii) the private sector and non-governmental organisations;
 - (iii) communities and individuals; and
 - (iv) other governments and institutions in southern Africa:
 - (e) must make recommendations regarding the funding of disaster management

and initiate and facilitate efforts to make such funding available;

(f), must make recommendations to any relevant organ of state or statutory
functionary-

- (i) on draft legislation affecting this Act, the national disaster management
- (ii) on the alignment of national, provincial or municipal legislation with this
- (iii) in the event of a national disaster, on whether a national state of disaster should be declared in terms of Section 27

B1c) Section 23 - Classification and recording of disasters

14. When a disastrous event occurs or threatens to occur. the National Centre must, for the purpose of the proper application of this Act, determine whether the event should be regarded as a disaster in terms of this Act, and if so. the National Centre must immediately-

- (a) assess the magnitude and severity or potential magnitude and severity of the disaster
- (b) classify the disaster as a local, provincial or national disaster in accordance with subsection 4, 5 and 6
- (c) record the prescribed particulars concerning the disaster in the prescribed register

15. When assessing the magnitude and severity or potential magnitude and severity of Disaster the National Centre -

- (a) Must consider any information and recommendations concerning the disaster

received from a provincial or municipal disaster management center in terms of section 35 or 49

(b) may enlist the assistance of an independent assessor to evaluate the disaster on site.

16. The National Centre may reclassify a disaster classified in terms of subsection (l)(b) as a local, provincial or national disaster at any time after consultation with the relevant provincial or municipal disaster management centres, if the magnitude and severity or potential magnitude and severity of the disaster is greater or lesser than the initial assessment.

C) SUMMARY HISTORY OF THE CONSTITUTION OF THE REPUBLIC OF SA

(Extracted from the Constitutional Court website:

17. The notion of a bill of rights for South Africa can be traced back to an ANC document in the early 1920s. The Freedom Charter of 1955 carried the idea forward. In the following decades the idea of an entrenched bill of rights received support from liberal academics and judges. The question of who would enforce it, was, however, left open. This issue was debated at a conference organised by the Constitutional
18. Committee of the ANC in 1991. What emerged was a commitment to a Constitutional Court in a hybrid continental form, such as that of Germany: able to hear cases by direct access, as well as by referral and on appeal. South Africa's first non-racial election takes place on 27 April. The PAC also agrees to participate at the last minute.
19. In 1994, the judiciary was overwhelmingly white (and male) and therefore limited in its legitimacy and its capacity to draw on the sense of justice of all

communities and both sexes. It was agreed that a new court, more representative of South Africa's diverse population, should be established to protect the Constitution and the fundamental human rights it entrenches.

20. South Africa did in fact have a constitution before the interim Constitution of 1994 and the final Constitution of 1996 (see history of the Constitution). But that "tricameral" constitution - which created separate parliaments for whites, coloureds and Indians but denied blacks a say in government - was not supreme. It was subject to the whims of parliament - in this case, an unrepresentative one
21. This election produces 400 leaders in the National Assembly and 90 in the Senate. In terms of Section 68(1) of the interim Constitution, a joint sitting of these bodies forms the Constitutional Assembly, which is established on 9 May. Nelson Mandela is inaugurated as democratic South Africa's first president on 10 May.
22. The Constitutional Assembly has to work within particular parameters. These are the requirement of a two-thirds majority for the adoption of the text, compliance with 34 constitutional principles agreed to in the interim Constitution, and the adoption of a new constitution within two years.
23. In June the constitutional committee is established. This becomes the premier multiparty negotiating body in the Constitutional Assembly. It is led by Ramaphosa and Meyer. In September six theme committees are established to receive and collate the views of all parties on the substance of the Constitution.
24. In an advertising campaign is launched to elicit public views on what should be in the Constitution. On 19 September the first consolidated draft of the new Constitution is produced. A month later the first refined working draft is published. But by there are 68 outstanding issues that need to be settled.

25. Concern mounts that the Constitutional Assembly might not be able to finish its work by 8 May 1996 - the deadline. But at the beginning of April, the Arniston Multilateral is held and the parties resolve their differences. Later in the month, the channel between Ramaphosa and Meyer is reinstated to find solutions.
26. By 22 April several sticking points remain: the death penalty, the lockout clause, the property clause, the appointment of judges and the attorney-general, language, local government, the question of proportional representation and the bar against members of parliament crossing the floor. On 23 April the draft is tabled without key outstanding issues being resolved. Two days later, negotiators table 298 amendments - but most are of a technical rather than substantial nature.
27. On 8 May, after a two-year process, the final text is adopted and on 1 July the Constitutional Court's certification hearing begins. But on 6 September the Court finds that the text does not comply with the constitutional principles and refuses to certify it.
28. The text is amended; in October it is adopted by the Constitutional Assembly and sent to the Constitutional Court again. On 18 November the Court's second hearing begins and on 4 December it certifies the final text. Nelson Mandela signs the Constitution into law in Sharpeville, in Vereeniging, on 10 December, which is international Human Rights Day.
29. Constitutions protect democracy by separating state power into three arms. The legislature (parliament, the provincial legislatures and local councils) makes the laws and monitors the executive; the executive (the president, deputy president and ministers) makes policy, proposes laws and implements laws passed by the legislature; and the judiciary tries cases and administers justice
30. The supreme status of the Constitution is set out early in the text. Section 2 of Chapter 1 - which deals with founding provisions - is a crucial one. It is entitled "Supremacy of Constitution" and says: "This Constitution is the supreme law of

the Republic; law or conduct inconsistent with it is invalid, and the obligations imposed by it must be fulfilled."

31. This means any law that violates the Constitution, or any conduct that conflicts with it, can be challenged and struck down by the courts.

D) INTRODUCTION

32. On the 13 February 2020 the President delivered State of Nation Address, and he said I Quote:

33. *“ In 1994, we chose the path of negotiation, compromise and peaceful settlement, instead of hatred and revenge.*

34. *Our history and contemporary experience has taught us that if we are to achieve what we set out to do, we must focus on what unites instead of divides.*

35. *The greatest strength of our constitutional democracy, and the reason it has endured, is because we have been able to forge broad-based coalitions and social compacts, be they with business, labour, special interest groups or wider civil society.*

36. *Achieving consensus and building social compacts is a not demonstration of weakness. It is the very essence of who we are.*

37. *That is why over the past two years we have been hard at work seeking to forge and build consensus around our economic recovery plan.*

38. *In his inaugural address on the 10th of May 1994, President Nelson Mandela said:*

39. *“Today we enter into a covenant that we shall build a society in which all South Africans, both black and white, will be able to walk tall, without fear in their hearts, assured of their inalienable right to human dignity.*

40. *This government remains irrevocably committed to upholding that covenant.” Unquote*
(See Annexure 2 SONA)

41. On the 17 February 2020, covered by BBC on Coronavirus: A Cameroon student on how he recovered, **(see the annexure 3 – reports on Cameroon student)**
42. On the 26 February 2020, the Minister of Finance tabled his budget Speech and he said quote “ *A sound macroeconomic framework always lays the foundation for growth.*
43. *Budgets are complex, but the numbers are simple. The numbers show that we have work to do.*
44. *For 2020/21, revenue is projected to be R1.58 trillion, or 29.2 per cent of GDP. Expenditure is projected at R1.95 trillion, or 36 per cent of GDP.*
45. *This means a consolidated budget deficit of R370.5 billion, or 6.8 per cent of GDP in 2020/21.*
46. *2020 Budget Speech Gross national debt is projected to be R3.56 trillion, or 65.6 per cent of GDP by the end of 2020/21”unquote **(See Annexure4 - Budget Speech 2020)***
47. On the 5 March 2020, the first case of Covid19 is reported in South Africa
48. On the 8th March 2020, covered by News24, Coronavirus: All the fuss is irritating, says doctor who diagnosed first SA case of Covid19 in the country, Dr Robyn Reed **(See annexure 5 – DR diagnosed 1st victim)**
49. On the 11 March 2020, Cabinet met and deliberated on the Covid19 and following matters: **(See Annexure 6 – Cabinet Discussion on Covid)**
- a) Issues in the environment

- b) The economy of the country is on technical recession, with this lock down the country will be on permanent recession for 21 days resulting to increased poverty and health issues in the country
50. On the 15 March 2020 in the government Gazette Vol 657 No: 43096 (**see Annexure 7 –Classification**), the Head of National Disaster management Dr Mmaphaka Tau stated that after assessing the potential magnitude and severity of the COVID -19 pandemic in the country, hereby give notice that on 15 March 2020, in terms of section 23(1)(b) of the Disaster Management Act, 2002 (Act No. 57 of 2002) (the Act), classified the COVID -19 pandemic as a national disaster.
51. On the 15 March 2020 the Minister of Cooperative Governance and Traditional Affairs declared a national state of disaster and she state “ Considering the magnitude and severity of the COVID -19 outbreak which has been declared a global pandemic by the World Health Organization (WHO) and classified as a national disaster by the Head of the National Disaster Management Centre, and taking into account the need to augment the existing measures undertaken by organs of state to deal with the pandemic in the government Gazette Vol 657 No: 43096 (**see Annexure 7 – Consider reasons to Declare Disaster**)
52. On the 17 March 2020 the Minister declares on government Gazette No: 43107 regulations issued in terms of section 27(2) 0 of the Disaster Management Act, 2002 (**see annexure 8 – Declaration**)
53. On the 19 March 2020, there was a statement of the Inter Ministers Committee on the Gazetted Regulations on the state of disaster Hon. Dr Nkosazana Dlamini Zuma Minister of Cooperative Governance and Traditional Affairs (**See Annexure 9 –Minister COGTA statement**)

54. The State declared the national disaster - On the 23 March 2020, The President Cyril Ramaphosa: Escalation of measures to combat Coronavirus COVID-19 pandemic and called for a lock down **(See annexure 10 President on Covid escalation)**
55. On the 24 March 2020, Minister of Higher Education, Science and Innovation update statement following President Cyril Ramaphosa addressing the nation on the government response to Covid 19, Minister Blade Nzimande stated Qoute: “Seventy Six (76) students are at the Ranch, having been evacuated from Wuhan. They’ve all been tested and found to be negative. They are doing their final tests this weekend, where after they will be reunited with their families” unquote. **(see Annexure11 – Minister DHET on Students)**
56. On the 25 March 2020, Minister of Health, Zweli Mkhize confirms total of 554 cases of Coronavirus COVID-19 and his report there were still on death due to this disease and therefore that did not warrant any serious harm to the South Africans by Covid-19 **(See Annexure 12 Minister Health Lessons)**
57. On the 26 March 2020 HBRF approach the court to interdict the President in announcing the lockdown **(see annexure 13 – HBR Application to interdict)**
58. On the 30 March 202 the Constitutional Court dismissed the application on grounds that it had no prospect of success **(see annexure 14 Con Court Dismissal HBR)**
59. There after the State proceeded with unconstitutional declarations of regulations in a form of disaster management regulation and lock down

60. The regulations violated the rights of South Africans, in terms all forms that includes work, education, Jobs, Security, health and movement, religion etc...
61. On 21 April 2020 the President wrote a letter where he stated the outbreak of the Covid 19 continue to increase with reported cases across the Republic of South Africa. As a result in terms of the same sections referred to in the previous letter to employ an additional 73180 members for the SANDF consisting of the regular force, reserve force and auxiliary force. He also gave the expected expenditure which was around R4,590,393,940.00(four billion, five hundred ninety million, three hundred ninety three thousand rand, nine hundred and forty rand)
62. On the 13 May 2020 an article on the moneyweb stated that the economic transformation is on a perpetual go slow and coronavirus may bring it to a screening halt, warns B-BBEE Commissioner **(See annexure 15 Statement Of BBEE Commission)**.
63. On the 15 May the State is taken to court in a matter between Khoza and others vs Defense Minister and other Case No:21512/2020 The judgment of Judge Frabicius was in favor of the Khoza and others since the South Africans and other nations in the country were experienced abuse and harassment from the State during Lockdown **(see the annexure 16 Judgment of Frabicius)**
64. On 28 April 2020, the State is condemned by SA Human Rights Commission for its conduct since religions in the country were experienced abuse and harassment from the State during lockdown **(see the annexure 17 – SAHRC statement)**

65. The court should further note that President calls in numerous speeches where he acknowledges the inequality that existent in the Country and that has been continuously exposed by Covid 19 epidemic.
66. The President on the 13 May 2020 announced “ As of today, the R200 billion Covid-19 Loan Guarantee Scheme, which is guaranteed by the government, has begun to process applications from small and medium-sized businesses. At the beginning of this month, government paid out an additional R5 billion to social grant recipients to assist poor households at a time when other sources of income have been disrupted. We have opened applications for the special Covid-19 grant of R350 a month for unemployed South Africans who receive no other form of assistance from government. By the close of business today, some 3 million South Africans had already applied for this assistance”.
67. On the 30 May 2020 the State is taken to court in a matter between Agriforum vs Minister of Tourism and others Case No: 21399/2020, the judgment of Judge Kollapen favored the State to save lives and address the social relief the country needed **(see the annexure 18 –Judgement of Judge Kollapen)**
68. On the 11 June 2020, the President announces council to reform SA's state-owned enterprises and appoint **(see the annexure 19 – SOE Council)**
69. On the 17 June 2020, HBRF writes to the Minister of Social Development request for SASSA and the Department to Settle unpaid amounts to Unemployed “Covid19 SRD” **(see the annexure 20 –letter to Minister Social Development)**
70. On the 18 June 2020, HBRF writes to the Minister of Employment and labour Requesting For UIF and the Department to settle unpaid amounts to workers “Covid19 Ters” **(see the annexure 21 letter to Minister Labour)**

71. On the 19 June 2020, HBRF writes to the Minister of Small Business Development Requesting For SEFA/SEDA and the Department to settle unpaid amounts to workers “Covid19 SMME” **(see the annexure 22 – letter to Minister -SBD)**
72. On the 19 June 2020, HBRF writes to the Minister of Arts, Sports and Culture Requesting the Department to settle unpaid amounts to workers “Covid19 DSAC” **(see the annexure 23 – letter to Minister Arts)**
73. On the 22 June 2020, HBRF writes to the Minister Justice and Correctional services, requesting for the Department to clear criminal records and refund victims subjected to the unconstitutional Lockdown” **(see the annexure 24-letter to Minister Justice)**
74. On the 22 June 2020, the African Court Reponses to the HBRF Application to review the 30 march 2020 Constitutional Court judgment, and clarity state that the is no declaration for individuals and NGO to submit application to the court **(see Annexure 25 African Court)**
75. On the 26 June 2020 the State is taken to Court in a matter between Liberty Fighter Network and others vs Minister of Cooperative Governance and Traditional Affairs
76. On the 26 June 2020 HBRF joined the application of Liberty Fighter Network Case No 21542/2020 as an Amicus curiae
77. On the 28 June 2020 from media release covered by CGTN, WHO warns 'Influenza threat is persistent and it's real' **(See the attached 26 Who reports on Influenza)**
80. On the 1 July 2020, New flu strain found in China, WHO warns ‘the worst is yet to come’ **(See the attached 27 Reports on new flue)**

81. On the 1st July 2020 HBRF Request for lifestyle Audit of World Health Organisation (WHO) and that WHO must withdrawal its involvement in sustaining lockdowns **(See Annexure 28 Letter to WHO)**
82. On the 2 July 2020 the judgment of the above matter and the Judgment of Judge Davis favored applicants, and declared the lockdown unconstitutional **(See the annexure 29 Judgement of Judge Davis)**
83. On the 10 July 2020 the State lodge a for Leave to Appeal application **(see the annexure30 State Leave to Appeal)**
84. On the 22 July 2020, HBRF writes to the Minister of Finance requesting restructuring and prioritizing of one billion dollar loan received from New Development Bank **(see the annexure 31 – Letter to Minister Finance)**
85. On 22 July 2020 the HBR Foundation writes to Minister Stella Ndabeni to Pay faster the R350 of the unemployed, Request for the Department And Postbank to Implement 4ir & Digitize transferring of funds to the unemployed “Covid19 Srd” **(See The Attached 32 Minister of Communication)**
86. On the 31 July 2020, the President addresses Inaugural National Covid-19 Conference **(see annexure 33 -Covid-19 Conference)**
87. The HBRF acts in the interests of those without resources and means to litigate in their own names, and are people who are typically marginalized and disproportionately affected by unconstitutional lockdown regulation
88. On the 3 August 2020 HBR Approached the Constitutional court in an urgent application and seeking direct access, CCT case no:152/2020 ,and on the 12 the constitutional court dismissed refusing direct access **(See Annexure 54 – Court Order CT152/2020) ,**

E) JURISDICTION AND STANDING

89. This Honorable Court has jurisdiction in respect of this action by virtue of:
- a) The application is in terms Chapter 8, Section 169 (1) (a) and (c) of the Constitution and
 - b) It is brought in the interests of justice that an hear this matter directly and urgently and
 - c) May the court that the application is in terms of Chapter 8, Section 172 (1) (a) and (b) of the Constitution
 - d) To consider its inherent power as prescribed in Chapter 8, Section 173 of the Constitution
 - e) in terms of the Supreme Court Act, 1959 (Act 59 of 1959); and read with terms of rules the uniform rules of the Court including Rule 6(12)of the uniform rules of the Court
90. HBR has standing to bring and does bring this application:
- a) This Honorable Court has jurisdiction in respect of this action by virtue of Section 169 (1) (a) of the Constitution
 - b) In terms of Section 33(1) of the Constitution of the Republic of South Africa (the Constitution) provides that ‘everyone has the right to administrative action that is lawful, reasonable and procedurally fair
 - c) In the interest of justice

- f) To challenge the classification that declared COvid19 a national Disaster
 - e) To challenge the executive decision to declare a national disaster
 - f) To challenge declaration of National Disaster in terms Procedural rationality
 - g) The Court to conduct Rationality test
 - h) To challenge declaration of regulation on Disaster Management limits Human rights
 - i) The consistence violation of Chapter 2 the Bill of Rights
 - j) the State abuse of resources and neglecting its constitutional obligation
 - k) Access to court in terms of section 34 in terms of the Constitution
 - l) Gross violation of the Constitution of the Republic of South Africa, 1996, Chapter 1, Preamble
 - m) Gross violation of the Constitution Chapter 1, Section1, 2 and 3 of the Founding Provision,
 - n) President bridge of oath or/and affirmative of office as per Section 95 of the Constitution
 - o) State failure to a reasonable test for Justifications
 - k) court's to conduct a rights limitations analysis
 - l) The State failure to test the exercise of power against the accepted objective to preserve human live, uphold the rights to dignity, limit the economic downfall, to report truly in the spread of infection and against other means.
91. HBR interest, the public interest and in the interest of justice arise from HBR primary objective:
- a) To uplift the spirit of African renaissance
 - b) To empower the youth in Africa
 - c) Instill discipline and Morality

- d) Transform the image of Africa to the world.
- e) To act as agents of change not only in South Africa but the Southern African Region and ultimately the continent as a whole

F) RELIEF SOUGHT

92. The applicant seeks the honorable court to grant relief in the following:
- a) To granted me an application for direct access as contemplated in section 167(6)(a) of the constitution
and
 - b) The matter be grated as an urgent application in terms of Rule 6(12) of the uniform rules of the Court
93. Furthermore the ancillary relief sought in the notice of motion and the applicant asks this Honorable court to grant leave to:
94. Declaring the classification of the national disaster is irrational, vague and unconstitutional
95. Declaring the classification of the national disaster as not procedural and misleading
96. Executive decision to declare Covid19 a national disaster being irrational and unconstitutional

97. Declaring the Disaster Management regulation unconstitutional
98. Declaring the COVID19 a health related matter rather than a disaster in its nature
99. Declaring the classification of the national disaster as unconstitutional
100. Nullifying the lockdown as invalid and unconstitutional
101. Order the State to withdraw its COVID19 compulsory, statements and request entities to remove Covid19 on all platform of communication be it website, including the withdrawal of the State derivative instituted on companies, Institutions and media relating to Covid19
102. To nullify the COVID19 reports declared by the State as baseless, untruth, unethical, untruth and unfounded
103. Instructing the high Court to Setup an independent committee of enquiry on Covid19 related activities:
 - i. Setup with at least 30 Experts within the 15 days
 - ii. With powers to independent to investigate all cause of death associated with Covid19 and obtain any report
 - iii. Report on all deaths associated with Covid19

- iv. Mandate to verify and qualify any tests and/or database
 - v. To report to this court every month for a period of two year
 - vi. any other mandate the court deems it fit
-
- 104. The State to proceed with all the relief for the next 6 six months from date of order cancelling the October 2020 deadline.
 - 105. The Every Department and/or Agency with a Covid19 Social Relief must have an open system and a report presented to the court within the next 15 days of every month
 - 106. Setup an in depended panel of auditors, led by the Auditor General of South Africa be assigned to audit every COVID19 Social Relief packages, funds allocated to banks and including the processes and systems, whereby to report to the court by 15 November 2020
 - 107. State to maintain its promises and commitment with relief as initially declared to the nation and any Minister that fails to disperse funds as mandated must be declared delinquent
 - 108. Parliament to review a process of identifying and validating any disaster to be followed that includes restructuring and capacitation of the national disaster management

109. Withdraw and/or revoke any instruction and/or communication that is/was instructed and/or enforced on companies and/or entities to conform to covid19 regulations including media and on any other communication platform
110. The Court to declare that the disease referred to as COVID19 known as Corona Virus possess no serious threat however a health caution to people with underline health condition must be observed
111. Setting up a Commission of Enquiry into COVID 19 funds, and furthermore instructing the State Investigating Unit to investigate any findings of the Audit on the Social Relief Fund and procurement of the Covid19 and the report be given to the Court by 1st December 2020
112. The court to Subpoenaing parliament to report of the findings and updates of the Covic-19 in the country and advice back to the court on quarterly basis
113. The court to order the reallocate of any funds and /or loans dedicated to Covid19 as a priority, be priorities to essential service delivery matters and programmes including payment of SMME and any other suppliers the State owes, this excludes funds and resources allocated to COVID19 Social Relief Package
114. Remove and clear all criminal records obtained by anyone who was arrested and/or fined for infringing Lockdown “Disaster Management” regulations

115. To order that any ban on alcohol and cigarettes be uplifted with immediate effect.
116. Order the State to exempt all rates and taxes incurred during the unlawful lockdown period for all commercial, industrial and residential.
117. To initiate a process to determine whether the President is fit to hold office
118. The order that nullifies the President action on proceeding with the lockdown and resulted in him neglecting to carry his constitutional obligation and that his actions were unconstitutional and baseless,
119. To declare that the President has abused his executive powers and violated the constitution and the people rights
120. In alternative to point 23 and 24, and in addition 25, that may the court outcomes declare that the President actions constitute the removal of the President with relevant sections of the constitution must apply.
121. In addition to point 26 then initiating the process of executing the Constitution Chapter 5, section 89 (a)(b)(c) as he would have abuse his Executive powers and violated the constitution and the people rights

122. Ordering the State to carry out its constitutional obligation including to working with African countries to provide services and goods and/or assistance to the countries in need throughout world
123. The economy be re stimulated, open international and African trades and borders, under health and security guidelines
124. The constitution and application be resorted and restore the aspiration and future building of this Great Nation called South Africa
125. Costs of Suit
126. Further or alternative relief;

G) INTERESTS OF JUSTICE

127. Insofar as it may be held that these submissions above, that these constitutional issues are incorrect, it is submitted that in terms of the provisions of Rule 6(12) and/or Rule 30 (2)(a) of the uniform rules of the Court. Furthermore submitted in terms of Section 7(1), and/or Section 8 (1), and/or Section 10, and/or Section 11, and/or Section 12, and/or Section 14, and/or Section 15, and/or Section 17, and/or Section 18, and/or Section 21, and/or Section 22, and/or Section 23, and/or Section 24, and/or Section 25, and/or Section 27, and/or Section 28 and/or Section 29(1)b and/or Section 31, and/or

Section 34, and/or Section 36 and/or Section 167(6)(a), and/or Section 195(1)(2) and/or Section 196 (2)(3) and/or Section 197(1) and/or Section 217(1) and/or, of the constitution the matter should nevertheless be considered. There are several arguable points of law which are to be considered – each of significant public interest.

128. Hence HBRF request in the interest of justice, the proper interpretation of these provisions having regard to the important constitutional rights of access to justice in case of a default judgment and/or invalid court application and/or erroneously application and/or no local standi, sought orders is a matter of considerable public importance, particularly to litigant, Businesses, Civil Society, the poor people and all South Africans, and public generally.
129. For this honorable court to consider this application in terms of Section 167(7) of the constitution
130. The constitution, Section 12(1)(d) and (e) of the constitution guarantee everyone the right not to be tortured in anyway, not to be punished in a cruel, inhuman or degrading way
131. HBRF has no prospect to success financially against a State worth 1,5 trillion (one billion four hundred million) budget, including additional funds of received from the New Development Bank, African Development Bank and IMF, which makes the State the biggest and financial resourced in the Country,

131. If HBRF as a non profit organization had to continue a legal battle against State following normal legal avenues, noting that HBR will have to do legal consultation resulting to letter of demands and then approaching the High Court, and then the Appeal Court and following all legal processes to eventually get to the constitutional court at some point HBRF will have to give in and die to lack of finance.
132. For HBRF has approached varies institution and legal sector seeking assistance, due to the complexity of the matter law firms could not run it on Probono, and that most lawfirm are facing liquidation and could not assist,
133. Hence HBRF seek this Court to finally bring closure to the matter that does not only affect HBRF but the South African and international society at large residing and doing business with the country and while the people of this country as suffering.
134. South Africa is a democratic government, its public administration and it is based on the principle of accountability, responsiveness and openness
135. HBRF approaches the honorable court in terms of Section 7 and 9 of chapter 2 of the constitution, the bill of Rights which is the cornerstone of democracy , enshrines the rights of all people and affirms its decision values of human dignity, equality and freedom which must be respected , protected, promoted and fulfilled by the State and all Organs of State.

136. According to the general transformative trajectory of the Constitution in which the principle of equality finds center place. This was eloquently and poignantly described by the Constitutional court in the following extract from the matter of Minister of Justice and Others vs SA restructuring and Insolvency Practitioners association and others 2016 (4) vSA 349 as follows- *“Throughout the many, many years of the struggle for freedom, the greatest dream of South Africa’s oppressed majority was attainment of equality. By that I mean remedial, restitutionary or substantive equality, not just formal equality, This court held: Person belonging to certain categories have suffered considerable unfair discriminations in the past. It is insufficient for the Constitutional merely to ensure . through the bill of rights, that statutory provisions which have caused such unfair discrimination frequently has ongoing negative consequences, the continuation of which is not halted immediately when the initial causes thereof are eliminated and unless remedied, may continue for a substantial time and even indefinitely, like justice equality and education delayed is justice equality and education denied”*.

137. May this honorable Court grant us access for this court to pronouncing and clarify the remedial, restitutionary or substantive equality

138. HBRF approach this honorable court in term of Standard set by International law: African Charter on Human and Peoples' Rights 1981", Article 3(1) and (2) : It for the above reasons of why HBRF approaches to the constitutional Court and request to be treated equal before the law and that HBRF rights to receive equal protection of the law as enshrined in the African Charter on Human and Peoples' Rights 1981" and furthermore Article 17(1)(2)(3 in term of the right to education ,

139. HBRF seeks the court to consider its application basing on the International documents relevant in the context of section 39(1)b of the constitution, such as Universal declaration of human right of 1948, the international convention on civil and political rights of 1976(a treaty which South Africa has ratified an which is thus part of South African Law), United nation against torture and other cruel , inhuman or degrading treatment or punishment of 1984whi is now referred to as the Prevention and combating torture of persons Act 13of 2013 (torture act)

140. In terms of Section 7(2) of the constitution the State also have a duty to respect, protect, promote and fulfill these rights, **see Glenister v President of the republic of South Africa and others 2011(3) SA 347 (CC) AT Para 184** and that these duties must be discharged in accordance with the standard set by international laws

141. While Section 172 provides that the court must declare any law or conduct that is inconsistence with the constitution to be invalid to the extent of its inconsistence and make an order that is just and equitable, **See Freedom fighters v the Speaker of the National Assembly and Another 2018(2) Sa (CC) Para210 to 211 State:** *“a Court remedial power is not limited to declarations of invalidity, it is much wider. Without any restriction of conditions, section 172(1)(b) empowers courts to make any order that is just and equitable.... The powers to grant a just and equitable order is so wide and flexible that it allows courts to formulate an order that des not follow prayers in the notice of Motion or some order pleading”*

142. The Rights for many South Africans s have been violated and infringed an hence the applicant the constitutional court to furthermore consider section 38 of the constitution, for the court is entitled to grant appropriate relief which may include a declaration right, see **Fose v Minister of Safety and security 1997(3) SA 786 (CC) at paragraph 69 states** “ *Given the historical context in which interim constitution was adopted extensively violation of fundamental rights which preceded it, I have no doubt that this court has a particular duty to ensure that within the bounds of the constitution, effective relief can be granted for the infringement of any of the rights entrenched in it. In our context an appropriate remedy must mean an effective remedy, for without effective remedies for breach, the values and underlying and the rights entrenched in the constitution cannot be properly upheld or enhanced. Particularly in a country so few have the means to enforce their rights through the courts, it is essential that on those occasions where the legal process does establish an that an infringement of an entrenched rights had occurred, that it be effectively vindicated. The courts have a particular responsibility in this regards and are obliged to forge new tools and shapes innovative remedies, if needs be, to achieve this goal.*”

H) MATTER OF URGENT APPLICATION

143. HBR approach the High Court to consider its application in terms of Rule 6 (12) of the uniform rules of the Court which states “*In urgent applications the court*

or a judge may dispense with the forms and service provided for in these Rules and may dispose of such matter at such time and place and in such manner and in accordance with such procedure (which shall as far as practicable be in terms of these Rules) as to it seems meet”.

144. The State has undermined its constitutional obligation inquest for selfish interest to control the country’s finances and resources without any accountability and for them to obtain wealth through their families and cronies
145. In the interest of Justice, the rules provides that the Chief Justice may dispense with the usual requirements for application, including deadlines
146. For the existing lockdown is warrants an exceptional circumstance hence we seek the court to grant urgency
147. The State decision to implement and continue to enforce lockdown has to violate the following Bill Of Rights : Section 7(1), and/or Section 8 (1), and/or Section 10, and/or Section 11, and/or Section 12, and/or Section 14, and/or Section 15, and/or Section 17, and/or Section 18, and/or Section 21, and/or Section 22, and/or Section 23, and/or Section 24, and/or Section 25, and/or Section 27, and/or Section 28 and/or Section 29(1)b and/or Section 31, and/or Section 34, and/or Section 36
148. The State actions are a disaster to its people and not the pandemic COVID19, however the State uses the Pandemic as an excuse to destroy and infringe South Africans rights.

149. The State has introduces measures which are not rationally and are unconstitutional
150. In terms of Section 39 which says “ When interpreting the Bill of rights , a court , tribunal or forum must promote the values that underlie an open and Democratic society based on human dignity, equality and freedom”
151. The State is advancing a vaccine for COVID19, irrespective that 99% of all those tested have self-healed, an indication that COVID19 is not a priority and not a disaster when it comes to the people of South African and its environment
152. The disaster management regulation and /or lockdown has introduced "tricameral" constitution - which created separate decision making where SOE's are monitored, where the poor dies because of poverty, where all non-government are becoming unemployed and faces insolvency, where the is injustice for 99.999% of Country population and has to suffer in the interest of saving 0.001% which are people who are suffer from critical underline health conditions
153. The State is continually failing to intervenc and save the lives of all South Africans and delays with providing any relief needed by the people and institutions of this country .
154. Where all South Africans existence and their future are facing depression, death and/or poverty except 1,3 million employed by the State, whether be Ministers, Members of Cabinet, Parliament, Legislature, Council Courts, and/or in all spheres of government including the SOE's

155. Our Constitution is the most important or supreme law on the land. No other law may conflict with it, nor may the government do anything that violates it.
156. So we people of South Africa recognized the injustice, inequality and violation of our human rights brought by the State through its decision to unconstitutional lockdown the country. and all the struggle and developmental gains of the freedom charter from 1955 up until early this year have reversed by the State.
157. The Court President , Justice Arther Chaskalson , said *“the constitution failed in several respects to satisfy the conditions thrashed out in multiparty talks. But he said the instance of non-compliance should present no significant obstacle o the formation of text that met the requirements”*

I) THE CONSTITUTIONAL MATTER RAISED IN THE DECISION

158. Granting the me leave to approach this court in the interest of justice in terms of constitutional court chapter 8, section 169(a) and (b) of the constitution on the following grounds:
- a. Gross violation of the Constitution of the Republic of South Africa, 1996, Sections 172 (1)(b) provides that when deciding a constitutional matter within its power, a court— *“may make any order that is just and equitable, including—*

- (i) *an order limiting the retrospective effect of the declaration of invalidity; and (ii) an order suspending the declaration of invalidity for any period and on any conditions, to allow the competent authority to correct the defect.”*
- (ii) In *Mvumvu v Minister for Transport* [2011] ZACC 1; 2011 (2) SA 473 (CC); 2011 (5) BCLR 488 (CC) at para 44 Jafta J held: *“In terms of the doctrine of objective constitutional invalidity, unless ordered otherwise by the court the invalidity operates retrospectively to the date on which the Constitution came into force. But if the legislation in question was enacted after that date, as was the present Act, the retrospective operation of invalidity goes back to the date on which the legislation came into force*
- b. Gross violation of the Constitution of the Republic of South Africa, 1996, Chapter 10, Public Service, Section 197 (1) Within public administration there is a public service for the Republic that have not been loyal in executing the lawful policies of the government of the day
- c. Gross violation of the Constitution of the Republic of South Africa, 1996, Chapter 13, Finance Section 217 (1) When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective, where Unfairness, no transparency and no equitable has been the operandi of the day.
- d. Violation of Republic of South Africa Constitution, undermining the various Acts governing our country as outlined in the affidavit and deviating from its constitutional obligation, and corrupt practice within the Administrative and refusing to carry executive mandate.

- e. In terms of the chapter 2, Section 7 of the Constitution, Bill of Rights (1) and (2) has been violated by a State organ
- f. In terms of Chapter 2, Section 3 Citizen
 - (i) Section 3 of the Constitution provides: “(1) There is a common South African citizenship. (2) All citizens are— (a) equally entitled to the rights, privileges and benefits of citizenship; and (b) equally subject to the duties and responsibilities of citizenship. (3) National legislation must provide for the acquisition, loss and restoration of citizenship
- g. Enforcement of the constitution of chapter 2, Section 8 the Application, and enforcement of laws governing the country.
- h. Infringement of Bill of Rights Chapter 2 , Section 7, Rights
- i. An Infringement in the constitution In terms of the Chapter 2, Section 10 of the Constitution , Human Dignity, this right of South African who relied to State for their dignity to be respected and protected has been violated, exploitation, degraded and undermined in its people, Violation of Bill of Rights Chapter 2, Sections 10, Human Dignity
 - i) Section 10 provides that “[e]veryone has inherent dignity and the right to have their dignity respected and protected” .
- j. Violation of Bill of Rights Chapter 2, Sections 21, Freedom of Movement and Resistance

- k. Infringement of Bill of Rights Chapter 2, Sections 22, Freedom of Trade, Occupation and Profession
- l. Violation Bill of Rights Chapter 2, Sections 27 Health Care, Food Water and Social Security, by the State (see annexure 6), nothing that not every South African has access to the Internet
- m. Violation Bill of Rights Chapter 2, Sections 28 Children, that includes child head household, to basic nutrition, shelter, basic health care services and social services;
- n. The executive implementing a lock down is in violation the constitution, and therefore the court to remind that Chapter 5 Section 101, Executive Decision be applicable
- i) The Abuse of power by the State, deviating from the constitution, Chapter 5, section 84 Powers and function of the President
- k) To Prohibit the State , President and Ministers from making unconstitutional decisions with intentional consequences to the nation
- l) Prohibit the State, President and Ministers from continually implementing actions of which lives of South Africans and other nationals in the country may be ruin or/and harmed
- m) An Infringement in the constitution by denying, withholding and refusing this basic right of Education to thousands of our youth, women people from historically disadvantaged by the STATE, where State Schools are closed and Private Schools are open, a violation on Chapter 2, Section 29 (1)(b) of the Constitution

- n) The State has denied to comply with constitutional right as enshrined in the Constitution, Chapter 2, Section 32 (a) Access to information irrespective of displaying the reasons and the National Disaster Management report which declared Covid19 a disaster
- o. In the interest of justice
- p. In the Public Interest
- q. See *Musa Joe Moloi & others V Minister of Justice and constitutional development & others CCT 78/09 [2010] ZACC 2*
- r. As an Non profit Organization that has in the interest of our communities, of the nation and have cascaded their matters in the State levels without intervention and/or assistance for the past 7 years, we appeal to this court to grant us direct access.
- s. Violation of Constitution of the Republic of South Africa, 1996 - Chapter 10: Public Administration
- t. Violation of section 195. Basic values and principles governing public administration
- u. The application is in terms of Section 167(7) of the constitution
- v. Gross violation of Sections 1(a), Republic South Africa
 - (i) Section 1(a) provides: *“The Republic of South Africa is one, sovereign, democratic state founded on the following values: (a) Human dignity, the achievement of equality and the advancement of human rights and freedoms . . .”* 123 Chaskalson *“Human Dignity as a Foundational Value of our Constitutional Order”* (2000) 16 SAJHR 193 at 204

159. Chaskalson, extra-curially, makes this point thus: “As an abstract value, common to the core values of our Constitution, dignity informs the content of all the concrete rights and plays a role in the balancing process necessary to bring different rights and values into harmony.”
160. Haysom captures the need for the protection of freedom of association thus: *“These are a wide range of reasons why freedom of association is so highly prized, vigorously protected and widely acclaimed as a cornerstone of a democratic society. These reasons belong to one or other of two perspectives: a perspective which emphasises the need to associate in order to realise fully one’s humanity – to interact, combine, make common purpose and enjoy life with other persons sharing one’s cultural, personal, political or economic interests. The second perspective emphasises the necessity to a functioning democracy of such a freedom, for a proper and coherent expression and interplay of collective interests. Both perspectives are, however, grounded on the same understanding that a person alone is an atomised, powerless, lonely being without a foundation for developing an identity or the capacity to influence or change his or her physical environment or social world.”*
161. **And in Makwanyane O’Regan J said:** *“The importance of dignity as a founding value of the new Constitution cannot be overemphasised. Recognising a right to dignity is an acknowledgement of the intrinsic worth of human beings: human beings are entitled to be treated as worthy of respect and concern. This right therefore is the foundation of many of the other rights that are specifically entrenched in [the Bill of Rights].”*

J) INTERNATIONAL LAW:

162. HBRF request the court to also consider that South Africa is also member of the thee African States members of the Organization of African Unity, parties to the present convention entitled "African Charter on Human and Peoples' Rights", Adopted 27 June 1981, OAU Doc. CAB/LEG/67/3 rev3, 21 I.L.M. 58 (1982), entered into force 21 October 1986 which the preamble state that :
163. Considering the Charter of the Organization of African Unity, which stipulates that
- a) "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples";
 - b) Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation having due regard to the Charter of the United Nations.
 - c) and the Universal Declaration of Human Rights;
164. Taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights;
165. HBRF approach this Honorable court on the following grounds as enshrined in the African Charter on Human and Peoples' Rights:

- a) In term of Article 3(1) and (2) : It for the above reasons of why HBR approaches to the constitutional Court and request to be treated equal before the law and that HBR rights to receive equal protection of the law " .
- b) In terms of Article 7: HBRF has the right to have the matter heard. This comprises: (a) the right to an appeal to competent national organs against acts of violating its fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force of which HBR right was violated to be heard.
- c) With regards to Article 13: Due to STATE failure to carry and execute its mandate resulted in every citizen not having the right of equal access to the public service of his country.
- d) In terms of Article 16: Violation of human rights has resulted in majority South Africa who are retrenched, unemployed, who seek education, poor of the poorest, no prospect of gainful employment , entrepreneurs spirit damned, religion people faith demised, etc.. that South Africans do not have the right to enjoy the best attainable state of physical and mental health.
- e) The HBR approach the this honorable court in term of Article 17(1)(2)(3 in term of the right to education.
- f) In term of Article 22 - the right to economic, social and cultural development has seized due to State focus on investing funds intended to uplift the economy and address social and cultural development which is a the violation by the State, whether the President was informed and/or not , collided with and/or not it is for the court to establish that Section 167(7) of the constitution

K) LEGAL SUBMISSIONS

i) UPHOLDING THE CONSTITUTION

166. The State has committed that there will not be any load shedding during lockdown and we are experiencing load shedding every day therefore the State lied to its people .
167. The State has proven that is not reliable, unethical behavior; it is arrogant and careless about the economy, its people, its land and the constitution of the Republic
168. The State exploits this COVID19 circumstance hence we find the our SOE's reporting to a Presidential State Owned Council in short our SOE's report to the likes of Sanlam, AngloGold Ashanti, Thebe investment, MISTRA to list a few
169. The State has engaged in activities that creates a national disaster to South African,
170. Since the country is in lock down it experience a deepening violation of the Bill of Rights
171. The State has taken over the legislative responsibilities which is unconstitutional.

ii) UNCONSTITUTIONAL AND LIMITATION OF THE FUNDAMENTAL RIGHTS

172. I respectfully submit that It is important to states that in the present case, a limitations analysis of national disaster, classification and regulations on the following legal principles:

a) State is (was) required to show that there is a rational connection between classification, national disaster and the limitation of the rights and the analysis requires an inquiry into the proportionality of the limitation in relation to the harm caused.

b) I am of the view that it is tried law that, various forms of the proportionality test have been adopted by courts, and they all are designed to ensure that a limitation does not unduly restrict a fundamental right. The test involves a balancing exercise between the rights of an individual and the rights of a community.

c) In order for the State to declare a national disaster to pass the proportionality test it must therefore be the least intrusive way to limit the right, and must be narrowly drawn so as to not enable officials decision making not to infringe the right disproportionately.

d) The requirement that the law limiting the right must nevertheless be “reasonably justifiable in a democratic society” in effect limits the limitation

e) Based on the idea that there is an objective understanding of a democratic society and that State Decision either be Disaster management regulations or lockdown in a democratic society must adhere to the principles of proportionality and equality, it is inconceivable that the regulations could be considered to be “reasonably justifiable in a democratic society.

f) The Rationality test is the measure taken to receive a certain objective must be rationally connected to the objective and the State must show how it fulfill the rationality test.

g) the measure taken by the State had a negative impact and infringed on the Bill of rights and way of live of the people

h) the State failed to justify and satisfy the limitation of human right in its action, as per the constitution Chapter 2 Bill of Rights Section 36 Limitation of rights

i) State failure to a reasonable test for Justifications

j) Court's to conduct a rights limitations analysis

k) The State failure to test the exercise of power against the accepted objective to preserve human live, uphold the rights to dignity, limit the economic downfall, to report truly and correctly the spread of infection and against other means.

1. *The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including -*

a. the nature of the right;

b. the importance of the purpose of the limitation;

c. the nature and extent of the limitation;

d. the relation between the limitation and its purpose; and

e. less restrictive means to achieve the purpose.

2. Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights

173. We Note that that the formulation and application of the rationality test, as follows:
- (a) Testing the objective of the decision;
 - (b) Testing whether the exercise of power is reasonably capable of accomplishing the purpose it sets out to achieve;
 - (c) Testing whether the purpose that is sought to be achieved is a legitimate government purpose and whether the means used to achieve this purpose is rationally connected to the latter;
 - (d) Separating rationality from arbitrariness, the latter concerning itself with the absence of reasons or justification;
 - (e) Testing whether the exercise of power is substantively and procedurally rational;
 - (f) Testing whether the procedural exercise of power and the purpose sought to be achieved by such exercise is rational;
 - (g) Testing whether the decision maker has taken into account all relevant information consistent with the purpose of the power.
174. The test for justification being only one of a number of factors that must be balanced to assess whether a limitation is in fact reasonable and justifiable in an open and democratic society

L) INJUSTICE, AND DISCRIMINATION OF THE SOUTH AFRICANS

- 175 On the 24 May 2020 President made an announcement and stated (**see annexure 34 –President announcement 24 March 2020**) that:
- a) There are 11,000 (eleven thousand) active corona virus in the country
 - b) Of these 842 (eight hundred and forty two) are in hospital and 128 (one hundred and twenty eight) of these in intensive care
 - c) Noting that 10,158 (ten thousand one hundred and fifty eight) are on self-quarantine on mild infection of corona Virus, 100% probability of self-healing
 - d) As of today, we have conducted 580000 corona virus test and more than 12 million screening
 - e) With a population of 57 million active people, the report of the president clearly indicates that the State is not in a disaster, and therefore the
 - f) The president further stated that until there is a vaccine available to all, the coronavirus will continue
176. The State has not explained or qualify the reasons of why less than 20% of 0,001% of the 57 million South Africans which are present people affected by COVID19 due to underline health conditions and old age, should be the grounds to lockdown all South Africans and declare a national disaster
177. Furthermore that while 80% of 0.001% of the 57 million South Africans which further represent people affected by Covid 19 has self-healed through a stay home self-quarantine, without any vaccine or any medicine and that should be the grounds to lock down South Africa.

178. The State has taken a decision which led to Majority of South Africans being declared insolvent and the poor becoming poor of the poorest . Refer to Minister of Justice and others vs SA restructuring and insolvency practitioners association and Others 2016 (4) SA 349 as follows: *“Throughout the many, many years of the Struggle for freedom, the greatest dream of South African’s Oppressed majority was attainment of equality. By that I mean remedial restitutionary or substantive equality, not just Formal equality. Promoting itself on the content of this equality, this court held Persons belonging to certain categories have suffered considerable unfair discriminating in the past. It is insufficient for the constitution merely to ensure , through its bill of rights, that statutory provisions which have caused such unfair discrimination frequently has ongoing negative consequences, the continuation of which is not halted immediately when the initial causes thereof are eliminated and unless remedies, may continue for a substantial time and even indefinitely. Like justice equality delayed is equality denied”.*
179. The majority of South Africans are on lockdown and their violation of Bill of Rights in the name of national disaster management
180. The State relied on a classification of a COVID19 that was baseless, unreliable and had no truth in it. Furthermore it opted to even implement Disaster management regulations that were not practiced anywhere in the world, which were hard for South Africans and which were a violation of the constitutional rights of all South Africans, as per the President Statement in the Parliament on the 18 June 2020.

M) PRESIDENT ANNOUNCEMENT ON 24 MAY 2020

181. Refer to point 184
182. The court to dismiss the notion of vaccine is need for the country while not even 0.001% (zero point zero, zero one) of the population of the country is infected with Covid 19.
193. Furthermore the President stated that the areas will be declared coronavirus hotspot, and said” Hot spot is defined as an area that has more than 5 infected people per every 100,000 people, or where new infections are increasing at a fast pace.
194. While the State and the President seen no threat to the World Health Organisation (WHO) statistics give an estimated incidence of 301,000 cases of active Tuberculosis in 2018. This is a rate of 520 per 100,000 population. **(See Annexure 35 Who Rates of TB)**
195. The President has defined the threshold which qualified that the country is not in national Disaster, and that the initial Classification of a national disaster with its assessment report does not warranted any lockdown and/or declaration of the disaster management regulations.

186. the State must not do as it will and seek the court to bring order (See In Hoffman v South Africa Airways 2001(1) SA the court held that appropriate relief *in terms of section 38 must be construed purposely and in the light of Section 172(1)(b) which empowers a court in constitutional matters to make any order that is just and equitable. Such the court held that, 'appropriate relief must be fair and just in the circumstances of the particular case. 'Appropriateness imports 'the element of justice and fairness'*)
187. All responded who oppose the relief herein, jointly and severally the one paying the other to be absolved, are to pay the costs of suit on an attorney and own client scale, including the costs of counsels
188. Any and all costs incurred by the any responded in the course of these proceedings, but which were in fact paid by another responded or any public entity on behalf of the responded or either and/or any of the responded, will be repaid to that responded or entity by the responded in their personal capacity

N) ON CLASSIFICATION OF THE NATIONAL DISASTER

189. Taking into account of following definitions:
- a) An Epidemic is a disease that affects a large number of people with in a community
 - b) A pandemic is an Epidemic that's spread over multiple countries or Continent
 - c) Endemic is something that belongs to a particular people or country
 - d) An outbreak is a greater than anticipated increase in the number of endemic cases. It can be also single case in a new area. If it's not quickly controlled; an outbreak can become an epidemic

190. South Africa over past decades has experience various Edemic, Epidemic and pandemic Such as Cholera, Small pox, HIV/Aids, SARS, Listoriosis, Severe Acute Respiratory Syndrome (SARS), Rift Valey fever Turbelance ,Epedemic Malaria, Ebola and etc....
191. On the above the State has not differentiate between Covid19 and all the above and why it is perceived Covid 19 as a National disaster
192. Instead of the state to put measures to control few single cases of the outbreak, it resulted blowing the matter out of proposition by declaring the National disaster, clearly the State has no classification of what constitute a national disaster
193. With the WHO announcing Influenza as a pandemic **(see annexure 36 – Announcement on Influenza)** and the national Disaster centre has not classify it as a disaster
194. In terms of the Section 33 (1) od the constitution, The State has failed to make it public the of its assessment, and therefore denying the public the reasons which lead to declaring a state of national disaster ultimately to Lockdown
195. On the week of the 20 March 2020, South Africa had not reported any death due to outbreak as it indication on the Government website www.gov.za, the latest information from the National Institute for Communicable Diseases (NICD), The State report indicates on the COVID19 were as follows: zero

death, 554 positive cases, and 14957 negative cases. **(See annexure 37 - NICD)**

196. The State has made a finding of fact based on no evidence or that is otherwise unreasonable in light of all the evidence to properly classify the pandemic Covid 19 as a national disaster.
197. The decision of national disaster management created panic, fear and unfair treatments resulting unconstitutional and unlawful decisions resulting in the violation of all South Africans.
198. In assessing the situation, the state failed to take into account other factors of death as referred to Causes of Death worldwide **(see Annexure 38 World Causes of Death)** of which the actual data can be found at <https://ourworldindata.org> , which indicates and rates all Causes of death through the world on a daily report, The State based its decision entirely or predominantly on irrelevant factors. With South Africa Causes of Death covered by Stats SA **(See Annexure 39 - SA Causes of Death)**
199. In the course of death it indicates that Corona Virus kills 70000 worldwide during 2017, then the epidemic was not an outbreak, the state failed to classify it as a treat and its capabilities to get 0.001% of the population of the country infected **(as per annexure 40 Death comparison with Corona 2017).**
200. The State has failed to produce the reasons and report which forms basis of the declaration of national disaster

201. The state failed to provide the reasonable threshold for its Hazard assessment which is lead to its decision to declare a national disaster see judgment National Director of Public Prosecutions v Botha NO and Another CCT280/18 (see judgments paragraph (34). in respect of section 50(1)(a) of POCA from this Court requires that once the threshold of establishing that the property is an instrumentality of an offence has been met, a court is required to carry)...
202. The state failed to provide the reasonable threshold from its vulnerability assessment which is lead to its decision to declare a national disaster (*see judgment Competition Commission of South Africa v Media 24 (Pty) Limited CCT90/18 (See Judgments paragraph (53) “Judge Davis JP, in the introductory paragraph of the Competition Appeal Court judgment, places great emphasis on the fact that this matter is the first of its kind. As a result, in interpreting the Competition Act’s prohibition of predatory pricing, this Court must establish how the prohibition aligns with, and fulfills, the imperatives of the Constitution. Competition matters impact on the interests of the public, especially considering South Africa’s evolving and transforming market economy. The need to provide the country with free and fair guidelines for an equitable competitive market is crucial, and something that this Court is qualified to do”.*)
203. The State intentionally and/or unintentionally by error or failed to establish a reasonable threshold from its Impact assessment for it to declare a national disaster, the determination of the threshold apply in order to make decision. (*see judgment of Booysen v Minister of Safety and Security CCT25/17 , Para 46. Jurisdiction is a threshold requirement, and for this Court’s jurisdiction to be engaged, the pleadings must demonstrate why the matter is either a constitutional issue or an arguable point of law of general...*)
204. The court should order the capacitation of the State and disaster risk assessments and its policies, process, procedure and tools, resources and

human capacity in order to ensure that the Country is better positioned to assess the any risk with potential magnitude and severity in real time. There is no double that the organ of State is not capacitated to on classification of risks and/or national disaster (*See judgment 1. SASSA v Minister of Social Development CCT 48/1 .Para (26).. Honest nor complete. With regard to SAPO's incapacity to provide the cash payment service, SASSA's affidavit did not tell the Court why SAPO, which was also an organ of state, was not capacitated instead*).

205. The Head disaster Management has failed to classify the Tuberculosis which in 2018 as a national Disaster.
206. The daily statistics that are reported in South Africa about Covid19, provides no different between people tested for any flu, TB or any other illness and that of COVID19, with the Testing laboratory having a backlog. The death that are reported are due to COVID19 which the State claims without a laboratory report, the State enjoys to threaten South Africans in order to govern itself as it pleases.
207. Tuberculosis is a serious public health issue in South Africa. About 450,000 people develop the disease every year, and 270,000 of those are also living with HIV. TB is South Africa's leading cause of death. About 89,000 people die from it every year; that's ten people every hour and the standard to declare a national disaster is lowered for Covid 19. **(See annexure 41 TB concerns)**
208. The State has failed to make it public of its Covid19 assessment, and therefore denying the public the reasons which lead to declaring a state of national disaster ultimately to Lockdown.

O) PARLIAMENT VIRTUAL SITTING

209. Parliament held a virtual sitting on the 18 June 2020 in line with Covid19 regulations:

- a) A question was asked by the EFF leader Mr Malema to the President of the Republic of South Africa and HBRF quote “Mr President Do you have any Scientific evidence of how many people are going to die out of the pandemic, or we are just going as usual without knowing what are the expected infections and expected death within a particular period of time, have you be given an advise as to within a particular period we can expect that SA will lose so many lives” unquote .

- b) The President of RSA response HBRF quote: We have been advised by top Scientist in our country and we have benchmarked what we are doing here against what is happening in other parts of the world. Many parts of the world did not do what we did, our lockdown was hard we will concede that, we went on even to restrict things that many other countries did not restrict like alcohol, like cigarettes, buying and selling of a number of items, but we know in time we were not going to be able to keep to the lockdown forever.” unquote

210. The President did not refer to the assessment report of the national disaster center and its classification which should be guiding South Africa.

211. There were no reasons for classification other than other countries, were on lockdown.

212. The President has also declared that measures taken were self made and not like in other countries, meaning the impact South Africa was expecting was greater and deadly more than any country, or it means that the President does as he will.
213. Hence the President was able to Stop Cigarettes and Alcohol while other countries who implements lockdown did not implement such measures while they lead with the death toll
2114. The state failed to provide the reasonable threshold for its Hazard assessment which is lead to its decision to declare a national disaster. The State further failed to provide the reasonable threshold from its vulnerability assessment which is lead to its decision to declare a national disaster.
215. The Classification of Covid 19 as a the national disaster and all Lockdown regulations proclamation in terms of the Disaster Management Act No. 57 of 2002, had (have) a significant impact, affecting fundamental rights of South African citizens. Particularly;
- a) Infringement of Bill of Rights Chapter 2 , Section 7, Rights
 - b) Violation of Bill of Rights Chapter 2, Sections 10, Human Dignity
 - c) Violation of Bill of Rights Chapter 2, Sections 21,
 - d) Freedom of Movement and Resistance
 - e) Infringement of Bill of Rights Chapter 2, Sections 22, Freedom of Trade, Occupation and Profession

- f) Violation Bill of Rights Chapter 2, Sections 27 Health Care, Food Water and Social Security
- g) Violation Bill of Rights Chapter 2, Sections 28 Children, that includes child head household, to basic nutrition, shelter, basic health care services and social services;
- h) Infringement of the Bill of rights Chapter 1, Section 1
- i) Violation of the Constitution in particular the preamble

216. The State discriminated by forcing South Africans to communicate with it over the internet platform nothing that not every South African has access to the Internet during lockdown, while South African we forced to Stay at home and not every South African has an income to buy data.

217. Lockdown regulations sought to combat the spread of coronavirus amongst South African citizens, but its regulations are not rationally connected to the means taken by the Executive, secondly other regulations infringed the fundamental rights mentioned in paragraph above and they are not justified and reasonable as envisaged in section 36(1) of the Constitution

In terms of Section 36. of the Constitution:

- (1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including

- (a) the nature of the right;
 - (b) the importance of the purpose of the limitation;
 - (c) the nature and extent of the limitation;
 - (d) the relation between the limitation and its purpose; and
 - (e) less restrictive means to achieve the purpose.
- (2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

P) HEALTH & DEATH COVID19 RELATED

i) Guidelines Of Death By COVID 19 –

218. The State confirmed that at least 1930 death cases due to Covid 19, we would like to bring to the country the guidelines of World Health Organization. The State report has created panic in the country on death related to Covid 19, as if it is only confirmed deaths, while the World Health Organization guidelines recoding medical certificate of cause of Death it states “ COVID-19 should be recorded on the medical certificate of cause of death for ALL decedents where the disease caused, or is assumed to have caused, or contributed to death” .

(see Point 3 of Annexure 42 Guidelines_Cause_of_Death_COVID-19) - International Guidelines For Certification And Classification (Coding) Of Covid-19 As Cause Of Death)

ii) Lessons Learned By The Minister Of Health On Covid –

219. The media coverage 30 April 2020, where This is the opinion of Health Minister, Dr Zweli Mkhize, who joined a panel of experts from the World Health Organization (WHO) in reflecting on how countries in Africa are dealing with the worldwide pandemic. On a question of the relative low infection rates against that

of the international world, Mkhize said I quote “ *several factors could have contributed, including an overall younger population that could probably handle the virus better, and the fact that Africa was among the last continents to have recorded a first case and thus had the opportunity to respond faster*”, unquote (see annexure 12 Dr MNkhize Lesson learned on Covid 19)

220. iii) **Unexplained Death by National Organization of Rare Disorders –**

a) this organization has reported Sudden unexplained death in childhood (SUDC) is the sudden death of a child 12 months of age or older that remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene, and review of the clinical history. Amongst other reports and

b) However, due to the lack of standardizations of death investigations, consideration of undiagnosed cases of cardiac to list a few (See annexure 43 **Unexplained Death in Childhood**) and yet State has taken the easier route to assume all death to be due to Covid19. The National Organisation of rare disorder has since 2015 identified multiple of death and still no National Disaster was declared by the State. There has been a public outcry where family are forced to bury their deceased who died on unrelated Covid 19 death, that they are death certificate state Covid 19 death to increase the daily death statistics in the country.

iv) **Covid19 vs TB, SARS, HIV/AIDS, Influenza – .**

221 This Month the WHO has declared this July and August period is an era of another Pandemic which is Influenza, ofwhich the has cost lives during winter seasons, and the State has ignored that Pandemic at the expense of Covid19 and any other illnesses, which is another pandemic which is a serious virus, and TB, SARS, Malaria, HIV/Aids are serious virus that are of a serious danger to any person irrespective of their medical condition, while Covid 19 is dangerous for

people with underline health condition and/or weak immune system, but mild symptoms do not need vaccine but require quarantine of 15 days to selfheal particularly from people who do not suffer any underline health condition

v) **Mortality rate –**

222. the State has deferred its constitutional obligation of controlling a national disaster which is experienced everyday as reported by statistics, the infant mortality rate in South Africa from 2008 to 2018. In 2018, the infant mortality rate in South Africa was at about 28.5 deaths per 1,000 live births. (**See Annexure 44 – Infant mortality rate 2008-2018**)

Q) DECLARATION OF THE NATIONAL STATE OF DISASTER

223. The declaration has no assessment report and or reasons of the findings for its recommendation for a national disaster
224. The government Gazette Vol 657 No: 43096 (**see Annexure 7 - Declaration**) it has 4 (four) empty pages, which were supposed to be clarifying the nation of the findings of the head of the National Disaster management as justifiable reasons and an error of law .
225. The State failed to provide reasons of the action they are taking in terms of section 33(2) of the constitution, and therefore the decision that it is basing its facts on are unknown to the public
226. In the interest of justice HBRF request the court to nullify the decision for a lock down that is otherwise unreasonable in light of all the evidence.

227. All that followed resulted in violation the bill of rights in terms of Section 7 and read with Section 6 up section 30 of the chapter 2 of the constitution,
228. The violation various aspects of the of the constitutions through lockdown regulations has impacted negative to the wellbeing and broad harm to the citizen of the country
229. In the Public Interest the State has violated and threatened the constitution in the following areas:
- a. The executive implementing a lock down is in violation the constitution, and therefore the court to remind that Chapter 5 Section 101, Executive Decision be applicable
 - b. The Abuse of power by the State, deviating from the constitution, Chapter 5, section 84 Powers and function of the President
 - c. Infringement of Bill of Rights Chapter 2 , Section 7, Rights
 - d. Violation of Bill of Rights Chapter 2, Sections 10, Human Dignity
 - e. Violation of Bill of Rights Chapter 2, Sections 21, Freedom of Movement and Resistance
 - f. Infringement of Bill of Rights Chapter 2, Sections 22, Freedom of Trade, Occupation and Profession
 - g. Violation Bill of Rights Chapter 2, Sections 27 Health Care, Food Water and Social Security, by the State (see annexure 6), nothing that not every South African has access to the Internet

- h. Violation Bill of Rights Chapter 2, Sections 28 Children, that includes child head household, to basic nutrition, shelter, basic health care services and social services;
- i. Infringement to Bill Of Rights Chapter 2, Section State of emergency
- j. To Prohibit the State , President and Ministers from making unconstitutional decisions with unintentional consequences to the nation
- k. Prohibit the State, President and Ministers from continually and mistakenly implementing actions of which lives of South Africans and other nationals in the country may be ruin or/and harmed

R. STATE FAILURE ON COVID 19 SOCIAL RELIEF (The OBJECTIVE TO SAVE LIVES)

230. The State failure to carry its constitutional obligation in terms of all Covid 19 SOCIAL RELIEF meaning the State failed to rationally be objective to saving lives :

- a) **Social Relief on SASSA** - We have experience where the State would commit and change its mind such as when the State announced the R350 to be paid to unemployed and still today majority have not paid, HBRF on the 17 June 2020 wrote a letter of demand to the Minister of Social Development this is after it identified that 16 million South Africans as per the Stats SA are unemployed , and only 1.3 Million were paid for one monthly. In the letter we request the Department to provide appeals process within 48 Hours See **(the Annexure 20 Letter of Demand to SASSA)**. The Department on the 20 June 2020 issued a media statement SASSA working on appeal system for R350 grant applicants - 85 eight five days into lock down, this is a caring State to save lives from poverty

(See Annexure 45- SASSA working on appeal system for R350 grant applicant)

- b) **Social Relief on UIF** – Because there are more than 750000(seven hundred and fifty thousand employees who have not received their salary since lockdown was declared HBRF has intervened (see Annexure 21 Letter of Demand UIF) and see the UIF respond (See Annexure 46- Letter UIF RESPONSE to HBR), on the 22 July HBRF wrote to the Minister of Communication after it saw long queues of the poor of the poorest waiting at Post office to get their R350 rands (See Annexure 47)
- c) **Social Relief on Small business**- with SMME we have yet to see and find an SMME that has been funded, while land lord are everyday evicting SMME due to assistance from the State (See Annexure 22 Letter of Demand Small Business)
- d) **Social Relief of Sports, Arts** - majority of actors, film producers and athletes have not receive a cent from the grant since lockdown and this sector is hard hit by the unconstitutional lockdown (see Annexure 23 Letter of Demand DSAC)
- e) **Social Relief on Transport Sector** – when Lockdown was declared the Taxi industry worked with the State to transport essential Services and people to hospitals and kept the industry growing. On the 22 June 2020 Taxis who assisted the State during lockdown had to strike in order for the State to get attention of it (See the annexure 47 lockdown taxi strike to Minister Transport) while the State gives R200bn (two hundred Billion) to banks without any conditions that are aimed to improve the poor of the poorest including their partners who in this case were the Taxi operators. Noting the regulation state that taxi cannot have 16 passengers (seating together) while in a funeral 50 people can seat together.

- f) **Department of Justice role during Lock Down** - The department of Justice is the only department that was making an income during the lockdown, with this unconstitutional regulations, due fines paid by South Africans who were trying to their daily basic living survival, while the other people are having criminal records due to this unconstitutional lockdown regulation, which has created a criminal record against obedient and discipline South Africans, with companies retrenching Like Mass Mart, Edcor, Telkom, SABC, Samancor, Sibanye-Stillwater, Glencore, Aspin , 90% of SMME and NGO to list a few the record will make it even more difficult for South Africans to obtain prospect of employment. (**See the Annexure 24 Letter of Demand HBR vs Department of Justice and SAPS**) name of national disaster management.

S) STATE FINANCE :

231. The State has a budget . for 2020/21, revenue is projected to be R1.58 trillion, or 29.2 per cent of GDP.
232. Expenditure is projected at R1.95 trillion, or 36 per cent of GDP. This means a consolidated budget deficit of R370.5 billion, or 6.8 per cent of GDP in 2020/21. Bythe 2020 Budget Speech Gross national debt is projected to be R3.56 trillion, or 65.6 per cent of GDP by the end of 2020/21
233. The State has said nothing about the Strategic Reserves funds, which are funds that are awaiting any disaster the country may find themselves

234. With STATE borrowing Funds from \$4.2 billion from International Monetary Fund, \$1 billion from the New Development Bank and billion from the African Development Bank, on top of the national debt of 3.56 trillion. HBRF wrote a letter to the minister to reallocate the loan **(See Annexure 31 Minister Of Finance)**
235. On the 2020 the Public Service Commission released a damning report indicating that The State owed majority of Small Medium Micro Enterprise (SMME) and that they have not been paid and are owed more billions by the State for more than a year **(See Annexure 48 Public Service Commission report)**
236. Instead of the State of ensure that the Service providers who are SMME are paid to enable them to survive during this times it decides to reroute its spending and commitment on COVID19 marketing, equipment's and media, undermining its constitutional obligation as per section 17
237. Auditor General report released a report indicating challenges and monetary accountability of municipalities, our concerns is that the State has failed to priorities the Distressed Municipalities, who some had to be cut off electricity due to no sufficient funds and commitment from the State **(see the Attached 49 Auditor General report)**
238. BBBEE Commission report indicates that inequalities in terms of transformation and the state has neglected its constitutional obligation for COVID19 programme

239. The State exploits this circumstance hence we find the our SOE's reporting to a Presidential State Owned E Council in short our SOE's report to the likes of Sanlam, AngloGold Ashanti, MTN, Thebe investment, MISTRA to list a few
240. The Decisions of the President is irrational and unjustified to carry the decision of execute the role of the legislature and
241. While saving the majority of South Africans from poverty they experience every day of this lockdown, avoided the declaring all South Africans insolvent and drowning the economy in to recession, liquidating business and the markets, finally preserving and promoting the Bill of rights resulting to building this great nation called South Africa.
242. The State has been selective on approaching the covid19 pandemic from other deadly pandemic whether unknown and/or unknown that South Africa has had to experience in the past century, as for Covid19 there is no need to borrow \$1bn (one billion dollars) for a vaccine from the New Development Bank **(Annexure 50 NDB)** New Development Bank approves US\$1BN loan for SA), while Majority of those infected are with mild symptoms which self healing during quarantine

T) SA COVID 19 Vaccine Tests :

243. Since lockdown President announce of a need for vaccines and testing for vaccine
244. On the Minister health has shared the same sentiments and announces of a vaccine for the people of South Africa.

245. While the world was up in arms when the British Medical descendents were calling for the testing of COVID 19 to be in South Africa, the State has supported for a vaccine that is not needed because majority of South Africans are self-healing during guaranteed.
246. On 01 June 2020 the HBRF got to be aware that there are trails of testing taking place in Soweto, the testing has long started where poor people are being given R350 only to test on a vaccine which has not even been proven in South Africa medical institution. The Vaccine test (ChAd0x1 nCov-19 za phi) is conducted by UK Dr Andrew Pollard (**See Annexure 51- Covid19 Vaccine Testing in Soweto**). The process is unguided and unmonitored by the state, was operating at Baragwaneth Nurses Home, 2nd floor, Soweto, Johannesburg, South Africa, on 23 June 2020 another Scientist are on COVID19 vaccine test (Ox1Cov-19 Vaccine VIDA-Trial)
247. The Deployed WHO is the African Manager DR Matshidiso Moeti. came out to support the on SABC news calling that Africa be the testing ground for a COVID19 vaccines of which is unconstitutional and endangering the South Africans, while WHO Director general Tedros Ghebreyesus said "Africa can't and won't be a testing ground for any vaccine on the 6 April 2020 on www.bbc.com/Africa (**See annexure 52 WHO refuses for Africa to be Testing ground**)

U) INTERNATIONAL UPRISE AGAINST LOCKDOWNS

248. The following are the countries that where the people have upraised against the lock down, a Covid19 system operates in as a Universal Franchise, the is an international up rise and protest against it , in countries such as :

- a) India, Russia, Serbia, Israel, Spain, Ireland, Brazil, Australia, USA, Colombia, Germany, UK, France ,Chile ,Europe, Lebanon ,USA-Califonia, Chigago and Michigan to list a few

249. This is because this lockdown are not used to save lives but to control the people and governments,

250. The State must declare if wants what is happening throughout the country which is a matter of hours if not seconds just before South Africa get to be on flames

V) IN CONCLUSION

251. A proactive State and a caring State that want to save lives would have done a proper national disaster assessment and the State would have opted to identify and focus on the minority of South Africans who are the vulnerable people to Covid 19 and like related viruses, those are people with underlying health conditions and the elderly with weak immune systems.

252. The State would have and can still develop some Covid19 free Zone where the minority who cannot afford to stay home or are living in risky environment which would danger their lives , the State would have been provided safe place and caring in order to save lives from Covid 19 and/or any other virus attack during this period,
253. While saving the majority of South Africans from poverty they experience every day of this lockdown, avoided the declaring all South Africans insolvent and drowning the economy in to recession, liquidating business and the markets, finally preserving and promoting the Bill of rights resulting to building this great nation called South Africa.
254. The State has been selective on approaching the covid19 pandemic from other deadly pandemic whether unknown and/or unknown that South Africa has had to experience in the past century, as for Covid19 there is no need to borrow \$1bn (one billion dollars) for a vaccine from the New Development Bank (Annexure 13 New Development Bank approves US\$1BN loan for SA), while Majority of those infected are with mild symptoms which self healing during quarantine,
255. There is no prospect of success and no other court in the republic and internationally may grant the state to appeal and there is no urgency on its application but the State has a constitutional obligation of which its urgency of rehabilitating, reviving and transforming the lives of all South Africans that are experiencing a disaster brought by the State:

256. In *Mahomed and Another v The republic of South Africa and others* 2001(3) SA 893 (CC) paragraph 69 where Chaskalson P Referred to the United State decision in *Olmstead et al v United State* and Qoutes the words of Justice Brandies as follows: “ *in a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously... Government is the potent, omnipresent teacher. For good or for ill, it teaches the whole people by its example.... If the government becomes a lawbreaker, it breeds contempt for the law; it invites every man to become a law unto himself; it invites anarchy*”
257. May the Honorable court take into account all the hardship and frustration and/or including irrecoverable damages incurred by the South Africans in the form of:
- a. Damaged reputation in society
 - b. Damaged reputation and credibility to the nation
 - c. Irrecoverable damage from Companies
 - d. Loss of financial Income from person to entities and families
 - e. Loss Interests that could have been generated and earned
 - f. Emotional Stress enjoyed during this process and period
 - g. and physical stress underwent during the period
 - h. Family frustration and stress absorb resulting to separations and disorder
 - i. and personal frustrations and stress incurred
 - j. Employee, Scholars and Students frustration and stress
 - k. Decline in South Africans Moral
 - l. Retrenchment Staff due to no business and no payment
 - m. High experience of court cases from CCMA and court cases
 - n. Unintentionally and unplanned Disaster management and
 - o. Unintentionally and unplanned lockdown
 - p. Irrecoverable damage of the lives of ordinary people
 - q. Irrecoverable damage to those who depends on the State

- r. Irrecoverable damage to international community that has relations with this Country
- s. Irrecoverable damage of international community that has Bi-Literal with the Country
- t. Damaged to our South African brand
- u. Finally the fruitless expenditure exercise taken during this period

258. In the view of the foregoing, I respectfully submit that it is in the interest of justice for this Honorable Court to grant the applicant direct access to the court.

259. Furthermore to grant me the relief I seek as that will :

260. Our application raises important constitutional issues dealing with the lawfulness and infringement on our Constitutions

261. There is a reasonable prospect that this honorable Court may come to a conclusion that will be of the interest of people, which defend, embrace and enhance the work of the chapter 9 institutions, acknowledge the findings and executive the recommendation of such institution without favor and/or fear.

262. This honorable court may deliver a strong statement for those who abuse State resources and/or who captured the state and/or who are corrupt and/or who embark to use the State for self-enrichment.

263. This Honorable Court may reemphasize the mandate of State institution and the importance thereof such as the mandate of Services Seta and its constitutional obligation
264. There has been arrogance and abuse of State power, which undermines the very stakeholders the State has to serve, and it is for this honorable Court to institutionalize and embrace the spirit Batho Pele Principle
265. It is in the interest of this court that our youth be skilled, development and empowered to be employable, They should never to be denied access to education or their education be put on hold while there is budget allocated intended for them
266. Furthermore it is in the interest of this court that Business should not be blocked from executing their Constitutional rights,
267. Any intentionally misrepresentation to Parliament, to Stakeholders or to any of State Institutions and/or to the public for more must never be taken lightly, as a serious offence and this court decision must be of same accord
268. The court may consider that State funds for programmes are committed for years and not spend, and while there are immediate challenges in the country, challenges of high level unemployment, poverty, unskilled youth, crime and lack of education. furthermore that in the Annual report of State entity like Services Seta 2019/2020 it has commitment of R3.9 billion (three billion nine hundred) while it received a budget of R1,5 billion (one billion and five hundred million)

on average, this commitment are contracts which have not been given the go ahead to start from Service providers mainly SMME's by Services Seta

269. In giving out a verdict this honorable court should consider more than 36 million thirty six million thousand youth are unemployed and are still awaiting to be beneficiary for the State
270. The very funds that government has put in place to try combat and alleviate poverty has been intentionally withhold and rerouted to be invested rather than to be enjoyed by the beneficiary, while some youth are child headed family and majority are from the poor of the poorest communities, hence delays in payment of Social relief to the intended beneficiaries
271. In giving out a ruling this honorable court should consider more than millions of Small Medium Micro enterprise (SMME), Corporates, Businesses ,Community Based Organization(CBO), Non Profit Organization (NPO) and Non-government Organization (NGO) are declared insolvent because of the Action of the State
272. The economic market of the country is on permanent recession which means for furthermore delays in this lockdown might create a state of emergency
273. During this lockdown we have seen close allies of the State officials benefiting in the procurement of COVID19 PPE and related activities

274. It is in the interest of this court that SMME are to rely on the decision of this court in term of the Procurement, and how it must be governed and spending of such, the SMME are dying and closing because of nonpayment and /or delayed payment which in return, it increases the level of unemployment in the country due to business closure and retrenchments.
275. It is for this honorable court to act in the interest of those who cannot afford legal representation in their day to day business and is such this matter where an example of the benefits of democracy and constitution
276. There has been an existing norm that takes place in the country before COVID19, and still exist during the lockdown where State and/or its institution would not spend the allocated budget on service delivery matters as mandated. But would rather declare it as a commitment in the annual report with the view of continue to investing in order to generate significant interest and with officials standing to benefit from interest, this court may call resolve such act to be that of treason to the State, parliament or/and may declare it an act of sabotage to people, democracy and the constitution.
277. The court may exploit the issue of whether the executive has been earning salaries and the State officials has been receiving remuneration every year without fail for executing which mandate and/or constitutional and/or administrative obligation
278. May the Honorable court take into account all the hardship and frustration and/or including irrecoverable damages incurred by the applicant

279. May the Honorable grant reparation for the breach of human rights is a fundamental principle of international law. Reparations render justice by removing or minimizing the consequences of the wrongful act and by preventing and deterring violations
280. May this Honorable court grant the applicants restitution claim, as an act of ending any ongoing violations and restoring the al victims, to the greatest extent possible,.
281. May this Honorable court grant the applicants claim of compensation as a monetary award to redress a violation due to there is no other way to undo the effects of a violation through other measures such as restitution or rehabilitation.
282. May this Honorable court furthermore grant the applicants pecuniary / material damage Claim as a refer to the financial loss of the victim, including any expenses incurred and any special or consequential damages, as a result of the violation.
283. May this Honorable court furthermore grant the applicants Non-Pecuniary/moral damage: compensate for the loss in dignity and reputation of the applicants, as well as mental and emotional harm. An award of non-pecuniary damages should be intended to compensate for this suffering, including the psychological harm, anguish, grief, sadness, distress, fear, frustration, anxiety, inconvenience, humiliation, and reputational harm caused by the violation

284. May this Honorable court furthermore grant the applicants a satisfaction claim hereby refers to reparations awards that concede and acknowledge that the harm occurred. They aim to end continuing abuses, and to restore the dignity and reputation of the all South Africans in particular the unemployed, the youth and people from previously disadvantaged areas and groupings.
285. Finally ,may the Honorable Court consider to grant an order that of Guarantees of Non-Repetition which seeks to prevent the commission of similar human rights and constitutional violations, whether against the same or multiple victims and/or any south Africans
286. May the court grant also for the declaratory order in favor of the applicant, see Rail Commuter action group v Transnet Ltd t/a Metrorail 2005(2)SA 359
287. May this court decision also ensure the state protect and enhance our constitution and democracy , refer to the decision of the constitutional court in Mohamed and Another v The republic of South Africa and Other s2001(3) SA 893 (CC) para 67 where Chaskalson P referred to the United States decision in Olmstead et al v United State and quoted the words of justice Brandies as follow's:" *in a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously... Government is the potent omnipresent teacher. for good or for ill, it teaches the whole people by its example...if the government becomes a lawbreaker, it breeds contempt for the law; it invites everyman to become a law unto himself; it invites anarchy.*"

288. The Constitutional democracy has been depended, which makes South African, a Blessed Nation and unique in its approach to finding solutions that are best for its people and the land, when it declared new path on National elections refer to Judgment of New Nation movement NPC and Others vs President RSA and Other Case CCT 110/19 **(See Annexure 53 Con Court Judgment NEW Nation Movement vs President)**
289. Wherefore I humbly pray for an order as set out in our affidavit of **Hola Bon Renaissance Foundation** will be used in support
290. All responded who oppose the relief herein, jointly and severally the one paying the other to be absolved, are to pay the costs of suit on an attorney and own client scale, including the costs of six counsels
291. Any and all costs incurred by the any responded in the course of these proceedings, but which were in fact paid by another responded or any public entity on behalf of the responded or either and/or any of the responded, will be repaid to that responded or entity by the responded in their personal capacity
292. Justice delayed is Justice Denied

DATED AT JOHANNESBURG ON THIS 31ST DAY OF AUGUST 2020.

BOUSHITSWE PREDDY MTHOPENG MSIELENG
Applicant s Representative
Hola Bon Renaissance Foundation
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2ND FLOOR, MARSHALLTOWN
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EMAIL: HBRFOUNDATION@GMAIL.COM
REF NO:PRESLOCK2020/5

I CERTIFY that this Affidavit was SIGNED and SWORN to before me at

JHB CENTRAL on this the 31 of 08 2020, after the Representative declared that he is familiar with the contents of this affidavit, and regards the prescribed oath as binding on his/her conscience and has no objection against taking the said prescribed oath. There has been compliance with the requirements of the Regulations contained in Government Gazette R1258 dated 21 July 1972 (as amended)

COMMISSIONER OF OATHS

FULL NAMES: CHAUNCE LUCKY

BUSINESS ADDRESS: 1 COMMISSIONER

CAPACITY: D/CSI

SOUTH AFRICAN POLICE SERVICE
COMMUNITY SERVICE CENTRE
2020-08-31
JOHANNESBURG CENTRAL
SUID AFRIKAANSE POLISIEDIENS