

VIEWS ON RESTRICTIVE MEASURES AMONG BRAZILIAN LAWYERS DURING THE COVID-19 OUTBREAK: AN EX-PLORATORY ANALYSIS FROM RAPID RESEARCH

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ABSTRACT

COVID-19 has had deep impacts on the lives of individuals, organizations, and polities around the globe. Legal professionals and institutions were not absent from this story. Governments adopted different approaches to deal with the pandemic, which – at a time when social relations have become ever more judicialized – inevitably triggered legal disputes. Central to these disputes were restrictive measures such as lockdown for non-essential businesses, shelter-in-place and stay-at-home orders for communities, and compulsory quarantine for infected individuals. These disputes were further entangled with political conflict and polarization, as the case of Brazil under President Jair Bolsonaro well exemplifies. Against such backdrop, this article investigates: Did Brazilian legal professionals view those restrictive measures and the power of government entities to enact them to be consistent with ‘the law’? What explains variation in their views? By exploring data from *rapid research* carried out during the pandemic outbreak in Brazil, this article points to the role of variables such as *pandemic understandings and experiences, political orientation and attitudes, and the nexus between legal knowledge and the State* in shaping the attitude of such population. The implications to studies on legal professionals, pandemics, and the rule of law in Brazil and beyond are discussed.

KEYWORDS: legal professionals; COVID-19; empirical research; public health.

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VISÕES SOBRE MEDIDAS RESTRITIVAS ENTRE PROFISSIONAIS DO DIREITO BRASILEIROS DURANTE O SURTO DA COVID-19: UMA ANÁLISE EXPLORATÓRIA DE PESQUISA RÁPIDA

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RESUMO

A COVID-19 teve profundo impacto nas vidas de indivíduos, organizações e países no mundo. Profissionais e instituições do direito não estiveram ausentes dessa história. Governos adotaram diferentes abordagens para lidar com a pandemia, as quais – num contexto de relações sociais cada vez mais judicializadas – geraram inevitáveis disputas judiciais. No centro dessas disputas estiveram medidas restritivas como proibição do funcionamento de negócios não-essenciais, restrições à circulação de pessoas e quarentena obrigatória para infectados. Essas disputas foram ainda enredadas em conflitos políticos e polarização, como bem exemplifica o caso do Brasil sob Jair Bolsonaro. Nesse cenário, este artigo investiga: Os(as) profissionais do direito no Brasil entenderam as medidas restritivas e o poder de entes governamentais de editá-las como sendo consistentes com ‘o direito’? O que explica a variação nessas visões? Explorando dados de uma *pesquisa rápida* realizada durante o surto de pandemia no país, o artigo aponta para o papel de variáveis como *compreensões e experiência da pandemia, orientação e atitudes políticas*, e o *nexo entre conhecimento jurídico e Estado na* determinação das atitudes dessa população. Discute-se as implicações desses achados para estudos sobre profissionais do direito, pandemias e o Estado de Direito no Brasil e para além do Brasil.

PALAVRAS-CHAVE: profissionais do direito; COVID-19; pesquisa empírica; saúde pública.

1. INTRODUCTION

That COVID-19 will be central in the 21st century history does not seem to be an exaggeration. Since the pandemic broke out, in the beginning of 2020, the lives of individuals, organizations, and polities have been deeply impacted. Our individual and collective habits, routines, and plans were disrupted, in some cases for good. Some businesses simply went bankrupt, while others had to change their operational protocols entirely. Unemployment rates skyrocketed and while the contribution of certain workers to society was recognized as ‘essential’, their already precarious labor conditions were only put under more distress.

Although pandemics offer an incredible opportunity to study the lived reality of law, they are remarkably absent from empirical legal scholarship. The few existing empirical studies on law and pandemics identify a central tension, arising from the public health measures usually adopted to fight the spreading disease, between concerns with “community health security” and “individual liberties”. Yet, no study has focused on how legal professionals navigate this alleged tension and what drives their thoughts and attitudes on this matter. This leaves an important knowledge gap at a time when policy disputes are ever more legalized and judicialized and lawyers are called upon to play a role as political stabilizers.

This article draws from *rapid research*², including an online survey conducted during the COVID-19 outbreak in Brazil, to shed light on the socioprofessional factors driving lawyers’ views on the lawfulness/lawlessness of restrictive policies, which became particularly contentious during the pandemic. The survey presented respondents with *vignettes* based on lawsuits filed around those policies during the outbreak of COVID-19 in Brazil, asking whether these lawsuits should be granted or denied. Several variables – from the demographic, professional, and civic backgrounds of respondents to their knowledge and informational sources on the pandemic – were included in the questionnaire. My analysis points to the role of variables such as

² Here I use the term *rapid research* in the same sense as agencies such as the National Science Foundation in the United States (NSF). NSF maintains a funding mechanism named RAPID, intended “for proposals having a severe urgency with regard to availability of, or access to data, facilities or specialized equipment, including quick-response research on natural or anthropogenic disasters and similar unanticipated events” (https://www.nsf.gov/pubs/policydocs/pappguide/nsf09_1/gpg_2.jsp#IID1).

pandemic understandings and experiences, political orientation and attitudes, and the nexus between legal knowledge and the State in shaping lawyers' views on restrictive measures. Generalization of my findings is limited by the nature and scope of my data; however, those findings resonate with relevant scholarly debates and offer hypotheses that deserve further investigation by scholars in the sociology of the legal profession and law and public health in Brazil and beyond.

The article proceeds into four sections ahead. Section 2 reviews the literature on law and pandemics and situates my study heuristically. Section 3 describes the context, tools, methods, and limitations in my research. Section 4 lays out my findings. Section 5 draws conclusions and implications.

2. KNOWLEDGE AND KNOWLEDGE GAPS ON LAW IN PANDEMICS

Pandemics both expose and exacerbate fundamental tensions in our lives and our encounters with law. In *normal* life, we must make individual and collective decisions while confronting larger forces, social and/or natural. During pandemic times we do this too; however, we need to act faster, under greater fear and insecurity, and with limited information. In *normal* life, we many times turn to law – perhaps assuming it is a fair, fixed, and objective set of principles and rules (Ewick & Silbey, 1998) – in search of protection, only to find that it can be a more ambiguous and uneven terrain where the haves tend to come out ahead (Galanter, 1974). During pandemic times, when emergency measures are needed that generate gains and losses, this political character of law becomes ever more salient.

It is therefore remarkable that pandemics remain largely understudied by empirical legal scholars. In preparation for this article, I searched for the term pandemic (and later epidemic) in different sociolegal databases and law reviews. The works retrieved through my literature search had three characteristics. To begin with, there is a prevalence of *normative* works. Some authors focus on the governance structures and policies that would be the *most appropriate* to handle pandemic events domestically and globally (Archibugi & Bizzarri, 2004; Largent, 2016; Mameli, 2000). Others focus on the standards – legal or ethical – by which healthcare professionals (Coleman & Rosoff, 2020; Jerry, 2020; Yakovi Gan-Or, 2020), researchers (Doerr & Wagner, 2020; Knoppers

et al., 2020), and law enforcement authorities (White & Fradella, 2020) *should* abide during pandemic times. Scholars often recognize that governance structures and policies in response to pandemics are constituted by law. However, their analyses focus primarily on *formal* law – legal designs and technologies (Abbot, 2007; Archibugi & Bizzarri, 2004; Largent, 2016; Mameli, 2000; Mariner, Annas, & Parmet, 2009; Parmet, 2011; White & Fradella, 2020) – as opposed to law in action and in everyday life³. In addition, most existing studies focus on the tension, arising from public health measures usually enacted to fight pandemics, between “government power” and “individual rights” (Jacobs, 2007; Simpson, 2020)⁴ – “the central dilemma in public health law and ethics” (Thomson & Ip, 2020, p. 31).

Finally, no study was identified that systematically looks at *legal professionals* and how they navigate such tensions over public health measures that emerge during pandemics. This leaves an important knowledge gap. As it has been well-noted in the political science literature, we live at a time marked by a “global expansion of the judicial power” (Tate & Vallinder, 1995) and growing levels of “judicialization of politics” (Hirschl, 2008a, 2008b). This makes policy disputes ever more legalized and judicialized and calls for lawyers to play a role as political stabilizers. Brazil represents a case in point. Responses to the pandemic became highly contentious and some of the discontent in society was inevitably brought to Courts. Several lawsuits were filed challenging the policies being enacted by mayors and governors – particularly those aimed at restricting individual and business activities. In this context, it becomes worth asking: Did Brazilian legal professionals view such restrictive measures and the power of government entities to enact them to be consistent with ‘the law’? What explains variation in those views? Drawing from a multi-method, rapid research carried out during the COVID-19 outbreak (early March to late May 2020), this article offers an initial take on these questions, adding to debates about law, lawyers, and public health.

³ But see Jacobs (2007); Simpson (2020); Tremblay-Huet et al. (2020); and Weait (2013).

⁴ But see Klug’s study of how the South African state was transformed as it had to respond to the AIDS pandemic in the 1990s (Klug, 2012) and Tremblay-Huet et al’s study of how medical assistance in dying providers navigated COVID-19 restrictions (Tremblay-Huet et al., 2020).

3. GRASPING THE SENSE OF LAWFULNESS/LAWLESSNESS OF POLICY RESPONSES TO COVID-19 AMONG BRAZILIAN LEGAL PROFESSIONALS: RESEARCH CONTEXT AND METHODS

My empirical research started in March 2020, once Brazil began to record its first COVID-19 cases. Amidst the news storm on the pandemic, I began noticing a growing number of articles covering legal actions and court decisions in the main Brazilian media sources. I decided to follow these developments more closely. Initially, I set up a Google Alert (in Portuguese) with terms such as *preliminary injunction*, *ruling*, *judge*, *appellate judge*, *prosecutor*, and *Court* accompanied by *coronavirus*. This Google Alert enabled me to monitor the evolving landscape of legal disputes related, directly or indirectly, to the COVID-19 pandemic. In two to three weeks, I had collected over 800 references to lawsuits filed all over Brazil and covering a wide variety of topics (from contracts and labor relations to prisoners' rights and public health policy).

At this exact point of my data collection (late March 2020), the pandemic took a surprising turn in the country. The Brazilian government had not been the most proactive in articulating a robust response to the virus. Things were slightly shaken in January, when Brazilians living in Wuhan, China – where COVID-19 seemingly had its first outbreak – asked to be repatriated to their homeland. The Brazilian government was initially hesitant, but eventually – and after public pressure grew – it agreed to meet those demands. Suddenly, there was a need to establish a basic statutory infrastructure to deal with the potential presence of the virus in the Brazilian territory. On February 4th, 2020, Bolsonaro sent a draft bill to Congress⁵, later turned into Federal Statute 13,979⁶, which regulated quarantine and other emergency measures needed “to protect the public” (Art. 1^o, §1^o)⁷.

⁵ PL 23/2020. Dispõe sobre as medidas sanitárias para enfrentamento da emergência de saúde pública de importância internacional decorrente do coronavírus. Available at: <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2236343>, last access 22 Mar 2021.

⁶ Lei n° 13.979, de 6 de fevereiro de 2020. Dispõe sobre as medidas para enfrentamento da emergência de saúde pública de importância internacional decorrente do coronavírus responsável pelo surto de 2019. Available at: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2020/lei/l13979.htm, last access 17 Mar 2021.

⁷ Id.

While this bill was being discussed in Congress, Bolsonaro gave somewhat inconsistent press statements on COVID-19. On January 26, 2020, he said, “We are concerned, of course, but the situation is not alarming. There is no confirmed case in Brazil”⁸. On February 26, the first COVID cases in the country were confirmed, involving Brazilians who had travelled to Europe during the carnival holiday⁹. On March 6, Bolsonaro made a public TV appearance, where he recognized that “the world faces a great challenge”, as “a new virus has emerged, which we have no immunity against”. He said, “the cases started in China, but the virus is already present in all continents”¹⁰. He then stated:

Brazil has strengthened its health surveillance system in ports, airports, and healthcare units... We are transmitting information on a daily, transparent basis to states and local governments so that they can better... support the population. The federal executive is providing technical support to all states through the Ministry of Health... I call the Brazilian people, especially healthcare professionals, to work together and overcome this situation. The moment begs for unity. Even if the problem may aggravate, there is no reason for panic. The best form of prevention is to follow the recommendations from the experts¹¹.

The very next day, Bolsonaro flew to Florida, where he had dinner with the United States President Donald Trump and met with Senators Marco Rubio and Rick Scott¹². Yet, it was for reasons other than diplomacy that the trip made headlines in Brazil and beyond. As the presidential airplane made its way back to Brazil, Bolsonaro’s press

⁸ Paulo Beraldo, 'Não é uma situação alarmante', diz Bolsonaro sobre coronavírus, Estadão, 26 Jan 2020, available at: <https://saude.estadao.com.br/noticias/geral,nao-e-uma-situacao-alarmante-diz-bolsonaro-sobre-coronavirus,70003173424>, last access 17 Mar 2021.

⁹ Alex Rodrigues, Ministério da Saúde confirma primeiro caso de coronavírus no Brasil, Agência Brasil, 26 Feb 2020, available at: <https://agenciabrasil.ebc.com.br/saude/noticia/2020-02/ministerio-da-saude-confirma-primeiro-caso-de-coronavirus-no-brasil>

¹⁰ Pronunciamento do Senhor Presidente da República, Jair Bolsonaro, em cadeia de rádio e televisão, 6 Mar 2020, available at: <https://www.gov.br/planalto/pt-br/acompanhe-o-planalto/pronunciamentos/pronunciamentos-do-presidente-da-republica/pronunciamento-do-senhor-presidente-da-republica-jair-bolsonaro-em-cadeia-de-radio-e-televisao-3>, last access 17 Mar 2021. Video available at: <https://youtu.be/fnJov5K1BSw>, last access 17 Mar 2021.

¹¹ Id.

¹² Anne Gearan, Trump says he will host Brazilian President Bolsonaro at Mar-a-Lago this weekend, Washington Post, 6 Mar 2020, https://www.washingtonpost.com/politics/trump-says-he-will-host-brazilian-president-bolsonaro-at-mar-a-lago-this-weekend/2020/03/06/4b88fae2-5fc1-11ea-b29b-9db42f7803a7_story.html, last access 17 Mar 2021

secretary, Fabio Wajngarten, felt feverish and, when the aircraft landed in Brasilia, he tested positive for the new coronavirus. In the weeks that followed, it was confirmed that 23 other members of the presidential delegation had also contracted the virus. In the meantime, the number of COVID-19 cases in Brazil continued to rise, signaling that community transmission was already in place, and the first deaths began to be documented. Media outlets started sharing graphic stories of collapsed health systems and massive deaths in Italy and New York City. Brazilian mayors and governors started to act, issuing lockdown orders like those adopted in other parts of the world and recommended by public health experts to flatten the transmission curve of the SARS-CoV-2. Only essential businesses were allowed to function, and the free flow of citizens was restricted¹³.

A public controversy arose as to whether Bolsonaro had contracted the virus during his United States trip – he denied it but gave no public access to his test results; later, he released results with other names, saying these were codenames for him¹⁴. What certainly happened was a change in his stance toward the pandemic. Before his United States trip, Bolsonaro had announced a response strategy based on nationally coordinated efforts and deference to expert knowledge. After that trip, he began questioning the seriousness of the virus, to oppose the orders issued by governors and mayors, to pit public health against economic wellbeing, and to claim that a cure to the disease was right at reach with the antimalarial drug chloroquine. Perhaps more shockingly, he began making public appearances – including in far-right demonstrations that favored military intervention and the closing of Congress –, driving large gatherings and showing contempt for democratic institutions altogether¹⁵.

A presidential address to the nation Bolsonaro gave on TV on March 24 became the epitome of this turn¹⁶. He began this speech blaming the media for fostering a

¹³ Luciano Nascimento, Governos estaduais adotam medidas restritivas para combater covid-19, Agência Brasil, 26/02/2021, available at: <https://agenciabrasil.ebc.com.br/saude/noticia/2021-02/governos-estaduais-adotam-medidas-restritivas-para-combater-covid-19>, last access 17 Mar 2021.

¹⁴ G1, Bolsonaro usou codinomes nos testes de coronavírus para preservar identidade, G1, available at: <https://g1.globo.com/politica/noticia/2020/05/13/bolsonaro-usou-codinomes-nos-testes-de-coronavirus-para-preservar-identidade.ghtml>, last access 17 Mar 2021.

¹⁵ Natália Portinari and Adriana Mendes, Bolsonaro vai a ato com aglomeração de manifestantes e pedidos de intervenção militar, O Globo, 19 Apr 2021, available at: <https://oglobo.globo.com/brasil/bolsonaro-vai-ato-com-aglomeracao-de-manifestantes-pedidos-de-intervencao-militar-24382154>, last access 17 Mar 2021. Video available at: <https://youtu.be/553D8VHI8Mo>, last access 17 Mar 2021.

¹⁶ Pronunciamento do Senhor Presidente da República, Jair Bolsonaro, em cadeia de rádio e televisão, 24/03/2020, <https://www.gov.br/planalto/pt-br/acompanhe-o-planalto/pronunciamentos/pronunciamentos-do-presidente-da>

“feeling of dread” and “amplifying the Italian tragedy” to “spread true hysteria throughout the country”. He claimed further that “the virus has arrived” but “life has to go on”, “jobs must be maintained”, “the livelihood of families must be preserved”, “we must return to normalcy”. He pledged that “a few state and municipal authorities must abandon the scorched earth concept, the ban on transportation, and closing of businesses and mass confinement”. He claimed that “fatal cases of healthy people under the age of 40 are rare” and that, if he were infected, “due to his history as an athlete”, he “wouldn’t have to worry”, he “wouldn’t feel anything or he would, at most, have a cold or a little cold”. Lastly, he said that “the American FDA and the Albert Einstein Hospital, in São Paulo, are seeking proof of the effectiveness of chloroquine in the treatment of COVID-19” and that he “believes in God, who will enable scientists and researchers in Brazil and the world to cure this disease”. After this speech, Bolsonaro forced the resignation of two Health Ministers who, one way or the other, insisted in the importance of social distancing and opposed the use of chloroquine as a panacea for the pandemic. Eventually, he appointed an active-duty Army General to serve in this position.

Considering that responses to COVID-19 in Brazil under Bolsonaro had become both highly contentious and highly judicialized, an important question was whether Brazilian legal professionals would view the restrictive policies being adopted by state and municipal governments and the power of these entities to adopt them to be consistent with ‘the law’ – and why/why not. Driven by these concerns, I designed a survey with *vignettes* based on the court cases I was monitoring through the Google Alert tool I had set up, asking how these cases should be decided.

Table 1

Survey questions with vignettes based on lawsuits filed in Brazil over restrictive policies adopted by state and municipal governments during the COVID-19 outbreak and the power of these entities to enact them.

Below we list a series of conflicts brought to the judiciary due to COVID-19 on which we would like to know your opinion

Question	Alternatives

[republica/pronunciamento-em-cadeia-de-radio-e-televisao-do-senhor-presidente-da-republica-jair-bolsonaro](https://www.youtube.com/watch?v=V1_DYb-XaAE), last access 17 Mar 2021. Video available at: https://youtu.be/V1_DYb-XaAE, last access 17 Mar 2021.



A State Decree determined the closing of stores, except for essential activities, among which it included businesses destined to the sale of food and supplies. A chocolate store filed a lawsuit against the state government, claiming the right to remain open. In your opinion, this lawsuit:	Must be granted = 18% Must be denied = 82%
A public authority issued a decree barring religious services during the COVID-19 pandemics. An evangelical church filed a lawsuit claiming the right to continue holding services. In your opinion, this lawsuit:	Must be granted = 4% Must be denied = 96%
Motorcades were held in several cities in defense of the reopening of the economy. Local authorities have filed lawsuits to bar these events [for violating stay-at-home decrees]. In your opinion, these lawsuits:	Must be granted = 73% Must be denied = 27%
A surfer filed a lawsuit to be able to visit the beaches of Florianópolis [where a stay-at-home decree had been issued by the state government]. In your opinion, this lawsuit:	Must be granted = 11% Must be denied = 89%
A couple returned from an international trip and showed symptoms compatible with infection by COVID-19. The local public authority filed a lawsuit, asking the couple to be put under home isolation, and pay a fine of R\$ 10,000.00 in case of non-compliance. In your opinion, this lawsuit:	Must be granted = 93% Must be denied = 7%
Recently, the Supreme Court decided a case in which it recognized that state and local governments can adopt measures restricting the operation of businesses and services and the circulation of people. The Federal Government argued that these measures can only be adopted by the Federal Executive. In your opinion, the Supreme Court's decision:	Is correct = 87% Is wrong = 13%

Source: Author's elaboration.

As readers can tell, some of the lawsuits/*vignettes* at hand raised more ambiguous or borderline situations. For example, one lawsuit/*vignette* involved a

chocolate store that claimed the right to remain open because it sold “food” and thus was an essential business. While chocolate is technically “food”, this could open doors for creative interpretations like department stores that sell chocolate over the counter claiming that they should also remain open¹⁷. A more restrictive interpretation would only consider businesses like supermarkets and grocery stores to sell “food”. Another lawsuit/*vignette* involved motorcades being staged by citizens against the measures enacted in response to COVID-19. State/local governments prohibited those motorcades, and individuals filed lawsuits claiming this infringed upon their freedom-of-expression. They argued that motorcades posed no health risks, since the protesters would remain inside their cars. While it is true that motorcades involved much less exposure than street demonstrations, the fact is they were driving crowds – which state and local governments were trying to avoid. The surfacing of these tensions and ambiguities made it ever more interesting to look at, and attempt to explain, the distribution of attitudes among my respondents.

Unlike in doctrinal studies, where the scholar’s emphasis is on the arguments and reasoning with which legal professionals justify their decisions, in this article I focus on the social forces that, even if less visibly, can shape these decisions. According to studies on the sociology of the legal profession [e.g.: Granfield (2007); Heinz (2005); Heinz & Laumann (1994); Seron (1996)], the worldviews and behavior of legal professionals are often shaped by 1) their socio-demographics – e.g.: race, class, gender, geographic location, and religion –, 2) their workplace contexts and clientele, 3) their professional socialization, and 4) their civic lives. Questions on these forces, drawn from some of those previous studies, were thus incorporated into my survey as potential independent variables. But the forces that had proven significant in *pre-pandemic research* would hardly suffice to explain the worldviews and behaviors of legal professionals under COVID-19. As noted above, the pandemic deeply changed both the individual lives of these professionals and their surrounding political context. To reflect these changes, I included two other sets of potential independent variables in my survey: one, which drew from similar studies being conducted with other groups, related to the

¹⁷ This was happening, indeed, as evidenced in João Pedro Pitombo and Marcelo Toledo, *Havan passa a vender arroz e feijão para tentar reabrir como serviço essencial*, <https://www1.folha.uol.com.br/mercado/2020/05/havan-passa-a-vender-arroz-e-feijao-para-tentar-reabrir-como-servico-essencial.shtml>, last access 3 Sep 2021.

respondent's experience with the pandemic and the pandemic responses being adopted; another related to (mis)information, ideological affiliations, and similar issues that appear in the literature on political polarization, cultural wars, and democratic backsliding (S. Levitsky & Zibblat, 2018; Mounk, 2018; Snyder, 2018). The full range of variables included can be consulted in Appendix A.

SURVEY IMPLEMENTATION, DATA, AND ANALYSIS

While expanding my research scope and strategy, I also had to deal with the multiple constraints imposed – directly or indirectly – by the pandemic. There was urgency to collect the survey data – the norm in rapid research –, but the validity and reliability of the instrument had to be ensured. With all my colleagues and former law school classmates at home, connected, and tuned into the pandemic, I could get informed feedback, finalize the questionnaire, and secure approval from my University's Institutional Review Board (IRB) at a reasonably quick pace. But there were additional methodological obstacles ahead. First, it was impossible to utilize a random sample. To begin with, no reliable sampling frame for legal professionals (national lists of judges, prosecutors, and private lawyers, with their contacts) is available in Brazil. In addition, even if such sampling frame existed, it would be difficult to reach out to its listed subjects. Phones and addresses would be meaningless at a time when most of them were not at their offices but working remotely. The suboptimum solution was to rely on a convenience sample, announcing the survey extensively on social media platforms, listservs of professional associations, and institutional e-mails of Courts and public prosecutor's offices.

The survey data was collected from April 21st to May 21st, 2020. In that timeframe, a total of 501 professionals from all geographic regions in Brazil completed the survey. 309 were in private practice (large law firms=51, general council's offices=18, small firms and solo practice=240), 130 were in government practice (judges=63, public prosecutors=30, government lawyers=37) and 62 were in public interest practice (NGOs=25, public defenders=37). 45% of respondents were based in the Brazilian Southeast, which is consistent with the geography of the Brazilian legal industry. 50.4% of respondents were female and 49.6% were male. 76% identified as white and 20%

identified as brown or black. The mean age of respondents was 38 years old. Appendix A details the sample's composition and socio-demographics.

The use of a convenience sample limits the generalizability of my survey findings. However, when triangulated with other data sources – including some legal decisions I collected through my Google Alert research – and established scholarly debates about lawyers, policy, and politics, these findings prove plausible or raise original insights and hypotheses that deserve further investigation.

Descriptive statistics for responses to my *vignette* questions show that an overwhelming majority viewed the restrictive measures at hand and the power of government entities to enact them to be consistent with 'the law', although there is some variation across the questions (see Table 1). These results coincided with my preliminary analysis of the actual legal cases I was following through my Google Alert, in which judges were usually deferring to executive authorities the decisions over what/the extent to which activities and businesses could be limited. They also seemed to reflect the mood of Brazilian public opinion. A national survey from March 2020 found that 73% favored – and 24% rejected – restrictive measures on people's mobility to fight COVID-19; suspension of "travel in general" had support from 92% and suspension of in-person religious activities had support from 82% of the interviewees¹⁸.

The analysis then set out to find what set the two groups apart (i.e., why would some view these policies to be lawful and others not?). To this end, I tested the independent effects of 88 other variables in the survey on the six *vignette* questions¹⁹. Variables whose association was significant at a 0.10 p-value were selected (see Appendix B). This exercise produced two important insights. First, *workplace contexts* showed no significant effect on the *vignette* questions²⁰; i.e., in general, the sense of

¹⁸ RBA, Datafolha: 73% apoiam isolamento temporário contra coronavírus, 22 Mar 2020, available at: <https://www.redebrasilatual.com.br/cidadania/2020/03/datafolha-isolamento-coronavirus/>, last access 20 Mar 2021.

¹⁹ In this process, aggregations were made to transform some variables into dichotomous or dummy ones to facilitate certain analyses.

²⁰ In these tests, I first considered the division between *private* (=large law firm, solo and small firm, general counsel's office, and NGO work) and *public* practice (=the bench, the public prosecutor's office, the public defender's office, and government law work). Second, I considered the division between *solo and small firm, corporate law practice* (=large law firm and general counsel's office), *public interest work* (=NGO and public defender's office), and *government practice* (=the bench, the public prosecutor's office, and government law practice). None of these desegregations yielded statistically significant effects on the response variable. Unfortunately, the sample size and distribution allowed no further levels of disaggregation for this variable (e.g.: prosecutors v. public defenders).

lawfulness/lawlessness of restrictive measures and the power of government entities to adopt them was distributed among my respondents based on other variables. Second, *only certain sociodemographic variables* – namely class, religiosity, and political orientation – had more noteworthy significant effects.

If *workplace contexts* and *sociodemographic data* like *race* and *gender* – which are so prominent in the sociology of the legal profession – had no noteworthy effects on the response variables/*vignette* questions, then what did? Most variables with statistically significant effects involved *pandemic understandings and experiences* and the *political orientation and attitudes* of respondents; a few others related to their *career motivation/satisfaction* and *areas of practice* (see Appendix B and throughout the text).

To conduct a more aggregated analysis, the responses were assigned a score “1” if the respondent deemed the restrictive measure in the *vignette* and the power of government entities to adopt it to be lawful, and “-1” if not. The scores were later transformed into an index, whose values could range from -6 to +6. Based on this index, an aggregated response variable was constructed. Respondents whose score for this variable was 0 to -6 (in other words, those who “ruled” against the policies in at least three questions) were considered to *generally view restrictive measures and the power of government to adopt them to be lawless* (=1); the others were considered to *generally view restrictive measures and the power of government to adopt them to be lawful* (=0). Table 2 shows the distribution of these two groups in the sample. Once again, I tested the independent effects of 88 other variables in the survey on this index response variable (see results in Appendix B and throughout the text).

Table 2

Frequency and percentage of respondents who viewed restrictions policies as lawful or lawless.

Generally, viewed measures to be (Response variable)	Frequency	Percentage
Lawful	434	87%
Lawless	65	13%

Total	499	100%
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Source: Author's elaboration.

My subsequent analysis proceeded into two stages. First, I looked more closely at the associations I had encountered (Appendix B), with an emphasis on those concerning the index score (38 variables). Then, I conducted more sophisticated statistical analyses including modeling and principal component analysis. The findings from these two exercises are reported in sections 4 and 5.

4. UNPACKING ASSOCIATIONS UNDERSTANDINGS AND EXPERIENCES OF THE PANDEMIC AND PANDEMIC RESPONSES

As Appendix B makes clear, a major force driving how respondents viewed the lawfulness/lawlessness of restrictive measures was their very *understanding of the pandemic* – what it was and how serious it was – and the measures needed to fight it. The survey included several questions on these topics, usually in the form of statements that respondents were asked to agree or disagree with. Those who deemed the restrictive measures to be lawless shared a clear profile. They tended to (1) minimize the gravity and the prospective duration of the pandemic, (2) occasionally embrace more conspiratorial theories and misinformation accounts about the pandemic, (3) prioritize concerns with the economy and individual freedoms in their understandings of proper pandemic responses, and (4) reject responses that could disrupt ‘normal life’ and the economy.

A few illustrations of tendency (1) follow. One statement in the survey contended that *COVID-19 was only serious in the elderly and already sick*. Responses had statistically significant effects on *five vignette questions and the index*. As shown in the data for the index variable, those who viewed restrictive measures and the power of



government entities to enact them to be *lawless* tended to agree/strongly agree with this statement much more than those who did not²¹ (Table 3).

Table 3

Cross-tabulated analysis of survey questions.

Below we list some things that people have said about COVID19. What is your degree of agreement with these statements? “The disease is only serious in the elderly and already sick people”

Generally, viewed measures to be	Disagree/Strongly disagree		Agree/Strongly agree	
	f	%	f	%
Lawful	404	90.18%	29	58.00%
Lawless	44	9.82%	21	42.00%

Source: Author’s elaboration.

Another statement contended that *the lethality of the virus was being exaggerated by the media*. Responses had statistically significant effects on *all six vignette questions and the index*. As shown in the data for the index variable, those who viewed restrictive measures and the power of government entities to enact them to be *lawless* tended to agree/strongly agree with this statement much more than those who did not (Table 4).

Table 4

Cross-tabulated analysis of survey questions.

Below we list some things that people have said about COVID19. What is your degree of agreement with these statements? “The virus is not that lethal, there is a lot of exaggeration in the media”

Generally, viewed measures to be	Disagree/Strongly disagree		Agree/Strongly agree	
	f	%	f	%
Lawful	399	92.15%	33	51.56%
Lawless	34	7.85%	31	48.44%

Source: Author’s elaboration.

²¹ The analyses on the *direction* of these associations are based on the difference in proportions between the two groups, which the independence tests reported in Appendix B had indicated to be statistically significant.



Other statements compared COVID-19 to diseases like dengue²² and the H1N1 influenza, contending that *COVID19 was less lethal than those*. Responses had statistically significant effects on *all six vignette questions and the index*. As shown in the data for the index variable, those who viewed restrictive measures and the power of government entities to enact them to be *lawless* tended to agree/strongly agree with these statements well more than those who did not (Tables 5 and 6).

Table 5

Cross-tabulated analysis of survey questions.

Below we list some things that people have said about COVID19. What is your degree of agreement with these statements? “COVID19's lethality is lower than that of dengue”

Generally, viewed measures to be	Disagree/Strongly disagree		Agree/Strongly agree	
	f	%	f	%
Lawful	283	92.48%	148	77.89%
Lawless	23	7.52%	42	22.11%

Source: Author's elaboration.

Table 6

Cross-tabulated analysis of survey questions.

Below we list some things that people have said about COVID19. What is your degree of agreement with these statements? “COVID19's lethality is lower than that of H1N1”

Generally, viewed measures to be	Disagree/Strongly disagree		Agree/Strongly agree	
	f	%	f	%
Lawful	312	91.23%	118	77.12%
Lawless	30	8.77%	35	22.88%

Source: Author's elaboration.

One statement contended that “*there [would] be vaccines in a few months*”²³. Responses had statistically significant effects on *four vignette questions and the index*.

²² *Dengue* is an endemic disease in Brazil and was frequently used to compare the deaths caused by, or projected in the context of COVID-19. In the year 2019, the second deadliest year in dengue outbreaks in Brazil, it caused the death of 754 people. COVID-19 victimized about 300,000 people in its first 12 months.

²³ At the time of the survey, the scientific consensus was that it would be a while until vaccines were available and, in the meantime, social distancing would be needed to flatten the transmission curve of the Sars-COV-2 virus – and keep it flat. It is true that vaccines were available after about a year of the pandemic, but this was due to an extraordinary effort of scientists and governments that could not be anticipated by analysts when the pandemic first broke out. The prediction of “a few months” sounded, in any event, unrealistic.



As shown in the data for the index variable, those who viewed restrictive measures and the power of government entities to enact them to be *lawless* tended to agree/strongly agree with this statement well more than those who did not (Table 7).

Table 7

Cross-tabulated analysis of survey questions.

Below we list some things that people have said about COVID19. What is your degree of agreement with these statements? “We will have vaccines in a few months”

Generally, viewed measures to be	Disagree/Strongly disagree		Agree/Strongly agree	
	f	%	f	%
Lawful	399	89.26%	33	66.00%
Lawless	48	10.74%	17	34.00%

Source: Author’s elaboration.

Another statement contended that “*it is most certain that there will be opening-and-closing cycles until 2022*”. Responses had statistically significant effects on *five vignette questions and the index*. As shown in the data for the index variable, those who viewed restrictive measures and the power of government entities to enact them to be *lawless* tended to disagree/strongly disagree with this statement well more than those who did not (Table 8).

Table 8

Cross-tabulated analysis of survey questions.

Below we list some things that people have said about COVID19. What is your degree of agreement with these statements? “It is most certain that there will be opening-and-closing cycles until 2022”

Generally, viewed measures to be	Disagree/Strongly disagree		Agree/Strongly agree	
	f	%	f	%
Lawful	178	80.54%	255	92.06%
Lawless	43	19.46%	22	7.94%

Source: Author’s elaboration.

As noted above (tendency 2), differences were also observed based on whether respondents embraced what, even in the pandemic’s first wave, sounded like more conspiratorial theories and misinformation accounts. The survey presented two such



statements, one contending that “the virus had been created in China”²⁴, another that “chloroquine [was] proven to help cure COVID-19”²⁵. As shown in the data for the index variable, those who viewed restrictive measures and the power of government entities to enact them to be *lawless* tended to agree/strongly agree with these statements well more than those who did not (Tables 9 and 10).

Table 9

Cross-tabulated analysis of survey questions.

Below we list some things that people have said about COVID19. What is your degree of agreement with these statements? “The virus was created in China”

Generally, viewed measures to be	Disagree/Strongly disagree		Agree/Strongly agree	
	f	%	f	%
Lawful	330	91.16%	103	75.74%
Lawless	32	8.84%	33	24.26%

Source: Author’s elaboration.

Table 10

Cross-tabulated analysis of survey questions.

Below we list some things that people have said about COVID19. What is your degree of agreement with these statements? “Chloroquine is proven to help cure Covid-19”

Generally, viewed measures to be	Disagree/Strongly disagree		Agree/Strongly agree	
	f	%	f	%
Lawful	309	91.42%	123	77.36%
Lawless	29	8.58%	36	22.64%

Source: Author’s elaboration.

On tendency (3) referred above, the survey asked what *societal impacts* of COVID-19 respondents were most worried about. As shown in the data for the index variable, those who chose “the reduction of economic activity and the growth of unemployment”²⁶ and “threats to individual freedoms”²⁷ were a lot more likely to view

²⁴ This association was statistically significant in five vignette questions and the index.

²⁵ This association was statistically significant in five vignette questions and the index.

²⁶ This association was statistically significant in four vignette questions and the index.

²⁷ Very few times respondents chose this option, as seen in Appendix A. This association was statistically significant in all six vignette questions and the index.



restrictive measures and the power of government entities to enact them to be *lawless* (Tables 11 and 12).

Table 11

Cross-tabulated analysis of survey questions.

Regarding the impacts of the COVID19 pandemic on society at large, what consequences worry you the most? "The reduction of economic activity and the growth of unemployment"

Generally, viewed measures to be	No		Yes	
	F	%	F	%
Lawful	204	92.31%	230	82.73%
Lawless	17	7.69%	48	17.27%

Source: Author's elaboration.

Table 12

Cross-tabulated analysis of survey questions.

Regarding the impacts of the COVID-19 pandemic on society at large, what consequences worry you the most? "Threats to individual freedom"

Generally, viewed measures to be	No		Yes	
	F	%	f	%
Lawful	367	89.73%	67	74.44%
Lawless	42	10.27%	23	25.56%

Source: Author's elaboration.

The opposite happened with those who chose "*the collapse of health systems*"²⁸ and "*the growth of poverty and social inequality*"²⁹: As shown in the data for the index variable, these were a lot more likely to view restrictive measures and the power of government entities to enact them to be *lawful* (Tables 13 and 14).

Table 13

Cross-tabulated analysis of survey questions.

Regarding the impacts of the COVID19 pandemic on society at large, what consequences worry you the most? "The collapse of health systems"

Generally, viewed measures to be	No		Yes	
	f	%	f	%
Lawful	44	65.67%	390	90.28%

²⁸ This association was statistically significant in three vignette questions and the index.

²⁹ This association was statistically significant in five vignette questions and the index.



Lawless	23	34.33%	42	9.72%
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Source: Author's elaboration.

Table 14

Cross-tabulated analysis of survey questions.

Regarding the impacts of the COVID19 pandemic on society at large, what consequences worry you the most? "The growth in poverty and social inequality"

Generally, viewed measures to be	No		Yes	
	f	%	f	%
Lawful	64	79.01%	370	88.52%
Lawless	17	20.99%	48	11.48%

Source: Author's elaboration.

Moving to tendency (4) referred above, the survey included two questions about *social isolation policies*. One took form of a statement that respondents were asked to agree or disagree with, which read: "we need to stay at home to flatten the transmission curve". Responses had statistically significant effects on *five vignette questions and the index*. As shown in the data for the index variable, those who disagreed/strongly disagreed (very few in the sample) were more likely to view restrictive measures and the power of government entities to enact them to be *lawless* (Table 15).

Table 15

Cross-tabulated analysis of survey questions.

Below we list some things that people have said about COVID19. What is your degree of agreement with these statements? "We need to stay at home to flatten the transmission curve"

Generally, viewed measures to be	Disagree/Strongly disagree		Agree/Strongly agree	
	f	%	F	%
Lawful	6	37.50%	426	88.57%
Lawless	10	62.50%	55	11.43%

Source: Author's elaboration.

Another question asked what was most effective to fight COVID-19: "*horizontal isolation*", in which only essential business would be allowed to open and most people would be required to stay at home, or "*vertical isolation*", in which businesses could continue to work and only people in "risk groups" would be required to stay at home.



Responses had statistically significant effects on *all six vignette questions and the index*. As shown in the index variable data, those who chose “vertical isolation” (also very few in the sample) were more likely to view restrictive measures and the power of government entities to enact them to be *lawless* (Table 16).

Table 16

Cross-tabulated analysis of survey questions.

Regarding COVID19, what do you think is most effective?						
Generally, viewed measures to be	Horizontal		Vertical		Other	
	f	%	f	%	f	%
Lawful	404	92.24%	15	35.71%	15	78.95%
Lawless	34	7.76%	27	64.29%	4	21.05%

Source: Author’s elaboration.

Concerns with freedoms (tendency 3) and rejection of isolation policies (tendency 4) come together at a more personal level as well. The survey included a set of questions asking how respondents felt about specific effects of social distancing *in their lives* (if “bothered” or not). As shown in the data for the index variable, those who felt bothered for being “*deprived of cultural, sports, and leisure activities*” were more likely to view restrictive measures and the power of government entities to enact them to be *lawless*.

³⁰ Responses had statistically significant effects on *three vignette questions and the index* (Table 17).

Table 17

Cross-tabulated analysis of survey questions.

Regarding the effects of social isolation, we would like to know if you feel personally bothered by the situations below: “The deprivation of cultural, sports, and leisure activities”				
Generally, viewed measures to be	No		Yes	
	f	%	f	%
Lawful	160	82.05%	264	90.41%
Lawless	35	17.95%	28	9.59%

³⁰ Alternatives included: loss of contact with others; deprivation of cultural, sports, and leisure activities; economic uncertainties; the need to do household chores; uncertainty about the duration of isolation; the need to take charge of child schooling; and the need to work/study from home.



Source: Author's elaboration.

CLASS, RELIGIOSITY, AND - MOST IMPORTANTLY - POLITICS

The analysis in Appendix B also showed effects of sociodemographic factors relating to *class*, *religiosity*, and - most importantly - the *political orientation* and *attitudes* of respondents. *Participation in clubs*, a proxy of upper-middle-class or upper-class status, had statistically significant effects on *three vignette questions and the index*³¹. Considering data for the index variable, those who reported participating in clubs were well more likely to view restrictive measures and the power of government entities to enact them to be *lawless* than those who did not (Table 18).

Table 18
Cross-tabulated analysis of survey questions.

Please select the alternatives that you participate or attend: Clubs

Generally, viewed measures to be	No		Yes	
	f	%	f	%
Lawful	365	88.59%	69	79.31%
Lawless	47	11.41%	18	20.69%

Source: Author's elaboration.

Participation in religious organizations had statistically significant effects on *one vignette question and the index variable*. Considering data for the index variable, those who reported participating in religious organizations were well more likely to view restrictive measures and the power of government entities to enact them to be *lawless* than those who did not (Table 19).

Table 19
Cross-tabulated analysis of survey questions.

Please select the alternatives that you participate or attend: Religious organizations

Generally, viewed measures to be	No		Yes	
	f	%	f	%
Lawful	367	88.22%	67	80.72%
Lawless	49	11.78%	16	19.28%

³¹ Although other class-related variables in the survey did not have display such effects.



Source: Author's elaboration.

Variables reflecting the *political orientation* of respondents also had effects on the *vignette* questions and the index variable. Conservatism appears as a clear driver of responses. Considering data for the index variable, those who identified as *rightists* were well more likely to view restrictive measures and the power of government entities to enact them to be *lawless*, than those who identified as centrists or leftists (Table 20). This variable had statistically significant effects on *three vignette questions and the index*.

Table 20
Cross-tabulated analysis of survey questions.

In relation to your political position, where are you located?						
Generally, viewed measures to be	At the center		On the left		On the right	
	f	%	x	%	f	%
Lawful	113	84.96%	289	92.63%	30	57.69%
Lawless	20	15.04%	23	7.37%	22	42.31%

Source: Author's elaboration.

Likewise, considering data for the index variable, those who became more conservative were well more likely to view restrictive measures and the power of government entities to enact them to be *lawless* than those who became more progressive or who did not change (Table 21). This variable had statistically significant effects on *all six vignette questions and the index*.

Table 21
Cross-tabulated analysis of survey questions.

In the past 5 years, in relation to politics, would you say you:						
Generally, viewed measures to be	Became more conservative		Became more progressive		Have not changed	
	f	%	x	%	f	%
Lawful	76	78.35%	219	89.02%	136	88.89%
Lawless	21	21.65%	27	10.98%	17	11.11%

Source: Author's elaboration.



Yet the most remarkable results appeared in survey questions that asked respondents to evaluate the performance of different authorities in the COVID-19 crisis. Two contrasting pairs of data points illustrate this key finding. One involves two of Bolsonaro’s Health Ministers, Henrique Mandetta and Nelson Teich. Bolsonaro had fired Mandetta for his insistence in the need for restrictive measures and appointed Teich, whose discourse deemphasized these measures. Those who negatively evaluated Mandetta were well more likely to view restrictive measures and the power of government entities to enact them to be *lawless* than those who evaluated him positively or as average (Table 22)³². The data on Teich goes the opposite way. Those who evaluated Teich positively or as average were well more likely to view restrictive measures and the power of government entities to enact them to be *lawless* than those who evaluated him negatively³³ (Table 23) – although there were many “I don’t have an opinion” responses for him, as he had just been appointed when the survey was carried out.

Table 22

Cross-tabulated analysis of survey questions.

How do you evaluate the performance of the following personalities in the COVID19 crisis? “The former Health Minister, Henrique Mandetta”

Generally, viewed measures to be	Bad		Average		Good		I don't have an opinion	
	f	%	x	%	f	%	f	%
Lawful	43	79.63%	151	88.30%	240	88.24%	0	0.00%
Lawless	11	20.37%	20	11.70%	32	11.76%	2	100.00%

Source: Author’s elaboration.

Table 23

Cross-tabulated analysis of survey questions.

How do you evaluate the performance of the following personalities in the COVID19 crisis? “The new Health Minister, Nelson Teich”

Generally, viewed measures to be	Bad		Average/Good		I don't have an opinion	
	f	%	x	%	f	%

³² This variable had statistically significant effects on five vignette questions and the index.

³³ This variable had statistically significant effects on all six vignette questions and the index.



Lawful	253	93.70%	56	68.29%	125	85.03%
Lawless	17	6.30%	26	31.71%	22	14.97%

Source: Author's elaboration.

The other telling comparison involves Bolsonaro himself and the São Paulo state governor João Doria³⁴. Those who evaluated Bolsonaro positively or as average were far more likely to view restrictive measures and the power of government entities to enact them to be *lawless* (Table 24). The data on Doria goes the opposite way. Those who evaluated him positively were far more likely to view restrictive measures and the power of government entities to enact them to be *lawful*³⁵ (Table 25).

Table 24

Cross-tabulated analysis of survey questions.

How do you evaluate the performance of the following personalities in the COVID19 crisis? "Jair Bolsonaro, the President of Brazil"

Generally, viewed measures to be	Bad		Average/Good		I don't have an opinion	
	f	%	x	%	f	%
Lawful	418	90.67%	16	43.24%	0	0.00%
Lawless	43	9.33%	21	56.76%	1	100.00%

Source: Author's elaboration.

Table 25

Cross-tabulated analysis of survey questions.

How do you evaluate the performance of the following personalities in the COVID19 crisis? "João Doria, the São Paulo state governor"

Generally, viewed measures to be	Bad		Average/Good		I don't have an opinion	
	f	%	x	%	f	%
Lawful	31	52.54%	382	91.61%	21	91.30%
Lawless	28	47.46%	35	8.39%	2	8.70%

Source: Author's elaboration.

³⁴ While João Doria is also a right-wing politician who supported Bolsonaro in the presidential election, they became mutual antagonists since the COVID-19 crisis. Doria adopted and consistently enforced social distancing policies at the outbreak of the pandemic and developed a partnership with the Chinese company SINOVA to produce COVID-19 vaccines, in a move that was dismissed by Bolsonaro.

³⁵ This association was statistically significant in all six vignette questions and the index, with correlation coefficients being very high.

The direction of these associations is clear: those who positively evaluated Bolsonaro – or negatively evaluated politicians and managers perceived to contradict Bolsonaro’s approach to the pandemic – were more likely to view restrictive measures and the power of government entities to enact them to be *lawless*. A similar trend could be observed in the Brazilian population: in a national survey carried out in March 2021, when Brazil was hit by a second wave of the pandemic, 71% of respondents favored – and 28% rejected – restrictions on business activities to fight COVID-19. Among those who positively evaluated President Bolsonaro, only 35% favored – and 54% rejected – such restrictions. Hence, my findings echo a myriad of studies that show how phenomena such as *political polarization* and the *cultural wars* in which populist leaders like Bolsonaro engage, shape thoughts and decisions in professional lives and beyond. For example, in the United States, researchers have found that medical doctors now tend to prescribe different treatment courses depending on whether they are Republicans or Democrats (Hersh & Goldenberg, 2016). In the context of COVID-19, scholars predicted (Bavel et al., 2020) – and later confirmed (Allcott et al., 2020; Cakanlar, Trudel, & White, 2020; Calvillo, Ross, Garcia, Smelter, & Rutchick, 2020; Calvo & Ventura, 2021; Christensen et al., 2020; Clinton, Cohen, Lapinski, & Trussler, 2021; Gollwitzer et al., 2020) – that political ideology could have an effect on individual behavior, including support for mask mandates and social distancing policies.

Through the Google alert I set up to track COVID-19-related legal developments, I collected numerous pieces of evidence that the views of Brazilian lawyers on restrictive measures reflected their identification with Bolsonaro. For example, on July 20, 2020, a Judge in Belo Horizonte, State of Minas Gerais, ruled that the restrictions put in place by the local Mayor – particularly those affecting bars and restaurants – were unconstitutional. The language adopted by the Judge bears striking similarity to that used by the President: He called the Mayor a “tyrant”, wrote that “most people are blind by the fear and desperation that have been imposed on a daily basis by the media and its publications” and sent copies of the court case files to the Public Prosecutor’s Office and the City Council to “investigate high crimes...committed by the Mayor”³⁶. Similarly,

³⁶ Paulo Roberto Netto, Juiz manda reabrir restaurantes de BH e diz que mídia impõe 'medo e desespero', UOL, 20 Jul 2020, available at: <https://noticias.uol.com.br/ultimas-noticias/agencia-estado/2020/07/20/juiz-manda-reabrir-restaurantes-de-bh-e-diz-que-midia-impoe-medo-e-desespero.htm>, last access 17 Mar 2021. This decision was later overruled by the Minas Gerais State Court

by September 2020, Public Prosecutors in nine Brazilian states had issued recommendations, started investigations, and even filed lawsuits against several Mayors and Governors, to ensure that these were making hydroxychloroquine available for off label use in the treatment of COVID-19 patients – an obsession that led Bolsonaro to fire two Health Ministers, as reported earlier³⁷.

Likewise, on January 5, 2021, a Judge made the headlines for posting a video where she instructed her Instagram followers “how to walk with no mask through a shopping mall without being bothered”³⁸. In 2020, this same Judge was investigated for participating in the above mentioned far-right demonstrations, which demanded military intervention in Brazil and were attended by Bolsonaro³⁹; an *Intercept Brazil* article describes her as one of the “celebrity judges that militate in the far-right”⁴⁰. And, in March 2021, a Judge in Franca, state of São Paulo, issued an injunction authorizing lottery stores to remain open amidst a lockdown issued by the local Mayor. In his ruling, the judge wrote that Brazil “does not adopt a communist regime” and rejected the reasoning behind lockdowns, arguing that:

Science, idolized as an unmitigated good, has gone back and forth several times. The Enlightenment and its revolutions killed millions of people “to make a better

of Appeals (see Paulo Roberto Netto, Presidente do TJ-MG cassa liminar de juiz que chamou prefeito de BH de 'tirano', UOL, 22 Jul 2020, available at: <https://noticias.uol.com.br/ultimas-noticias/agencia-estado/2020/07/22/presidente-do-tj-mg-cassa-liminar-de-juiz-que-chamou-prefeito-de-bh-de-tirano.htm>, last access 17 Mar 2021).

³⁷ Anna Beatriz Anjos and Rafael Oliveira, Grupo do Ministério Público defende cloroquina no SUS em nove estados brasileiros, Agência Pública, 1 Sep 2020, available at: <https://apublica.org/2020/09/grupo-do-ministerio-publico-defende-cloroquina-no-sus-em-nove-estados-brasileiros/>, last access 17 Mar 2021.

³⁸ Redação Glamour, Juíza viraliza ao dar “passo a passo” para andar sem máscara no shopping, 5 Jan 2021, available at: <https://revistaglamour.globo.com/Celebridades/noticia/2021/01/juiza-viraliza-ao-dar-passo-passo-para-andar-sem-mascara-no-shopping.html>, last access 17 Mar 2021. In December 2020, this Judge also posted photos in a beach town, celebrating that that city “did not surrender to fear, hysteria, and depression” and using a hashtag that would translate as “get crowded together, Brazil” (Id.). This judge was investigated, but not disciplined for these actions.

³⁹ Agência CNJ de Notícias, Corregedor nacional determina que magistrada esclareça postagem em rede social, Conselho Nacional de Justiça, 4 May 2020, available at: <https://www.cnj.jus.br/corregedor-nacional-determina-que-magistrada-esclareca-postagem-em-rede-social/>, last access 17 Mar 2021.

⁴⁰ Nayara Felizardo and João Filho, Quem são os juízes-celebridade que militam na direita, The Intercept Brasil, 7 Mar 2020, available at: <https://theintercept.com/2020/03/08/juizes-celebridade-extrema-direita-bretas/>, last access 17 Mar 2021.

world” but, empirically, they failed. Their oracles, the scientists, are men subject to passions, bad inclinations, and error. Yes, scientists make mistakes!”⁴¹

Further research is needed to determine how those societal trends of polarization find their ways into *professional* spheres; what mediates this process; and under what conditions it affects *expert knowledge* among individuals and within institutions.

CAREER MOTIVATIONS AND SATISFACTION

A few variables that showed independent effects on the response variables relate to *career motivations* and *satisfaction*. Those who deemed the restrictive measures and the power of government entities to adopt them to be *lawless* more likely chose to pursue a career in law because it met *family expectations of success* (Table 26)⁴². They were also more likely *dissatisfied* with their career choices (Table 27)⁴³.

Table 26

Cross-tabulated analysis of survey questions.

Indicate, in order of importance, the three factors that impact your career choices or considerations the most: “Family achievement”

Generally, viewed measures to be	Selected		Not selected	
	f	%	f	%
Lawful	56	78.87%	378	88.32%
Lawless	15	21.13%	50	11.68%

Source: Author’s elaboration.

Table 27

Cross-tabulated analysis of survey questions.

How satisfied are you with your career?

Generally, viewed measures to be	Satisfied		Dissatisfied	
	f	%	f	%
Lawful	295	89.12%	137	82.53%
Lawless	36	10.88%	29	17.47%

⁴¹ Migalhas, “Não adotamos o regime comunista”, diz juiz ao liberar lotéricas, 22 Mar 2021, available at: <https://www.migalhas.com.br/quentes/342169/nao-adotamos-o-regime-comunista--diz-juiz-ao-liberar-lotericas>, last access 24 Mar 2021.

⁴² This association was statistically significant in four vignette questions and the index.

⁴³ This association was statistically significant in two vignette questions and the index.

Source: Author's elaboration.

More research is needed to establish the theoretical link between these variables. It could be hypothesized, for instance, that the economic insecurity that comes along with restrictive policies added to a preexisting anxiety shared by a subset of my sample whose career motivation requires proof of success, causing these professionals to be hesitant of said policies. Indeed, in a question about what, in social isolation, bothered respondents, the option “economic uncertainties, including the risk of becoming unemployed” had statistically significant effects on one *vignette* question (on the power of state/local governments to enact restrictive measures) and the index. Those who were “bothered a lot” by these uncertainties were more likely to view restrictive measures and the power of government entities to enact them to be *lawless* (Table 28).

Table 28

Cross-tabulated analysis of survey questions.

General ly, viewed measur es to be	Does not bother me at all		Bothers me a bit		Bothers me a lot		Not applicable to me	
	f	%	x	%	f	%	f	%
	Lawful	36	87.80%	119	89.47%	193	83.19%	73
Lawless	5	12.20%	14	10.53%	39	16.81%	6	7.59%

Source: Author's elaboration.

ARENAS OF PROFESSIONALISM AND STATE POWER

While the *workplace contexts* of respondents had no statistically significant effect on their views of restrictive measures, forces related to their professional socialization and practice were not entirely absent from my findings. *Tax law practice* had statistically significant effects on the *index variable*, while *administrative law*



practice had statistically significant effects on *three vignette questions as well as the index*. As shown in the data on the index variable, those two variables operate in opposing directions: viewing restrictive measures and the power of government entities to enact them to be *lawless* was associated with *not practicing administrative law* (Table 29) as well as with *practicing tax law* (Table 30).

Table 29

Cross-tabulated analysis of survey questions.

Which of the alternatives below best describes your area of work? "Tax law"				
Generally, viewed measures to be	No		Yes	
	f	%	f	%
Lawful	405	87.85%	29	76.32%
Lawless	56	12.15%	9	23.68%

Source: Author's elaboration.

Table 30

Cross-tabulated analysis of survey questions.

Which of the alternatives below best describes your area of work? "Administrative law"				
Generally, viewed measures to be	No		Yes	
	f	%	f	%
Lawful	293	84.20%	141	93.38%
Lawless	55	15.80%	10	6.62%

Source: Author's elaboration.

These findings point to an interesting nexus between legal knowledge and State power. The scope and practice of *administrative law* can vary significantly across national contexts. These differences notwithstanding, administrative law is a terrain upon which citizens, businesses, and the government (re)negotiate their respective domains of agency. To operate in this terrain, lawyers must deal with competing claims over the *public interest* and learn – in theory and in practice – how to reconcile between government policy and private interests and rights. Tax lawyers are arguably on the opposite side. Their relationship with the State tends to be more antagonistic; their role is, after all, to keep their clients from the state's reach. Each of these areas of expertise,



nevertheless, may well constitute *an arena of professionalism*⁴⁴, shaping the consciousness and imagination of its participants according to a *doxa* that is more (administrative law) or less (tax law) in line with the public health reasoning.

The discovery that embeddedness in administrative law can help solidify a public health culture among legal professionals may lead some to demand more emphasis on this subject in law schools and other venues of professional socialization. But these should not lose sight of the fact that administrative law practice itself is enabled by the deeper grounds of an *administrative state*, which has been under attack everywhere. In the United States, Trump did not miss the chance to nominate a Supreme Court Justice who is knowingly hostile to the Affordable Care Act⁴⁵; in Brazil, the Bolsonaro administration released plans to privatize municipal health care facilities *amid the pandemic*⁴⁶. Administrative law is more than an area of technical work; it is a political construct. Future studies on law, public health, and pandemics should track how changes and continuities in the administrative state affect and are affected by lawyers' participation in the arena(s) of professionalism it helps constitute.

ADDITIONAL ANALYSES (I): MODELING AND ESTIMATING THE RELATIVE EFFECTS OF THE MOST MEANINGFUL VARIABLES

Moving ahead in my analyses, I engaged in an effort of statistical modeling, designed to gauge the relative effects of the most meaningful variables identified in the independence tests reported above and in Appendix B. This exercise focused on the variables affecting the index score only. A few of such variables had to be removed

⁴⁴ Nelson and Trubek define arenas of professionalism as “the particular institutional settings in which groups construct, implicitly or explicitly, models of law and lawyering” (Nelson & Trubek, 1992, p. 179) In their seminal book, authors did not anticipate that areas of practice could serve as one of these arenas. They identified four salient such arenas: (1) legal education; (2) collective action on behalf of the profession (e.g., by bar associations); (3) disciplinary enforcement; and (4) the workplace (Nelson & Trubek, 1992, p. 185). However, they did not conceive of this list as exhaustive, recognizing that “arenas of professionalism cannot be defined a priori, but must be determined based on empirical investigation” (Nelson & Trubek, 1992, p. 185)

⁴⁵ Susana Luthi, *Obamacare faces Supreme Court remade by Trump*. Politico, 11 Sep 2020, available at: <https://www.politico.com/news/2020/11/09/obamacare-supreme-court-trump-barrett-435213>, last access 24 Mar 2021.

⁴⁶ Edson Sardinha, *Decreto de Bolsonaro abre caminho para privatização de unidades de saúde*. Veja a íntegra. Congresso em Foco, 27 Oct 2020. Available at: <https://congressoemfoco.uol.com.br/saude/decreto-de-bolsonaro-abre-caminho-para-privatizacao-de-unidades-de-saude-veja-a-integra/>, last access 24 Mar 2021.

because their data distribution would skew the analysis⁴⁷; the variables that remained were used to develop a multivariate statistical model using stepwise logistic regression.

The resulting model predicts the probability that a respondent will *generally view restrictive measures and the power of government to adopt them to be lawless* – i.e., that he or she will attain an index score between 0 and -6 – based on the independent variables eventually considered. To evaluate the model’s goodness of fit, the Hosmer & Lemeshow test was performed. The hypothesis of the model being well-adjusted was not rejected, with a p-value of 0.693. Furthermore, the ROC Curve has an area under curve (AUC) of 0.883, indicating that the model has good prediction power. Lastly, the Lift curve showed a 4.7 times likelihood of finding individuals with a 0 to -6 score in the 10th decile of individuals ranked through the model than through random pick. All these tests and scores denote the model’s robustness.

Table 31

Output of stepwise regression with the 87 variables that showed independent effects (significant p-value at 10%)

Variable	Odds ratio	5%	95%
(Intercept)	0.00	0.00	0.01
Administrative law Does not practice	3.19	1.53	7.31
Career satisfaction Not satisfied	2.24	1.25	4.02
Societal impact of COVID-19 that worries respondent the most Individual freedoms	2.47	1.30	4.64
Effects of social distancing that bothers respondent a lot The deprivation of cultural, sports and leisure activities	2.07	1.17	3.71
How do you evaluate the performance of Jair Bolsonaro in the COVID-19 crisis? Positively	3.68	1.45	9.36

⁴⁷ Examples involved questions on the efficacy of chloroquine or masks, to which most in the sample gave the same response, and on the performance of mayors and governors, which had too many “don’t know” responses. In both cases, the few who deviated from the majority would have disproportional weight in subsequent analyses. Notice, however, that the constructs to which these variables refer (pandemic understandings and political beliefs/attitudes, respectively) could still be measured by others that remained in the analysis. See Appendix B for full clarity on the variables excluded/maintained.



How do you evaluate the performance of (São Paulo Governor) João Doria in the COVID-19 crisis? Negatively	3.09	1.42	6.57
How do you find information about COVID? Newspapers	2.13	1.01	4.32
The virus is not that lethal; there is a lot of exaggeration in the media Agrees or totally agrees	2.68	1.17	5.97
There will be vaccines in a few months Agrees or totally agrees	2.93	1.33	6.28
It is most certain that there will be opening-and-closing cycles until 2022 Neither agrees nor disagrees, disagrees, totally disagrees	1.97	1.09	3.57
COVID-19's lethality is lower than dengue's Neither agrees nor disagrees, agrees, totally agrees	2.12	1.16	3.88

Source: Author's elaboration.

The model included 11 variables, as shown in Table 31. Worthy of note in that output are two kinds of variables whose odds ratio were greater than 3. The first relates to the *legal knowledge-State* nexus addressed above. All other variables in the model controlled for, *not practicing administrative law* increased by 3.2 times the chance of a lawyer in the sample to generally view restrictive measures and the power of government entities to adopt them to be lawless, in comparison to those who did practice administrative law. This represented the second greatest odds-ratio in the model.

Even more remarkable were the effects of variables relating to the *political attitudes* of respondents. All other variables in the model controlled for, respondents who *positively evaluated President Jair Bolsonaro's performance* were 3.68 times more likely to generally view restrictive measures and the power of government entities to adopt them to be lawless, in comparison to those who did not – the greatest odds ratio in the model. And all other variables in the model controlled for, respondents who *negatively evaluated the São Paulo state governor João Doria's performance* were 3.09 times more likely to generally view restrictive measures and the power of

government entities to adopt them to be lawless, in comparison to those who did not – the third greatest odds ratio in the model.

ADDITIONAL ANALYSES (II): LOGICS OF INFORMATION CONSUMPTION AND PROCESSING

A pair of variables with significant effects in my model related to the logic of *consumption and processing of information* regarding the pandemic. Regarding *information consumption*, respondents who found information about COVID-19 in *newspapers* were 2.13 times more likely to generally view restrictive measures and the power of government entities to adopt them to be *lawless*, in comparison to those who did not, all other variables in the model controlled for (Table 31). At the same time, respondents who agreed with the statement that COVID-19 “was not that lethal”, there being “a lot of exaggeration by the media” were 2.68 times more likely to generally view restrictive measures and the power of government entities to adopt them to be lawless, in comparison to those who did not, all other variables in the model controlled for (Table 31). Hence, there is reportedly both greater consumption of, and greater skepticism toward, mainstream outlets driving the attitudes of respondents.

These findings could echo studies in the cognitive sciences, which have documented a variety of “confirmation biases” (Nickerson, 1998) affecting our consumption and processing of information, making us embrace what confirms our beliefs and reject what contradicts them – what some scholars call “directionally motivated reasoning” (Flynn, Nyhan, & Reifler, 2017). These “confirmation biases” are found regardless of one’s intelligence and cultural repertoire; in fact, they can become more potent among those highly educated – e.g., lawyers –, as these can draw from a more sophisticated cognitive apparatus to trace sharper distinctions and pick, from the information they are presented with, the pieces that best corroborate the assumptions they bring to their conversations (Stanovich, West, & Toplak, 2013).

Partisanship and ideology are “the most common” roots of “confirmation biases” observed in debates about healthcare and health policy (Haltinner & Sarathchandra, 2017, p. 560). Haltinner and Sarathchandra argue that:

When assessing affectively-charged hot-button issues such as healthcare reform, the motivations driving the reasoning are more likely to reinforce existing political party loyalties and ideologies, and affirm preexisting beliefs about ‘how society should operate’, rather than compelling constituents to seek out fact-based information. (Haltinner & Sarathchandra, 2017, p. 560)

Given the presence, in my model, of these elements, an interesting question emerged as to whether the *logic of information consumption and processing* of respondents who deemed restrictive measures lawless – their tendency to distrust mainstream media outlets and minimize the gravity of the pandemic – could reflect their *political orientation and attitudes*.

Table 32
Crammer's V coefficients for variables in the multivariate model.

Variables	Area_adm	Career_satisf	Impacts_free	Effects_activities	Stat_media	Stat_vac	Stat_cycles	Stat_deingue	Info_news	Perf_Bolsonaro
Area_adm										
Career_satisf	0.037									
Impacts_free	0.023	0.032								
Effects_activities	0.003	0.006	0.008							
Stat_media	0.051	0.018	0.101	0.012						
Stat_vac	0.025	0.047	0.032	0.000	0.137					
Stat_cycles	0.008	0.000	0.017	0.007	0.191	0.111				
Stat_deingue	0.022	0.015	0.010	0.102	0.291	0.077	0.132			
Info_news	0.010	0.003	0.046	0.070	0.025	0.026	0.029	0.015		
Perf_Bolsonaro	0.040	0.015	0.076	0.001	0.516	0.111	0.123	0.156	0.000	
Perf_Doria	0.006	0.024	0.130	0.042	0.475	0.147	0.131	0.188	0.015	0.455

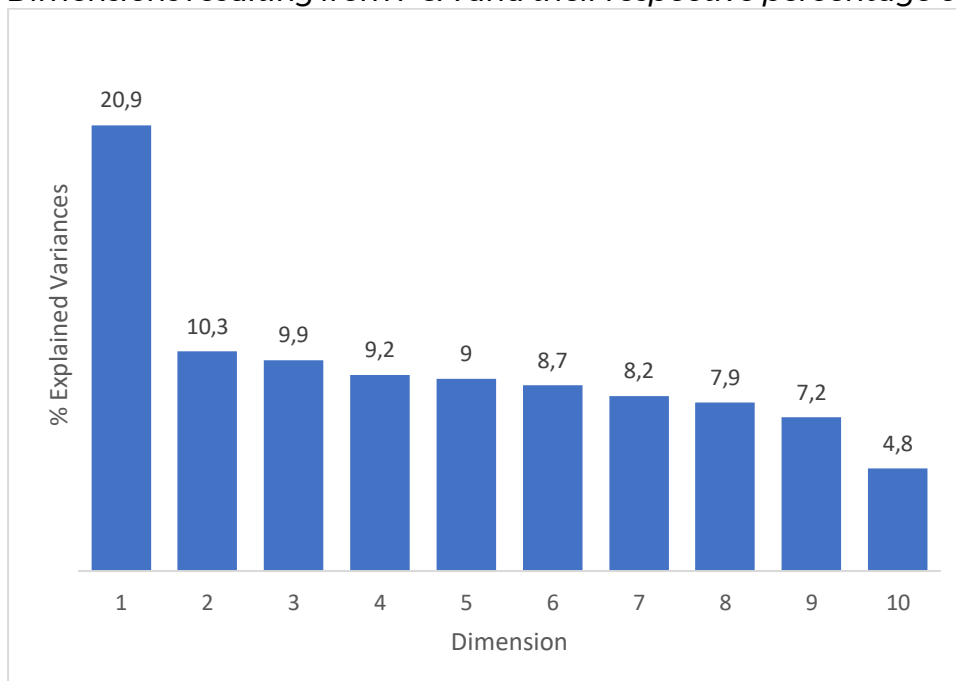


Source: Author's elaboration.

To investigate this, I also explored associations among independent variables in the model. Table 32 above shows Crammer's V coefficients for such variables. The coefficients indicate that *support to Bolsonaro* and *rejection to Doria* are moderately associated to *distrust in mainstream media* and weakly associated to the tendency to *minimize the gravity of COVID-19*.

Graph 1

Dimensions resulting from PCA and their respective percentage of explained variance.



Source: Author's elaboration.

I then performed a Principal Component Analysis (PCA) to test whether the dimensions in the model could be meaningfully reduced and, if so, what variables would retain most of the explanatory power. The PCA did not result in any dimension reduction, which is consistent with the fact that the variables in the model are not strongly correlated. The first dimension resulting from the PCA explained 20.9% of the variance in the data (Graph 1). As seen in Table 6, about 80% of this first dimension is explained by the *political attitudes* of respondents (positive evaluation of Bolsonaro's

performance=24.36% and negative evaluation of Doria’s performance=24.48%) and their distrust of mainstream media outlets (=28.56%).

Table 33

Variables that explain variance in dimension 1, which explains 20.9 of the overall variance in the data.

Variable	Variance explained in Dimension 1
Administrative law: Does not practice.	0.25%
Career satisfaction: Not satisfied	0.00
Societal impact of COVID-19 that worries respondent the most: Individual freedoms.	2.23%
Effects of social distancing that bothers respondent a lot: The deprivation of cultural, sports and leisure activities.	0.33%
The virus is not that lethal; there is a lot of exaggeration in the media.	28.56%
There will be vaccines in a few months.	4.65%
It is most certain that there will be opening-and-closing cycles until 2022.	5.64%
COVID-19's lethality is lower than dengue's.	9.44%
How do you find information about COVID? Newspapers.	0.08%
How do you evaluate the performance of Jair Bolsonaro in the COVID-19 crisis? Positively.	24.36%
How do you evaluate the performance of (São Paulo Governor) João Doria in the COVID-19 crisis? Negatively	24.48%

Source: Author’s elaboration.

This shows that there is *some* evidence of the political identity of respondents and their logics of *information processing* being associated; however, this is not predominant in the data. Future research should attempt to better understand when

opposition to social distancing policies among lawyers is a result of these mechanisms – or not.

5. FINAL CONSIDERATIONS

This article grew from rapid research that began tracking the COVID-19 crisis in Brazilian courts at the outbreak of the pandemic, in 2020. The research unfolded into a survey intended to capture variation in attitudes of lawyers toward prototypical lawsuits being filed. The analysis in this article focuses on survey questions relating to *restrictive policies*, which became particularly contentious in Brazil, given Bolsonaro’s approach to the crisis.

According to my findings, viewing restrictive measures and the power of government entities to adopt them to be *lawless* was associated with variables such as *pandemic understandings and experiences, political orientation and attitudes, and the nexus between legal knowledge and the State*. A modeling exercise indicated the special impact of the last two. I also encountered *residual* evidence of *directionally motivated reasoning*, in which mistrust in newspaper outlets and, to a lesser degree, minimization of the gravity of the pandemic, are associated with support to Bolsonaro/opposition to Doria – i.e., with political attitudes. Remarkably enough, sociodemographic variables such as gender, race, and class and workplace contexts – prominent forces shaping thoughts and attitudes among lawyers in the literature – had no significant effects in my sample.

My conclusions are limited by the nature and scope of my data; however, my findings resonate well with relevant scholarly debates and, at the very least, they offer good hypotheses for further investigations. Additional research, with a larger and random sample – if that is at all possible – and more diverse methods, may be needed to confirm and refine my findings; yet as an initial take on lawyers and the lived reality of law in pandemics, these findings have important implications for studies on the sociology of the legal profession and law and public health in Brazil and beyond.

Starting with the legal profession – and given the salience of variables relating to *political orientation and attitudes* in the analyses *supra* –, my findings demonstrate the need for further research on the social structure of the bar, as well as on the introduction

and effects, in the profession, of larger societal trends of political polarization. Moreover, future studies should look at changes and continuities in the administrative state and the effects that this may have on how lawyers construe the meaning of public health measures during pandemic outbreaks and other catastrophic situations that require speedy government action. Many countries will serve as suitable laboratories for these studies, since heated struggles to rebuild/undermine the administrative state are likely to unfold in the post-COVID-19 world. If carried out, these studies will also fill a gap in some empirical studies on law and health policy, in which, as Levitsky notes, “the cultural turn ... toward an emphasis on law’s role in the construction of everyday life has resulted in a shift away from the study of state policy altogether” (S. R. Levitsky, 2013). In this context, she posits:

We have lost sight of the ways that policy itself is a powerful source of cultural frameworks for understanding the social world (Levitsky 2008). Indeed, by ignoring the role of state policy as a cultural resource, studies of law in everyday life run the risk of producing as myopic a picture of law’s hegemonic power as the policy-centered studies that were the subject of the earlier critiques. (S. R. Levitsky, 2013)

Regarding studies on law and public health – and given the salience of *pandemic understandings* in my analyses –, my findings indicate the importance of interdisciplinary training and conversations among lawyers, which can be fostered by both law schools and by professional associations. COVID-19 will not be the last event of its kind and, if future pandemics or disasters are to be judicialized, reducing the asymmetry of information among different subsets of the legal profession will be imperative for legal decisions to be minimally consistent.

Lastly, my findings show the need to treat the “community security” v. “individual liberties” dyad with more skepticism than it is usual in the law and public health literature. Scholars in tobacco and obesity litigation in the United States had already demonstrated that an emphasis on this dyad impedes Courts from re-imagining “what constitutes a public health problem and who should be accountable for injuries to the public’s health” (S. R. Levitsky, 2013, p. 46). The social history of COVID-19 and the

responses that governments around the world gave to this disease made the dyad's limitations all the more evident. Leaders like Bolsonaro and Trump refused to act and called their fellow citizens to keep up with *normal life*. As such, they engaged in what Pozen and Scheppele (Pozen & Scheppele, 2020) recently came to designate "executive underreach", defined as "situations where the executive sees a significant threat, has access to information about what might mitigate or avert the threat along with the power to set a potentially effective plan in motion, and refuses to pursue such a plan" (Pozen & Scheppele, 2020, p. 610). Ironically – though not entirely surprisingly –, these leaders often justified their willful inaction as needed to protect "individual freedoms". On May 11, 2020, Trump tweeted that "Pennsylvania want their freedom now, and they are fully aware of what that entails", in a push for this state to "reopen"⁴⁸. On April 12, when Brazil had only 1,223 deaths, Bolsonaro stated that "there should be no doubt that liberty will be maintained at any cost"⁴⁹. On May 21, he said that "more important than life is liberty"⁵⁰.

Needless to say, government inaction in a pandemic only fallaciously means that individual liberties are preserved. Studies have demonstrated that, in the United States⁵¹ and Brazil⁵², many lives were unnecessarily lost – with consequences for households and families that we are still to adequately measure. In addition, racial and ethnic minorities bore most of the costs of the choice for inaction⁵³. By highlighting the socioprofessional factors driving lawyers' views on the (in)consistencies between restrictive measures and

⁴⁸ Jonathan Tamari, Trump is coming to Allentown after he said Pennsylvanians 'want their freedom' from coronavirus lockdowns, The Philadelphia Inquirer, May 12, 2020, available at: <https://www.inquirer.com/news/trump-visit-pa-allentown-20200511.html>, last access 17 Mar 2021.

⁴⁹ Reuters, Para Bolsonaro, coronavírus parece que começa a ir embora e liberdade será mantida a qualquer preço, 12 Apr 2020, UOL, available at: <https://noticias.uol.com.br/ultimas-noticias/reuters/2020/04/12/para-bolsonaro-coronavirus-parece-que-comeca-a-ir-embora-e-liberdade-sera-mantida-a-qualquer-preco.htm>, last access 17 Mar 2021.

⁵⁰ Pedro Caramuru, Bolsonaro: para mim, tem algo que é mais importante que a vida, a Liberdade, UOL, 21 May 2020, available at: <https://noticias.uol.com.br/ultimas-noticias/agencia-estado/2020/05/21/bolsonaro-para-mim-tem-algo-que-e-mais-importante-que-a-vida-a-liberdade.htm>, last access 17 Mar 2021.

⁵¹ (Aron & Muellbauer, 29 September 2020; Redlener, Sachs, Hansen, & Hupert, October 21, 2020; Woolhandler et al., 2021)

⁵² Agência Senado, Pesquisas apontam que 400 mil mortes poderiam ser evitadas; governistas questionam, 24 Jun 2021, available at: <https://www12.senado.leg.br/noticias/materias/2021/06/24/pesquisas-apontam-que-400-mil-mortes-poderiam-ser-evitadas-governistas-questionam>, last access July 7, 2021.

⁵³ Id., (Vasquez Reyes, 2020), Center for Disease Control and Prevention, Disparities in Deaths from COVID-19 Racial and Ethnic Health Disparities (Updated Dec. 10, 2020), available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/health-equity/racial-ethnic-disparities/disparities-deaths.html>, last access July 7, 2021.

'the law', this article reveals the high degree of *indeterminacy* of terms like "security" and "liberty" and the intricate ways in which this *indeterminacy* can be resolved. Future studies must approach the *problematique* central to law and public health in more nuanced terms, perhaps having in mind that, as Marx had long anticipated:

Freedom is so much the essence of man that even its opponents implement it while combating its reality; they want to appropriate for, themselves as a most precious ornament what they have rejected as an ornament of human nature. No man combats freedom; at most he combats the freedom of others. Hence every kind of freedom has always existed, only at one time as a special privilege, at another as a universal right⁵⁴.

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⁵⁴ On the freedom of press, Chapter 4, available at: <https://marxists.architexturez.net/archive/marx/works/1842/free-press/ch04.htm>, Mar 21, 2021. This point is convergent with Pozen and Scheppele's observation that, because most public law doctrines are based on the "community security" v. "individual liberties" dyad, the underreach by leaders like Trump and Bolsonaro goes largely unaccountable: at this point, proposed standards and civil society monitoring efforts focus "almost exclusively on what must not be done" (Pozen & Scheppele, 2020, p. 617). Hence, authors call academics and advocates to "[move] beyond the negative-liberty paradigm for assessing government performance in pandemics and other emergencies—and in particular [to name and shame] underreach when it threatens severe harm to health, security, or other basic good" (Pozen & Scheppele, 2020, p. 617).

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APPENDIX A

Survey questions and descriptive statistics

Survey questions/variables

Years of current practice (Based on “When did you start your current career job?”)

Mean	10.98
Median	10
Mode	3
St. Dev.	8.45

What is your highest level of studies?

BA	22.65%
Post-graduate, specialization degree	44.69%
Master's degree	23.45%
Doctoral degree in law	5.81%
Doctoral degree in another area	0.60%
Post-doctoral studies in law	2.40%
Post-doctoral studies in another area	0.40%

Besides your legal job, do you also teach?

Yes, I teach at a public university	4%
Yes, I teach at a private university	15%
Yes, I teach at prep exam courses	4%
No	78%

Which of the alternatives below best describes your area of work? (Up to three)

Civil law	44.09%
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Criminal law	24.25%
Constitutional law	22.85%
Administrative law	30.26%
Private law	13.83%
Labor law	16.23%
Consumer law	15.83%
Family law	18.04%
Tax law	7.62%
Others	23.05%

Please select the alternatives that you participate or attend:

Professional associations	58.52%
Scientific/cultural associations	36.07%
Clubs	17.64%
Philanthropic organizations	17.23%
Neighborhood associations	7.62%
Religious organizations	16.83%

Indicate, in order of importance, the three factors that most impact your choices or considerations on your career

Learning potential/intellectual challenge	284
Personal fulfillment	327
Family achievement	71
Status	18
Ability to impact/influence society	288
Financial compensation/economic-financial well-being	284
Professional routine/ability to control your work	149
Others	18



How satisfied are you with your career?

Very satisfied	16.20%
Satisfied	50.50%
Neither satisfied nor dissatisfied	19.60%
Dissatisfied	11.20%
Very dissatisfied	2.40%

Regarding COVID19, what do you think is most effective?

The adoption of “horizontal isolation” measures, with the closing of non-essential businesses and services, and most people staying at home, until the critical phase of the pandemic is overcome	438
The adoption of “vertical isolation” measures, with the continued functioning of businesses and services, and only people in risk groups staying at home, until the critical phase of the pandemic is overcome	42
The mass purchase and availability of drugs such as chloroquine	0
Each one must take care of their own health	0
Other (please specify)	19

Regarding the impacts of the COVID19 pandemic on society at large, what consequences worry you the most? (Up to 3)

The reduction of economic activity and the growth of unemployment	221
The growth in poverty and social inequality	81
The collapse of health systems	67
Threats to individual rights (freedom of movement, religious freedom, and freedom of expression)	411
The deepening of political crises, with risks to democracy	244



Regarding the effects of social isolation, we would like to know if you feel personally bothered by the situations below:

	Does not bother at all	Bothers me a bit	Bothers me a lot
The loss or drastic reduction of face-to-face contact with family and friends	47	238	200
The deprivation of cultural, sports and leisure activities	0	0	195
Economic uncertainties, including the risk of becoming unemployed	41	143	233
The need to perform daily household chores (cleaning the house, doing the laundry, etc.)	296	154	31
Not knowing for how long isolation may last	40	183	272
The sudden need to take over the schooling of your children	98	69	35
The need to work or study from home	292	155	41

Below we list some things that people have said about COVID19. What is your degree of agreement with these statements?

	Agree/Strongly agree	Disagree/Strongly disagree
The virus was created in China	27.60%	72.40%
The virus is not that lethal, there is a lot of exaggeration in the media	12.83%	87.17%
We need to stay home to flatten the transmission curve	96.79%	3.21%
The use of masks helps to contain the virus	98.60%	1.40%
Chloroquine is proven to help cure Covid-19	32.06%	67.94%
The disease is only serious in the elderly and already sick people	10.20%	89.80%
We will have vaccines in a few months	10.02%	89.98%



The most correct thing is that we have opening and closing cycles until 2022	55.60%	44.40%
Covid is only transmissible by those who have symptoms	4.20%	95.80%
COVID19's lethality is lower than that of dengue	38.35%	61.65%
COVID19's lethality is lower than that of H1N1	30.99%	69.01%

How do you find information about COVID? (Up to 3)

Newspapers	67
TV	296
Radio	42
Media vehicle websites	362
Websites of government bodies or international organizations	212
Websites of scientific organizations or universities	171
Opinion blogs and sites	34
Facebook	37
Twitter	83
WhatsApp	48
Lives and Podcasts	85

How do you evaluate the performance of the following personalities in the COVID19 crisis?

	Positively/ Very positively	Negatively/ Very negatively
Jair Bolsonaro, the President of Brazil	7.60%	92.40%
Henrique Mandetta, the former Minister of Health	88.98%	11.02%



Nelson Treich, the new Minister of Health	23.73%	76.27%
Dias Toffoli, the Chief Supreme Court Justice	63.86%	36.14%
Rodrigo Maia, the Speaker of the House	75.00%	25.00%
Davi Alcolumbre, the Speaker of the Senate	65.95%	34.05%
João Doria, the São Paulo State Governor	87.66%	12.34%
Wilson Witzel, the Rio de Janeiro State Governor	81.69%	18.31%
Ibaneis Rocha, the Federal District Governor	64.57%	35.43%
Flávio Dino, the Maranhão State Governor	90.14%	9.86%
Ronaldo Caiado, the Goiás State Governor	86.93%	13.07%
Tedros Adhanom, the WHO Director	89.69%	10.31%

How old are you?

Mean	38.3
Median	38
Mode	39
St. Dev.	9.72

What is your sex?

Female	50.4
Male	49.6

What is your sexual orientation?

Heterosexual	90%
Homosexual (Gay /Lesbian)	4%
Bisexual	5%
Another	0%



What is your gender identity?

Cis (you identify yourself with the sex you were assigned at birth)	100%
Trans (you do not identify yourself with the sex you were assigned at birth)	0%

What is your marital status?

Single	32%
Married or in a stable relationship	57%
Separated or divorced	10%
Widowed	0%

Do you have kids?

No	52%
Yes, 1	21%
Yes, 2	21%
Yes, 3	5%
Yes, more than 3	1%

What is your racial or ethnic identity?

White	76%
Black or brown	20%
Not applicable	4%
Indigenous	0%
Asian	0%

You live in a city of

Large size (more than 500,000 inhabitants)	78%
Mid-size (between 50,000 and 500,000 inhabitants)	19%
Small size (less than 50,000 inhabitants)	3%

In what region do you live?

North	5%
Northeast	12%
Midwest	25%
Southeast	45%
South	14%

You grew up in a family of

Lower class	9.82%
Lower middle class	24.65%
Middle class	42.28%
Upper middle class	21.04%
Upper class	2.40%

Are you or were you a beneficiary of any of the social programs below? Please check as many as needed.

Bolsa Família, Affirmative Actions, or PROUNI	28
None	433
Other (please, specify)	34
No response	4

Before entering college, you studied

In public school only	19%
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Mostly in public school	13%
Mostly in private school	20%
In private school only	49%

In relation to your childhood, would you say that your current socioeconomic condition:

Has worsened a lot	1%
Has worsened	7%
Is more or less the same	21%
Has improved	37%
Has improved a lot	34%

In relation to your political position, where are you located?

Far to the left	14%
On the left	48%
At the center	27%
On the right	10%
Far to the right	1%

In the past 5 years, in relation to politics, would you say you:

Became much more progressive	18%
Became more progressive	31%
Have not changed	31%
Became more conservative	13%
Became much more conservative	7%

APPENDIX B

Survey questions and their association with the response variables (vignette questions and index)

Variable	Vignette, p-value						
	Chocolate store	Church services	Motocades	Surfer	Couple quarantine	Power to state/local governments	Index
Years of practice	0.201	0.4627	0.951	0.0128	0.0444	0.7467	0.5285
Highest level of studies	0.423	0.7516	0.7684	0.5091	0.8038	0.822	0.776
Teaches	0.2977	0.7742	0.0816	0.8492	0.3626	0.5115	0.2845
Area of practice: Civil law	1	0.3034	0.6598	0.3429	0.3391	0.0828	0.1094
Area of practice: Criminal law	0.9161	0.9493	0.224	0.826	0.9206	0.9797	0.8187
Area of practice: Constitutional law	0.2507	1	0.858	0.2405	0.1795	0.7618	0.669
Area of practice: Administrative law	0.0456	1	0.3852	0.6438	0.0415	0.0898	0.0079*
Area of practice: Private law	0.4791	1	0.8338	0.1071	0.2083	0.772	1
Area of practice: Labor law	0.6827	0.7083	0.074	0.7238	0.7625	0.0738	0.144

Area of practice: Consumer law	0.937 2	0.735 9	1	0. 93 13	0.6549	0.2033	0.3 91 5
Area of practice: Family law	0.535 9	0.967 9	0.60 13	1	0.3507	0.5064	0.7 88 2
Area of practice: Tax law	0.264 2	0.964 7	0.23 11	0.4 00 1	0.6236	0.189	0. 07 51 **
Area of practice: Others	0.8137	0.650 5	0.58 74	0.2 24 1	0.4906	0.3489	0. 57 15
Participates: Professional Association	0.907 9	1	0.81 25	0.3 15 3	0.0519	0.7535	0.3 58 2
Participates: Scientific Association	0.624	0.528 5	0.62 45	0. 64 69	0.6036	0.201	0.7 42 8
Participates: Clubs	0.037 4	0.046 4	0.01 54	0.1 02 9	0.3137	0.8388	0. 03 06 *
Participates: Philanthropic Organizations	0.544 2	0.434 5	0.36 57	0. 59 93	0.2959	0.3636	0.2 45 5
Participates: Neighborhood Associations	0.808	0.354 8	0.48 46	1	0.2532	0.8429	0.7 82 7
Participates: Religious Organizations	0.299 7	0.143	0.38 76	0.1 50 6	0.1041	0.0321	0. 09 4*
Career Motivation: Learning/intellectual	0.913	0.91	0.57 1	0.7 83	0.85	0.303	0. 56 7
Career Motivation: Personal Fulfillment	0.172	0.769	0.28 2	0.4 69	0.377	0.84	0.4 79
Career Motivation: Family Achievement	0.735	0.027 9	0.44 2	0. 02 34	0.056	0.008	0. 02 8*

Career Motivation: Status	0.859	0.391	0.554	0.479	0.519	0.821	0.239
Career Motivation: Social Impact	0.499	0.395	0.641	0.039	0.0529	0.255	0.821
Career Motivation: Financial Wellbeing	0.536	0.418	0.716	0.388	0.248	0.776	0.643
Career Motivation: Routine/Control Over Work	0.773	0.41	0.661	0.846	0.538	0.0201	0.227
Career Satisfaction	0.0135	0.9442	0.5027	1	0.0966	0.7847	0.055*
More Effective Response to COVID-19	0	0	0	0	0.0006	0	0***
Worries Most About COVID-19: The Economy	0.0026	0.0202	0.0066	0	1	0.1083	0.0025*
Worries Most About COVID-19: Poverty/Inequality	0.0156	0.3716	0.021	0.2537	0.215	0.0087	0.0319*
Worries Most About COVID-19: Health System Collapse	0	0.0069	0.0252	0.0004	1	0.0001	0*
Worries Most About COVID-19: Freedoms	0.0003	0.0134	0.004	0.0619	0.0725	0.0006	0.0002*
Worries Most About COVID-19: Democracy	0.7345	0.2806	0.5576	0.0482	1	1	0.5988
Bothered by: Loss of Contact	0.0292	0.003	0.2139	0.1297	0.0889	0.7711	0.1573

Bothered by: Deprivation of Cultural, Sports, Leisure	0.224	0.000 3	0.01 94	0. 07 87	0.303	0.9823	0. 01 68 *
Bothered by: Economic Uncertainties	0.3612	0.210 6	0.24 16	0. 86 66	0.4728	0.0548	0. 09 48
Bothered by: Household Chores	0.039 6	0.201 5	0.72 44	0.3 74 3	0.6512	0.1803	0. 57 93
Bothered by: Unknown Duration	0.1242	0.004 1	0.60 12	0. 05 28	0.5223	0.855	0.1 29 6
Bothered by: Child Schooling	0.4152	0.6411	0.20 82	0. 04 3	0.774	0.4209	0.3 47 4
Bothered by: Need to Work from Home	0.706 3	0.003 3	0.191 6	0.7 35 3	0.8015	0.517	0.2 94 3
Statement: China	0	0.000 9	0.00 66	0	0.3039	0.0055	0 *
Statement: Media	0	0	0	0	0.0466	0	0 *
Statement: Stay at Home	0	0.000 1	0	0	0.1898	0.0008	0 *
Statement: Use of Mask	0.665 2	0.002 6	0.01 76	0. 00 95	0.3735	0.9882	0. 06 15 **
Statement: Chloroquine	0	0.001 3	0.00 02	0	0.0659	0.0001	0 ***
Statement: Elderly	0	0.039 3	0	0	0.2799	0	0 *
Statement: Vaccine	0.1723	0.004 5	0.01 63	0. 00 29	0.2822	0.0044	0 *
Statement: Cycles	0.035	0.056 5	0.00 39	0. 00 13	0.0525	0.1068	0. 00 03 *

Statement: Asymptomatic Transmission	0.225 8	0.646 8	0.01 64	0.3 90 8	0.4522	0.3783	0. 58 28
Statement: Dengue	0.005	0.0115	0	0. 00 03	0.0063	0.0246	0 *
Statement: H1N1	0.006 3	0.064	0	0. 01 07	0.016	0.0028	0 *
Information From: Newspaper	0.930 4	0.5176	0.06 45	0.2 64 9	1	0.7323	0. 06 26 *
Information From: TV	0.630 7	0.747	0.30 3	0. 83 01	0.9307	0.2495	0. 82 95
Information From: Radio	0.034 6	1	0.80 91	0. 98 37	0.1143	0.8636	0. 98 89
Information From: Websites	0.422 9	0.9183	0.20 3	0. 811 3	0.8394	0.0489	0.1 92 4
Information From: Government	0.035 8	0.8314	0.89 32	0.3 63 6	0.6439	0.3199	0.7 84 6
Information From: Universities	0.669 7	1	0.31 06	0. 91 77	0.4976	0.2066	1
Information From: Blogs	0.895	0.850 8	0.92 18	0.2 76 1	0.5111	0.0288	0.2 74 3
Information From: Facebook	0.059 6	0.937 2	0.32 36	0.1 77 8	0.9082	0.376	0. 87 11
Information From: Twitter	0.253 9	0.295 5	0.40 35	0.3 66 3	0.7895	0.1326	0.4 09
Information From: WhatsApp	0.9152	0.596 1	0.02 81	1	0.5458	0.8004	0. 911 1

Information From: Lives/Podcasts	0.214	0.2785	0.9222	0.3285	0.5094	0.3636	0.2063
Performance: Bolsonaro	0	0	0	0	0.002	0	0*
Performance: Mandetta	0.0331	0.02	0.0725	0.0053	0.7691	0.0003	0.0009**
Performance: Teich	0	0.0074	0	0.0002	0.0156	0.0026	0**
Performance: Toffoli	0.4974	0	0.044	0.0428	0.524	0.0543	0.0089**
Performance: Maia	0	0	0.0013	0	0.7421	0	0**
Performance: Alcolumbre	0.0036	0	0.0009	0.0001	0.6045	0.0005	0**
Performance: Doria	0	0	0	0	0.017	0	0*
Performance: Witzel	0.0013	0	0.0001	0	0.109	0.0009	0**
Performance: Ibaneis	0.4632	0.4033	0.0103	0.094	0.8866	0.9999	0.2286
Performance: Dino	0	0	0	0	0.133	0.0003	0**
Performance: Caiado	0.0008	0.0008	0.0001	0.0018	0.1193	0.0969	0**
Performance: Tedros	0	0	0	0	0.3566	0	0**
Age	0.2274	0.1606	0.9164	0.0645	0.0168	0.3268	0.6946

Sex	0.005	0.3729	1	1	0.8136	0.46	0.1268
Sexual Orientation	0.8316	0.7717	0.3375	0.7309	0.2554	0.7575	1
Marital Status	0.264	0.1327	0.0815	0.128	0.2197	0.3184	0.8173
Children	0.0764	0.5117	0.534	0.0549	0.5303	0.1206	0.8532
Race	0.451	0.2958	0.4811	0.1866	0.3754	0.0282	1
City Size	0.2894	0.8294	0.1496	0.4741	0.3464	0.6051	0.8891
Region	0.5348	0.4077	0.0001	0.1568	0.7114	0.5359	0.1114
Social Class	0.5745	0.1298	0.0569	0.08259	0.3851	0.2433	0.1991
Social Program Beneficiary	0.6069	0.9964	0.1961	0.09343	0.9909	0.8558	0.9677
School Attended	0.4162	0.6463	0.3974	0.0006	0.7602	0.3684	0.795
Upward Social Mobility	0.1973	0.4153	0.8728	0.0829	0.1072	0.7753	0.5628
Political Position	0	0	0	0	0.0016	0	0*
Change in Political Position	0.0389	0.3913	0.0076	0.0356	0.1746	0.1464	0.0209*

- X Displayed statistical significance in initial independence test (see coefficient)
- * Used in stepwise regression
- ** Excluded from stepwise regression due to lack of data.
- *** Excluded from stepwise regression due to collinearity with the response variable.

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