



São Paulo, January 31st, 2022

To the experts of the Human Rights Committee

We write on behalf of ARTICLE 19 Brazil and South America. ARTICLE 19 is a human rights non-governmental organization, founded in 1987 in London, which now has offices in nine countries. ARTICLE 19 has been in Brazil since 2007, where it works to defend and promote freedom of expression and information in South America. The themes worked include the protection of human rights defenders and communicators; the fight against violations of the right to protest; the defense of press, artistic and educational freedoms, and the population's right to information.

Taking into consideration the Concluding Observations of this Committee in the last evaluation of Brazil, at the 85th session in 2005, and the State report published on August 25, 2021, we submit our contributions for the preparation of the List of issues prior to reporting at the 134th session of this Committee.

Without prejudice to the information we submitted to the Committee on this occasion, ARTICLE 19 will send additional and updated information in the framework of the interactive dialogue with the State on a date yet to be defined by the Committee.

We are at your disposal to clarify anything that may be necessary,

Sincerely,

A handwritten signature in blue ink that reads "Denise Dora".

Denise Dora

Regional Director

## 1. Preliminary Words

More than 15 years have passed since the last review of Brazil's compliance with the International Covenant on Civil and Political Rights, which brings a number of challenges to the current evaluation. First, in relation to the outstanding issues that were identified at that time. Secondly, because new setbacks in terms of civil and political rights are added to the pending issues: public policies for the guarantee of human rights in Brazil that were built in the last 15 years, are presently being dismantled. Finally, **Brazil is currently going through a scenario of serious democratic instability, with an extreme right-wing government that not only deepens the social inequalities that have always marked the country's reality, but also implements systematic acts of violations to fundamental freedoms and civic rights.** In particular, freedom of expression, freedom of individual and collective demonstrations, and the access to information rights.

Since current president Jair Bolsonaro was elected in 2018, the country has experienced an authoritarian backlash in which alliances of conservative political forces implement an agenda that is contrary to the development of democracy and social justice in Brazil. The space for dialogue and negotiation with the state is scarce and the political performance environment for civil society is increasingly hostile. On the one hand, we see the dismantling of social participation, access to information, and transparency policies. On the other hand, we observe the increasing in control, persecution, and violence against communicators, social movements, civil society organizations, and against black bodies and ethnic groups - today perceived as internal enemies.

Thus, in this report, ARTICLE 19 will make an effort to account for these three areas of concern: unresolved issues, setbacks and risks to the democratic structure. However, we will place special emphasis on the current context and ongoing threats, as they may structurally affect the enjoyment of human rights in Brazil in the future as well. Moreover, in October 2022 there will be elections in the legislative and executive branches of the federal government. **The electoral context can exacerbate violations already underway and it is essential that this Committee be attentive to these issues during the discussion of the List of issues prior to reporting.**

## 2. Attacks on communicators and journalists (articles 6, 7 and 19 of the Covenant)

Since 2012, ARTICLE 19 Brazil and South America has monitored more than 280 cases of serious violations (death threats, murder, attempted murder and kidnapping) against communicators and journalists in Brazil. The high number of these violations and the lack of improvement over the years allows us to infer the existence of a hostile environment for the exercise of freedom of expression in the country, as well as the absence of effective policies to reverse the violations that promote silencing. Furthermore, there is a growing number of reports and cases of abuses practiced by political agents, of violations against women communicators, and of violations in the virtual environment - which are rarely investigated by the police authorities, making room for the escalation

of violence. Attacks on the press carried out by political agents have accounted, since 2012, for the majority of attacks against the sector.

However, the context has been getting worse since then. In 2017 it was possible to monitor 7 violations by political agents and associates (e.g., advisors) and public servants, and in 2018 and 2019, 4 violations per year were mapped. Whereas **in 2020 took place a radical change of scenery, in which at least 53 violations by political agents were monitored**, which are mainly concentrated in the months closer to the election period (September to November) and around content related to the COVID-19 pandemic. In 2021, 20 cases have been recorded, according to preliminary data.

**In the first 20 months of Jair Bolsonaro's administration, beginning in January 2019, at least 449 attacks were committed against communicators<sup>1</sup>**, originating from the President of the Republic, his sons (who also hold elective positions) and other members of the Federal Government. From the beginning of the COVID-19 pandemic, the scenario intensifies, especially with regard to manifestations critical of the health crisis management - attacks that employ the same language as the others.

In addition, cases of violence against women communicators are increasingly coming to the fore. From 2012 to 2021 it was possible to monitor 30 serious violations against them. Although the percentage of serious violations is not so significant (10.4%), it is important to note that attacks against freedom of expression with a gender bias are on the rise in the general framework of violations, especially in the virtual environment. **In recent years, the highest numbers of violations against women communicators have been monitored**, 2020 being the year with the highest concentration, with a total of 49.

It is important to mention that **the increase in cases and reports of violence against women communicators also concerns the action of political agents in promoting violence**. Patrícia Campos Mello's case is a significant example. The journalist was not only attacked by the president and his sons, but also suffered massive attacks on the internet - including serious threats, such as death threats, after the mentioned political agents' actions.

In this sense, it is possible to identify the insufficiency of policies to address hate speech and discrimination in the virtual environment - such as the "Humaniza Redes" (Humanizing Networks, in Portuguese), mentioned in the State report -, once this is perpetrated by the public agents themselves, who encourage other actors to practice these same violences, especially directed to women, black and indigenous people, and the LGBTQIAP+ community.

In the total number of cases monitored, **it is also possible to verify the increase in violations committed in the virtual environment**. In 2020, the year with the most violations recorded in this

<sup>1</sup> We consider "attacks" to be the sum of violations of freedom of expression and those manifestations of a less serious nature and with less potential for injury or threat to the communicator - such as swearing and the use of disqualifying discourse. For more information: "Unprecedented monitoring: political agents linked to the federal government have committed 449 violations against journalists in 20 months. September 15, 2020. Available at: <https://artigo19.org/2020/09/15/linha-do-tempo/>

format, 33% were practiced in these media. Among serious violations, in the same period, the percentage rises to 40. However, the increase in this type of violation is not reflected in the direction of the investigative, police and judicial authorities in paying attention to the phenomenon.

**Suggested questions to the State:**

1. What measures are being taken to prevent freedom of expression violations by political and public officials?
2. What measures are being adopted to improve the standards of investigation and prosecution of crimes against communicators and to combat the impunity that marks such crimes?
3. What measures are being taken to ensure investigation and response to violations against women communicators, especially in the virtual environment?

**3. Right to protest and freedom to demonstrate (articles 20, 21 and 22 of the Covenant)**

The free exercise of the right to protest is one of the great challenges that have been pending over the last 15 years in Brazil. Although guaranteed in the 1988 Constitution, structural violations are mainly related to the excessive use of force by police and military authorities - permeated by the use of less-lethal weapons, and the criminalization of protesters, especially in the context of massive protests. Such actions usually occur under the pretext of ensuring public order, private property, and national security. The protests of 2013, known as "June Days" are emblematic in this sense: indiscriminate use of less lethal weapons - such as rubber bullets, pepper spray and tear gas; arbitrary police practices and thousands of protesters, communicators, lawyers and even passersby were targets of assaults, arbitrary arrests and other illegalities.<sup>2</sup>

However, these structural challenges have been compounded by new and serious violations of freedom of expression in the context of protests, especially in the last two years. In particular the **criminalization of individual or collective speeches and demonstrations that are critical of the president and the measures adopted by the government** - especially those related to the COVID-19 pandemic. Today there is an abusive use of criminal types such as the so-called crimes against honor (insult, slander, and defamation) which are used to protect public people and public officials instead of citizens who exercise their right to political dissidence and make use of speeches understood in international jurisprudence as specially protected. Moreover, as a result of this criminalization, it is possible to identify **practices of self-censorship**, both in relation to the organization of protests and in relation to the slogans, posters or banners that accompany the demonstrations - whether individual or collective. Today in Brazil, demonstrators hesitate before speaking, writing or taking back the streets.

<sup>2</sup> ARTICLE 19. 5 years of June 2013 - restrictions on the right to protest. Available at: <https://artigo19.org/2019/04/09/5-anos-de-junho-de-2013-restricoes-ao-direito-protesto/>

ARTICLE 19. Protests in Brazil 2013. Available at: <https://artigo19.org/2014/06/23/relatorio-protestos-no-brasil-2013/>

Regarding the excessive use of force, it is possible to cite the repressions to the massive protests in Amapá in 2020<sup>3</sup>, the anti-racist protests that have gained strength in recent years, the indigenous protests that took place in Brasilia during 2021, and the protests against Bolsonaro throughout Brazil, in particular the one that took place in Pernambuco in 2021.<sup>4</sup> During these protests, the boy Lucas Matheus Cavalcante Abreu, 13, was hit by a rubber bullet shot that took the sight out of his right eye; Daniel Campelo da Silva, 51, lost the sight out of his left eye; and Jonas Correia de França, 29, lost the sight out of his right eye.

Regarding the criminalization and arbitrary arrests of protesters as intimidation of the government opposition,<sup>5</sup> it is possible to cite the cases of a group of protesters who were arrested for extending a banner protesting against the president, of the demonstrator Rodrigo Pilha, arrested for protesting on the Esplanade of the Ministries holding a poster calling President Jair Bolsonaro a "genocide" and the cases of billboards criticizing the president<sup>6</sup>, among others.

On the other hand, **since the 2018 presidential campaign, there is a growing mobilization in Brazil of protests that promote violence and hate speech - these demonstrations are supported by the highest authorities in the country.** On September 7, Brazil's independence day, groups took to the streets advocating the return of dictatorship, the submission of the Judiciary to the Executive, the closing of Congress, the arming of the population, and violence against segments already made vulnerable by social exclusion, racism, and different forms of discrimination. These protests were promoted by the political groups that occupy high instances of power and by the president himself. **The intention of democratic rupture revealed by these demonstrations is a fundamental part of authoritarianism advance in Brazil.**

#### **Suggested questions to the State:**

1. Considering the various demonstrations that have taken place throughout Brazil against the economic, health and political crisis, and in preparation for the electoral context, what measures are being taken by the State to guarantee the right to protest, in particular to ensure that excessive use of force does not occur, that the use of less-lethal weapons is eliminated, and that there is no criminalization of protesters?

<sup>3</sup> LE MONDE DIPLOMATIQUE BRAZIL. In Amapá, for every help request, dozens of rubber bullets. Available at: <https://diplomatie.org.br/no-amapa-para-cada-pedido-de-ajuda-duzias-de-balas-de-borracha/>

<sup>4</sup> ARTICLE 19. Protesting is exercising democracy: the demonstrations in Brazil and its insertion in the cycle of uprisings in South America. Available at: <https://artigo19.org/2021/07/08/protestar-e-exercer-a-democracia-as-manifestacoes-no-brasil-e-sua-insercao-no-ciclo-de-levantes-na-america-do-sul/>

<sup>5</sup> O GLOBO. Group is arrested for extending a protest banner against Bolsonaro in Brasilia. Available at: <https://g1.globo.com/df/distrito-federal/noticia/2021/03/18/grupo-e-presos-por-estender-faixa-de-protesto-contrabolsonaro-em-brasilia.ghtml>

<sup>6</sup> PODER 360. MPF closed an inquiry that investigated comparison of Bolsonaro to "gnawed pequi". Available at:

<https://www.poder360.com.br/justica/mpf-arquiva-inquerito-que-investigava-comparacao-de-bolsonaro-a-pequi-roido/>

O GLOBO. Court dismisses inquiry against teacher who put up billboard criticizing Bolsonaro for Covid-19 deaths. <https://oglobo.globo.com/politica/justica-arquiva-inquerito-contraprofessora-que-veiculou-outdoor-criticando-bolsonaro-por-mortes-da-covid-19-24982933>

2. What measures are being taken to restrict the use of crimes against honor and to ensure the free expression of specially protected speech, i.e., speech that addresses issues of public interest, represents the free expression of political dissent, and is linked to issues of identity and human dignity?
3. What measures are being taken to hold accountable and prevent public officials from promoting, especially in the electoral context, violence and hate speech against historically marginalized groups, calling for the end of democracy?

#### **4. Criminalization and persecution of communicators, human rights defenders and dissident voices (articles 9, 21, 22 of the Covenant)**

The last period was also marked by the use of restrictive legislation to silence and criminalize human rights and environmental defenders, communicators, and dissident voices in general.

**Especially in the years 2013 and 2014, the Criminal Organization Law (Law n. 12.850/13) was used to criminalize activism and the defense of rights**, especially of those who exercised their right to protest in the episode that became known as "June Days." At that moment, the equation of activist groups to criminal organizations subsidized the abusive application of the law, which turned into a series of arrests, imprisonments, and unjustified prosecutions. It is also important to mention that the law was approved and entered the Brazilian legal system in the midst of the protests.

**Also noteworthy, in 2020 and 2021, was the use of the National Security Law ("LSN", Law n. 7.170/83), in order to persecute communicators and demonstrators critical of the government and of the management of the pandemic.** The legislation provided, among other points, on the protection of the honor of the President of the Republic and other public agents, as well as on the incitement of animosity between social classes and the armed forces. Data obtained through the Access to Information Law (Law 12.527/2011) revealed that the **use of this legislation grew by 285% during Bolsonaro's government**. Dating from the period of military dictatorship, the law carried in its wording the authoritarian character of the moment it entered the legal system, and its use by the President and other related political agents reinforces the resumption of the techniques of suppression and violation of rights established in recent years. Some examples are the inquiries, investigations and lawsuits filed against journalists Hélio Schwartzman, Ricardo Noblat, blogger Felipe Neto, and against protesters and opposition politicians in several states of the country.

The legislation was recently revoked due to the passage of Law 14.197/21, but this was not enough to prevent the persecution reported in the last period. This is because, in the first place, the law that revoked it was drafted and approved without the due participation of civil society - a fairly common practice in the National Congress in recent years -, besides preserving room to continue criminalizing those who defend social and fundamental rights, through the use of open and vague terms (such as "grave threat" and "incitement").

Nevertheless, there are other episodes in which there is an attempt to criminalize and persecute human rights defenders and communicators - such as the abusive monitoring of these, through surveillance techniques, which aims to subsidize abusive police processes and actions. An example of this phenomenon was the implementation of the CPI (Parliamentary Inquiry Commission) FUNAI (National Indian Foundation) and INCRA (National Institute of Colonization and Agrarian Reform), led by the rural caucus in the National Congress, with the aim of criminalizing the struggle in the countryside and forest, and with special interest in the political organization of indigenous peoples and social movements in the Amazon. The CPI report, published in August 2017, demonstrates the systematic use of practices of vigilantism and monitoring of organizations and movements: one of the chapters of the report presents a series of secret documents produced by ABIN (Brazilian Intelligence Agency) in which the actions of organizations and movements in the region are described in detail - including the names of organizations, movements, activists, family members, political strategies adopted, alliances built, among other information.

In addition to the existing legislation and practices, **the National Congress has at-present a series of legislative initiatives that aim to further restrict fundamental freedoms and democratic spaces** under the pretext of national security and the fight against terrorism. Currently there are at least 20 Bills of Law (PL) in the National Congress that deal with changes in this matter, but PL 272/2016<sup>7</sup> and Bill n. 1595/2019<sup>8</sup> stand out. Both propose to increase the scope of the definition of terrorism and bring issues that may hinder the exercise of free speech and expression of social movements and civil society organizations. While **Bill n. 272/2016 establishes the direct possibility of punishment for content with "political and ideological" motivations**, Bill n. 1595/2019 proposes the creation of a secret police centralized in the President of the Republic to undertake alleged counterterrorist actions with guaranteed impunity, through the so-called exclusion of illegality.

**PL 1595/2019 is today the greatest threat to fundamental freedoms in Brazil, by creating a parallel system of surveillance, which will allow widespread actions of intimidation, censorship and repression of any dissident voice**, but in particular of social movements, leaders and civil society organizations.<sup>9</sup> In a letter to the Brazilian government, seven United Nations special rapporteurs expressed their concern over the processing of both projects.<sup>10</sup>

<sup>7</sup> PL authored by Senator Laiser Martins (PODEMOS-RS), which was referred to the Commission on Constitution, Justice and Citizenship. Available at: <https://congressoemfoco.uol.com.br/direitos-humanos/onu-ve-ameacas-em-pls-que-mudam-lei-antiterrorismo/>

<sup>8</sup> PL authored by Representative Major Vitor Hugo (PSL-GO), which is even more worrisome for having already been approved in the Special Committee and now goes to the Plenary. Available at: [https://www1.folha.uol.com.br/amp/poder/2021/09/comissao-da-camara-aprova-texto-base-de-projeto-sobre-contraterrorismo-criticado-por-licenca-para-matar.shtml?utm\\_source=twitter&utm\\_medium=social&utm\\_campaign=twfolha&\\_twitter\\_impression=true](https://www1.folha.uol.com.br/amp/poder/2021/09/comissao-da-camara-aprova-texto-base-de-projeto-sobre-contraterrorismo-criticado-por-licenca-para-matar.shtml?utm_source=twitter&utm_medium=social&utm_campaign=twfolha&_twitter_impression=true)

<sup>9</sup> ARTICLE 19 and partners. TECHNICAL NOTE - PL 1595/2019. Available at: [https://artigo19.org/wp-content/blogs.dir/24/files/2021/12/NOTA-CONJUNTA-PL-1595\\_2019-1-2.pdf](https://artigo19.org/wp-content/blogs.dir/24/files/2021/12/NOTA-CONJUNTA-PL-1595_2019-1-2.pdf)

<sup>10</sup> UN SPECIAL PROCEDURES. Joint Communication. Available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26450>

**Suggested questions to the State:**

1. What measures is the state taking to curb the use of repressive legislation against communicators and human rights defenders, making it infeasible to exercise the right to freedom of expression and association?
2. What steps are being taken for the Brazilian legislature to reject the Bills that aim to close democratic spaces and expand the concept of terror in Brazil - in particular PL 1595/2019 as already recommended by the UN Special Procedures?
3. What measures will the State adopt to hold public agents, police and politicians accountable for using surveillance techniques without judicial authorization or legal support, to the detriment of guaranteeing other rights, such as privacy?

**5. Protection Program for Human Rights Defenders (articles 6, 7 and 22 of the Covenant)**

Created in 2004, the Program for the Protection of Human Rights Defenders (PPDDH) establishes guidelines for protection in cases of threat and risk to life involving individuals, groups or organs of society that work in defense of human rights, the environment, or in the exercise of communication. Even though the Program represents an important advance in terms of public policies for the protection of defenders and communicators, there are difficulties in its effective implementation. Among them, besides the reduction of funds already presented in the State report, the fact that **the majority of the actions proposed by the program involve the displacement from the place of resistance and struggle stands** out, since this alienates the program's defenders due to the lack of possibility of continuing to exercise their activism.

Currently, the program is undergoing **repeated attempts to restrict civil society participation in the implementation and coordination of the policy**. First, Decree n. 8,724 of 2016 excluded civil society organizations from the group of members of the program's National Coordination. Considering the setback, civil society, together with the Public Prosecutor's Office, promoted the Public Civil Action ("ACP") n. 5005594-05.2017.4.04.7100, in which it was determined the existence of a working group with civil society for the execution of the program, which was reiterated in a court decision. Nevertheless, in September 2021, Decree n. 10,815 came out in a way that disregarded the judicial decision in the ACP, introducing civil society in the execution of the program in a smaller quantity and without foreseeing the means of selection of representations.

**Suggested questions to the State:**

1. What measures have been taken to ensure that the PPDDH reforms its service methodologies in order to protect those served by the program and to ensure social participation in the PPDDH, in accordance with what is required by Brazilian civil society and decided by the Judiciary?

## 6. State Violence and Discrimination - Race, Ethnicity and Gender (articles 1, 2, 3, 9 and 26 of the Covenant)

Recently in Brazil there has been an increase in violent actions against black, indigenous, and LGBTQIAP+ bodies in all spheres, with an intensification of discriminatory actions that affect even more the greater the situation of specific vulnerability.

In the last two years, after the assassination of Marielle Franco<sup>11</sup>, the threats and political violence against women who occupy elected positions gained an even more worrying dimension, as they revealed the concrete possibility of silencing groups in a situation of political vulnerability, even if in mandates and positions of apparent power. **In 2021, at least 5 legislative representatives from different parts of the country were threatened with death or suffered attacks in their offices**, tied to offensive speech about women, especially black, cis, or trans women. Councilwoman Benny Brioli, the first black trans woman elected to office in the city of Niteroi, had to leave the country after death threats. Representatives Erika Hilton and Erica Malunginho were also subjected to various attacks and threats, along with councilwomen Viviane Reis and Carol Dartora.<sup>12</sup>

According to data from the Marielle Franco Institute **about the 2020 elections, "98.5% of black women who responded to the study reported that they had suffered more than one act of political violence"**<sup>13</sup>. In the virtual environment, widely used due to the context of pandemic elections, the perception of the degrees of discrimination is even more pronounced. For the 2022 elections, the prospect of increased risks is steep.

In addition, **the Brazilian State failed to invest almost 40% of the amount allocated in the budget to combat gender violence**. Of the part executed by the Ministry of Women, Family and Human Rights (MMFDH), a large amount was distributed to the complaint hotline services, whose protection capacity is restricted if there is no expansion of possibilities for the victim's safety after being attended.<sup>14</sup>

Also, as a consequence of the disinvestment, **there was an increase in cases of domestic violence in 20% of brazilian cities**, according to the National Confederation of Municipalities<sup>15</sup>. Still,

<sup>11</sup> ARTICLE 19. Murder of Marielle Franco should have fast and rigorous investigation. Available at:

<https://artigo19.org/2018/03/15/assassinato-de-marielle-franco-deve-ter-investigacao-celere-e-rigorosa/>

<sup>12</sup> Ferreira, AG; Gago, V.; Martins, F. Previous Note - "The political voice has gender: vetoing freedom of expression in political gender violence". Article 19: São Paulo, 2021, (Research in progress)

<sup>13</sup> MARIELLE FRANCO INSTITUTE... Political Violence Against Black Women: Elections 2020. Available at:

<https://www2.camara.leg.br/atividade-legislativa/comissoes/comissoes-permanentes/cdhm/arquivos/pesquisa-instituto-marielle-franco>

<sup>14</sup> AGENDA 2030 GT. Light Report 2021. Available at: <https://gtagenda2030.org.br/relatorio-luz/relatorio-luz-2021/>

<sup>15</sup> AGÊNCIA BRASIL. Violence against women grows in 20% of cities during the pandemic. Available at: :

<https://agenciabrasil.ebc.com.br/saude/noticia/2021-08/violencia-contra-mulheres-cresce-em-20-das-cidades-durante-pandemia>

one in every four women was a victim of some type of violence in the period, according to the Brazilian Forum for Public Security. The country also followed, even during the pandemic, the increase of state violence against black bodies and the denial of protection to indigenous people. **A black person is killed every 4 hours by the police in the country**, according to data from the Safety Observatories Network.<sup>16</sup>

Meanwhile, **public policies to increase monitoring affect the freedom of circulation, expression and manifestation of these same bodies - through the use of facial recognition technologies**<sup>17</sup> which are racial and gender biased according to proven experiences, causing a huge grant of wrong imprisonment to black persons. The duration of those imprisonments ranging from 5 days to 3 years. According to data from the National Council of Public Defenders General (CONDEGE), of the cases with arrests that were based on wrong technological recognition, 83% of the inditees are black<sup>18</sup>. Furthermore, 90.5% of the arrests based on facial monitoring technologies are of black people. The error rate is high, as demonstrated by the research already carried out around the world. The continued indiscriminate use of inaccurate surveillance technologies on black people and non-white ethnic groups has further increased incarceration without ensuring any guarantee of greater equity and justice.

In addition, **the revisionist narrative of a supposed racial democracy, promoted by public authorities, is being strengthened in Brazil**, which makes years of struggle against racism and structural discrimination in the country unfeasible and fragile. The current president of the Palmares Foundation, appointed by the current government, has stated numerous times that there is no racism in the country; he has removed from the Foundation's registration lists historical names of black achievements and has changed the symbol of the "Xangô Axe", a representation of the Yoruba deity, to a symbol disconnected from the history of the Brazilian black movement.

#### **Suggested questions to the State:**

1. Regarding the expansion of violence, especially gender-based political violence, what measures will the state implement between now and the elections to ensure the integrity of representatives and candidates? And what are the latest results of the investigation into the murder of councilwoman Marielle Franco?
2. Given the misinterpretation rates of facial recognition technologies, particularly in racist societies, what measures is the State taking to prevent their indiscriminate use?

<sup>16</sup> RAMOS, S. *et al.* Targeted skin: The color of police violence. Rio de Janeiro: CESEc, 2021. Available at: [http://observatorioseguranca.com.br/wordpress/wp-content/uploads/2021/12/RELATORIO\\_REDE-DE-OBS\\_cor-da-violencia\\_dez21\\_final.pdf](http://observatorioseguranca.com.br/wordpress/wp-content/uploads/2021/12/RELATORIO_REDE-DE-OBS_cor-da-violencia_dez21_final.pdf)

<sup>17</sup> ARTICLE 19. Organizations unify in a call for a global ban on facial recognition and biometric uses. Available at: <https://artigo19.org/2021/06/09/21413/>

<sup>18</sup> PUBLIC DEFENDER'S OFFICE OF RIO DE JANEIRO. Reports indicate unfair arrests after photographic recognition. Available at: <http://condege.org.br/2021/04/19/relatorios-indicam-prisoas-injustas-apos-reconhecimento-fotografico/>

3. What measures are being adopted for the protection of indigenous and quilombola communities in Brazil? In particular, what is the percentage of lands demarcated and territories recognized during the current administration?
4. What measures are being taken to prevent racism in Brazilian public institutions and to hold accountable the denialist speeches of the highest authorities of the state?

## 7. Freedom of artistic expression (article 19 of the Covenant)

The severe restrictions on civil liberties in recent years can also be seen in the area of culture. Freedom of artistic expression is not only a fundamental part of cultural life, but also a means by which society expresses its opinions, demands, and claims.

The attacks and restrictions on the cultural sector began in 2016, but the arrival of Jair Bolsonaro to the government has worsened the scenario<sup>19</sup>. The implementation of an authoritarian agenda is verified through mechanisms such as the ideological structuring, as done in Fundação Cultural Palmares with the nomination of Sergio Camargo as president<sup>20</sup> as well as through the dissolution of structures and public policies through the extinction of the Ministry of Culture<sup>21</sup>. The budgetary stranglehold, through successive cuts in funding for cultural bodies,<sup>22</sup> contributes to an even more precarious scenario in the cultural sphere.

The Brazilian Integrated Movement for Freedom of Artistic Expression (MOBILE), composed of a network of Brazilian civil society organizations (Artigo 19, 342 Artes, Artigo Quinto, LAUT, Rede Liberdade and Samambaia Filantropias), developed an unprecedented platform for monitoring the phenomenon - the Map of Censorship<sup>23</sup>. **More than 170 cases of violations of artistic freedom, institutional dismantling, and the advance of authoritarianism over culture since 2019** have already been identified and catalogued. Of these cases, 48% refer to the dismantling of culture policy, 52% to the curtailment of artistic and cultural manifestations in the country and 37% to administrative censorship. In addition, **67% of the cases originate in the federal executive government and about 30% of these cases are linked to cultural productions linked to expressions of gender, race or sexual orientation, or have religious or moral motivations.**

<sup>19</sup> LE MONDE DIPLOMATIQUE. First year of Bolsonaro's government is marked by attacks on culture. Available at: <https://diplomatique.org.br/primeiro-ano-de-governo-bolsonaro-e-marcado-por-ataques-a-cultura/>

<sup>20</sup> According to the Brazilian Committee of Human Rights Defenders, "with his arrival at the presidency of Fundação Palmares, the certifications [of quilombola territories] were suspended and institutional roles were altered, aiming to accommodate diffuse interests alien to existing norms" (Dossiê Vidas em Luta, page 51). See also statements of the new president of Palmares Foundation generate criticism and indignation. Available at: <https://g1.globo.com/jornal-nacional/noticia/2019/11/28/declaracoes-do-novo-presidente-da-fundacao-palmares-geram-criticas-e-indignacao.ghtml>.

<sup>21</sup> O ESTADO DE SÃO PAULO. The comings and goings of Culture in the Bolsonaro government. Available at: <https://cultura.estadao.com.br/noticias/geral,as-idas-e-vindas-da-cultura-em-2019,70003123803>.

<sup>22</sup> BARÃO DE ITARARÉ. Bolsonaro cuts R\$ 36 million from Culture. Available at: <https://baraodeitarare.org.br/site/noticias/cultura/bolsonaro-corta-r-36-milhoes-da-cultura>. Accessed on: 02 Feb 2021.

<sup>23</sup> MOBILE. Map of Censorship. Available at: <https://movimentomobile.org.br/mapa-da-censura/>

Among the cases analyzed in the Map of Censorship it would be possible to mention: the case of the Capão Jazz Festival that was denied funding based on an opinion by FUNARTE (Fundação Nacional de Artes) that defines the objective of music as the search for the "glory of God" and "renewal of the soul", and classifies the festival, self qualified as "anti-fascist" and "for democracy", as misconfigured and without meaning; the case of ordinances that prohibited the Culture Incentive Law - Rouanet Law, to finance cultural projects that require proof of vaccination against Covid-19 and with gender neutral language; and, finally, the censorship of the film Marighella, which portrays the life of a man who dedicated his life to fight against dictatorship in Brazil, through the use of bureaucratic obstacles by ANCINE (National Cinema Agency).

Thus, we are **dealing with the control of artistic and cultural content, which is not restricted to "classical" censorship, *strictu sensu***, but also refers to the implementation of mechanisms of ideological equipping of public institutions, and the dissolution of structures and government policies that promote culture. One can also verify the emergence of **new forms of censorship clothed in legal character or administrative expedients**, such as the unilateral cancellation of public performances by the contractor, the disqualification and cancellation of hiring, or the threats and police approaches during performances, among many other cases.

Furthermore, these violations also occur in the daily lives of collectives that use art to express their opinions and claim their rights. In the city of Altamira, a Paraense municipality of about 115 thousand inhabitants, which keeps a historical struggle of social movements against developmental megaprojects that destroy the Amazon and put its population in vulnerability, these restrictions were strongly felt in the month of November 2021, during the activities that mark the Black Consciousness week. The organizations COMUNEMA - Coletivo de Mulheres Negras Maria-Maria (Maria-Maria Black Women's Collective) and Color Afro Xingu were prevented from entering the IFPA - Instituto Federal do Pará (Altamira Campus), by the Director of the Institute, in order to carry out their activities, a lecture on Black Awareness Day and a thematic Graffiti Workshop. The reason for the impediment was firstly because the main publicity material included the hashtag #ForaBolsonaro and secondly because the art to be graffitied on one of the walls of the institution made a direct protest against the current federal government. The main allegation was that they could only carry out the activities in the Institute's space if they changed the narrative of opposition to Jair Bolsonaro.

#### **Suggested questions to the State:**

1. Considering the importance of culture for society's identity, conscience, and freedom, and that the preservation of culture is indispensable to the democratic health of a nation, what actions have been and/or are being taken to hold accountable authorities and institutions that are promoting censorship of the arts in the country?

#### **8. Right to political and social participation (article 25 of the Covenant)**

Social participation is one of the pillars of re-democratization in Brazil and is guaranteed in several ways in the 1988 Constitution. The so-called "Citizen Constitution" establishes citizenship (art. 1, II) and popular sovereignty (art. 1, sole paragraph) as the foundations of the Democratic State of Law, and has several articles that indicate and encourage forms of social participation. Among them, participation in the formulation of public policies, especially in health (art. 198, III), social assistance (art. 204, II), education (art. 206, VI), social security (art. 194, VII), and communication (art. 224). Today we can add an agenda of authoritarian dismantling of institutional mechanisms of participation, in addition to the historical pendencies that already impair, for example, the perception of the real relevance of social participation in the formulation and implementation of public policies.

**In April 2019, the President of the Republic signed Decree No. 9,759<sup>24</sup>, establishing the extinction of all collegiate bodies of federal public administration that were created by decree or ordinance, totaling more than 700<sup>25</sup> councils.** Two others decrees were added, 9.784<sup>26</sup> and 10.179<sup>27</sup>, signed in May and December 2019 respectively, extinguishing specific collegiates or changing their operating rules, which resulted in zero or minimal civil society participation. This limitation has two implications: 1) the closure to dialogue, the silencing and restriction of freedoms of expression and information; and 2) the impossibility of continuing some of the public policies that depend on the collegiates operations to come to fruition.

**The restriction of civil society participation has culminated in the disproportionate participation of government agents, which has converted these spaces into instruments for carrying out the government's agenda** against the environment and indigenous populations, for example. Two examples of this are the Palmares Foundation and the National Indian Foundation (FUNAI), which under the current government have become hostile forums, both to the demands and participation of civil society, and to serving the populations for which they were created. In FUNAI's case, issues contrary to indigenous agendas were taken on by the agency<sup>28</sup>, and in the Palmares Foundation's case, it has been aligned with the presidential discourse of not demarcating quilombola lands<sup>29</sup>.

<sup>24</sup> Decree No. 9,759 of April 11, 2019. Extinguishes and establishes guidelines, rules and limitations for collegiates of the federal public administration. Available at: [http://www.planalto.gov.br/ccivil\\_03/\\_ato2019-2022/2019/decreto/D9759.htm](http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9759.htm)

<sup>25</sup> O GLOBO. Bolsonaro government decree keeps only 32 advisory councils. Available at:

<https://oglobo.globo.com/brasil/decreto-do-governo-bolsonaro-mantem-apenas-32-conselhos-consultivos-23773337>

<sup>26</sup> Decree No. 9,784, of May 07, 2019. Declares the revocation, for purposes of the provisions of art. 16 of Complementary Law No. 95 of February 26, 1998, and art. 9 of Decree No. 9,759 of April 11, 2019, of normative decrees. Available at: [http://www.planalto.gov.br/ccivil\\_03/\\_ato2019-2022/2019/decreto/D9784.htm](http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D9784.htm)

<sup>27</sup> Decree No. 10,179, of December 18, 2019. Declares the revocation, for purposes of the provisions of art. 16 of Complementary Law No. 95 of February 26, 1998, of normative decrees. Available at: [http://www.planalto.gov.br/ccivil\\_03/\\_ato2019-2022/2019/decreto/D10179.htm](http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/decreto/D10179.htm)

<sup>28</sup> Funai defends production on indigenous lands; opposition denounces the "anti-indigenist policy" of the agency. Agência Câmara de Notícias. 11 Aug. 2021. Available at: <https://www.camara.leg.br/noticias/793009-funai-defende-producao-em-terras-indigenas-oposicao-denuncia-politica-anti-indigenista-do-orgao/>

<sup>29</sup> Brazilian Committee of Human Rights Defenders. Lives in struggle: criminalization and violence against human rights defenders in Brazil. Volume III; organized by Layza Queiroz Santos et al. 3. ed. Curitiba: Terra de Direitos. 2020. Available at: <https://terradedireitos.org.br/uploads/arquivos/Dossie-Vidas-em-Luta.pdf>

**In parallel, there is a growing militarization of the State and of participation spaces. In total, there are more than 6.3 thousand military personnel<sup>30</sup> occupying civilian positions, which represents approximately 43% of all commissioned positions<sup>31</sup>. This military occupation in the government is reflected in the councils, as is the case of the National Council of the Legal Amazon, chaired by the military man Hamilton Mourão. The result is a constant intimidation of civil society in these spaces.**

**Suggested questions to the state:**

1. Taking into account the councils that were extinguished through the decrees signed in 2019 and the damage this brought to civil society's exercise of the right to social participation, what actions have been taken to reverse this picture and ensure society's participation in matters of public interest?
2. What measures have been taken by the State to guarantee that the public policies that depended on the governance formed by the extinct councils, such as the National Plan for Strengthening Extractive and Riparian Communities, are not interrupted?

**9. Right of access to information (article 19 of the Pact)**

Brazil has had an Access to Information Law (LAI)<sup>32</sup> since 2011 - a fundamental milestone for compliance with the principle of transparency in public administration in the country. In the meantime, more than a million of information requests have been made to agencies and entities of the Federal Executive Branch, through the platform Fala.BR<sup>33</sup>. Besides establishing secrecy as an exception and transparency as a rule, the law brought important provisions, such as: the end of the eternal secrecy of official documents; the prohibition of secrecy on documents related to human rights violations; the obligation for public managers to proactively disclose information of public interest; the implementation of the Electronic Citizen Information System (e-SIC), among other points.

However, increasing threats to transparency in the country have been observed. Among the most alarming are the **recent attempts to change the LAI through decrees and ordinances**, such as the MP 928/2020, which tried to impose, unsuccessfully, the **suspension of response deadlines to requests for access to information** during the pandemic; Decree 9690/2019, which tried to drastically increase the number of authorities with power to veto access to information; and the ordinance 880/2019, which **trivializes the secrecy of documents produced by the Ministry of Justice and Public**

<sup>30</sup> SADRÉ, LU. Military presence in Bolsonaro government is corporatist and without project, says researcher. Brasil de Fato, São Paulo, May 23, 2021. Available at: <https://www.brasildefato.com.br/2021/05/23/presenca-militar-no-governo-bolsonaro-e-corporativista-e-sem-projeto-diz-pesquisador>

<sup>31</sup> PRATES, Lucas de Souza. The growing militarization of the Bolsonaro government and the risks of this phenomenon to Brazilian democracy. Center for Transitional Justice Studies. 17 May 2021. Available at: <https://cjt.ufmg.br/2021/03/17/a-crescente-militarizacao-do-governo-bolsonaro-e-os-riscos-desse-fenomeno-a-democracia-brasileira/>

<sup>32</sup> Law 12527/2011. Available at: [http://www.planalto.gov.br/ccivil\\_03/\\_ato2011-2014/2011/lei/l12527.htm](http://www.planalto.gov.br/ccivil_03/_ato2011-2014/2011/lei/l12527.htm)

<sup>33</sup> AGÊNCIA BRASIL. In 10 years, Access to Information Law accounts for 1 million requests. Available at: <https://agenciabrasil.ebc.com.br/geral/noticia/2021-11/em-10-anos-lei-de-acesso-informacao-contabiliza-1-milhao-de-pedidos>

**Safety**, such as guidelines governing the training and performance of security agencies and agents. In addition, the **abusive use of article 31 of the LAI** is growing. The article provides that the treatment of personal information must be done in a transparent manner and with respect for intimacy, private life, honor and image of individuals - and it is being abused as a means of concealment of public interest information. However, the information hidden by means of this article and classified as confidential does not seem to fit a holistic - thus, correct - interpretation of LAI. The following stand out: the names of the servers that post in the Secretariat of Communication's Twitter profile; the data on the Planalto Palace access badges of the president's sons, which are also members of the Parliament; the disciplinary process that absolved active duty general and former Minister of Health Eduardo Pazuello for having participated in a political demonstration alongside the president, among other cases<sup>34</sup>. In parallel, the **misinterpretation of the Brazilian General Law of Data Protection (LGPD)**, in force since 2020, has been used as a pretext by the Federal Government to deny access to information. In this sense, **numerous requests for information have been denied on the grounds of the presence of personal data in the requested databases.** <sup>35</sup>

On the other hand, in 2019, the government vetoed an important device to protect the personal data of information requesters<sup>36</sup>, on the grounds that it would hinder the development of public policies - this device would guarantee the possibility of anonymity and would veto the sharing of their data among government agencies and with private legal entities. Overall, it seems more important for the federal government that citizens can suffer all kinds of vigilance, whereas the state can remain a secret for those who aim to exercise their right to civic control.

Thus, the systematic attacks on public transparency listed here prevent, for example, the investigation of possible crimes of responsibility of the government in the conduct of measures to confront the pandemic in the country, which has reached the mark of more than 600 thousand deaths; the involvement of the government in the preparation and dissemination of false information and hate speech on the Internet; among other actions associated with political and private interests, capable of negatively impacting different groups of vulnerable populations, unable to react against the state machine and of scrapping of social protection agencies in the country.

#### **Suggested questions to the state:**

1. What measures will be adopted to reverse the setbacks in guaranteeing the right of access to information and to improve the mechanisms of social control and public transparency?
2. What are the reasons that led the Executive to unilaterally change the Access to Information Law, violating its basic principles?

<sup>34</sup> EL PAÍS. One hundred years of protection for Bolsonaro. Available at: <https://brasil.elpais.com/brasil/2021-08-08/cem-anos-de-protecao-a-bolsonaro.html/>

<sup>35</sup> FIQUEM SABENDO. At least 79 requests denied based on data protection law reached the CGU. Available at: <https://fiquemsabendo.com.br/transparencia/lgpd-negativa-cgu/>

<sup>36</sup> VEJA. Bolsonaro loosens law created to protect personal data. Available at: <https://veja.abril.com.br/politica/bolsonaro-afrouxa-lei-criada-para-protger-dados-pessoais/>

3. What actions does the Brazilian government intend to take to guarantee access to information for the most vulnerable groups - such as indigenous communities that communicate in almost three hundred languages other than Portuguese; quilombola communities with scarce access to the Internet; among other groups that suffer from statistical blackout?

## 10. Access to information and legal abortion (article 1, 2,3, 19 and 26 of the Covenant)

What stands out in the current scenario is the double violation of rights: first, of access to information (specially regarding the population's right to highest standards of health services), with the **restriction of the circulation of information about sexual and reproductive rights** due to a political agenda that is sustained by moral and religious convictions; second, by the **violation of sexual and reproductive rights, in particular the right to terminate a pregnancy already foreseen by law**, which is now hindered by the State<sup>37</sup>, through the aforementioned lack of specific information about abortion, by the widespread attempt at criminalization, and by<sup>38</sup>deliberate misinformation about performing the procedure.

Abortion is legalized in the country under three circumstances: in cases of life risk to the pregnant person, in cases where the pregnancy is the result of rape and, since 2005, for cases of fetal anencephaly. Although there is the prerogative that any hospital or health service that is equipped to perform gynecological and obstetrics procedures must provide the reception for abortion provided by law, a 2015 survey conducted by the former National Secretariat of Policies for Women shows that a significant part of the equipment is not appropriate for performing the procedure<sup>39</sup>. Data from the Legal Abortion Map, a platform built from a survey conducted by ARTICLE 19, reveals a **much smaller number of hospitals that actually perform the pregnancy termination service. Before the Covid-19 pandemic, this number was of 76 hospitals<sup>40</sup>- which confirmed performing legal abortion in Brazil. A year later, a new update showed a considerable 55% drop in the number of operating services<sup>41</sup>.** Of the hospitals operating pre-pandemic, only 42 claimed to provide the service.

### Suggested questions to the state:

<sup>37</sup> GÊNERO E NÚMERO. Legal abortion in the crosshairs: 100% of the bills in the House of Representatives in 2021 are against termination of pregnancy. Available at: < <https://www.generonumero.media/aborto-legal-na-mira/>>.

<sup>38</sup> As evidenced by the recent case of a child who had her rights hindered in seeking access to the procedure after rape and was only able to access the service after a court order, albeit an unnecessary one. Available at: <https://g1.globo.com/pe/pernambuco/noticia/2020/08/17/menina-de-10-anos-estuprada-pelo-tio-no-es-tem-gravidez-interrompida.ghtml>

<sup>39</sup> EXAME. Hospitals bar abortion even in cases provided by law. Available at: <https://exame.com/brasil/hospitais-barram-aborto-ate-em-casos-previstos-por-lei>

<sup>40</sup> ARTICLE 19. Platform gathers information on services that perform legal abortion in Brazil. Available at: <https://artigo19.org/2019/03/28/plataforma-reune-informacoes-sobre-servicos-que-realizam-aborto-legal-no-brasil/>.

<sup>41</sup> AZ MINA. Only 55% of hospitals that used to perform legal abortions are still serving in the pandemic. Available at: <https://azmina.com.br/reportagens/so-55-dos-hospitais-que-faziam-aborto-legal-seguem-atendendo-na-pandemia/>

1. How has the state incorporated the perspective of sexual and reproductive rights, specifically the right to legal abortion in its national health policies?
2. Why is there no systematic production of information about legal abortion in Brazil - from informational materials about access to the service to a consolidated and updated list of health facilities that perform the procedure, if not all are able to do so?
3. What measures has the state taken to expand and publicize the services that perform the termination of pregnancy in the cases provided by law - especially for those who are most vulnerable, such as indigenous and black people and children?

### 11. Biometric surveillance technologies and violations on the Right to Privacy (articles 9 and 17 of the Covenant)

Brazil is in a delicate position when it comes to privacy protection. Even though there has been improvements in terms of protection of personal data in the country due to the implementation of the Brazilian General Data Protection Law (Law 13.709/2018<sup>42</sup>), there were also some setbacks- for instance, the State's reliance on tools for mass surveillance for public security, as described below.

The Ministry of Justice issued two ordinances - in 2019<sup>43</sup> and 2020<sup>44</sup> - aimed at implementing surveillance cameras with facial recognition technologies by public security agencies to fight "violent crimes". These provisions are no longer in effect.

In addition, the Brazilian Federal Police announced the objective of implementing a biometric system related to public security<sup>45</sup> and the unification of databases with citizens' personal data<sup>46</sup>. ARTICLE 19 has published, together with other civil society members, a statement addressed to the National Data Protection Authority (ANPD) on the subject<sup>47</sup>.

Finally, despite the fact that there is no comprehensive legislation focused on personal data protection in criminal persecution, facial recognition tools have been increasingly being deployed by

42 Available at: [http://www.planalto.gov.br/ccivil\\_03/\\_ato2015-2018/2018/lei/l13709.htm](http://www.planalto.gov.br/ccivil_03/_ato2015-2018/2018/lei/l13709.htm)

43 Available at: <https://dspace.mj.gov.br/handle/1/2367>

44 Available at: <https://dspace.mj.gov.br/handle/1/1380>

45 UOL. PF adquire sistema de identificação que em 2 anos armazenará dados de 50 milhões. Available at: <https://www.uol.com.br/tilt/ultimas-noticias/estado/2021/07/06/pf-adquire-sistema-de-identificacao-que-em-2-anos-armazenara-dados-de-50-milhoes.htm>

THE INTERCEPT. Rui Costa está transformando a Bahia em um laboratório de vigilância com reconhecimento facial. Available at: <https://theintercept.com/2021/09/20/rui-costa-esta-transformando-a-bahia-em-um-laboratorio-de-vigilancia-com-reconhecimento-facial/?s=08>

46 FOLHA DE SÃO PAULO. Reconhecimento facial cresce no Brasil; vídeo explica como isso afeta você. Available at: <https://www1.folha.uol.com.br/tec/2021/08/reconhecimento-facial-cresce-no-brasil-entenda-como-isso-afeta-voce.shtml>

and Governo interliga bases e permite cruzamento de dados unificada de todos os brasileiros. Available at: <https://www1.folha.uol.com.br/mercado/2019/10/governo-cria-base-de-dados-unificada-de-todos-os-brasileiros.shtml>

47 OFÍCIO PARA ANPD | Entidades solicitam medidas contra solução automatizada de identificação biométrica da Polícia Federal. Available at: <https://direitosnarede.org.br/2021/07/19/oficio-para-anpd-entidades-solicitam-medidas-contrasolucao-automatizada-de-identificacao-biometrica-da-policia-federal/>

several Brazilian states<sup>48</sup> with a series of purposes, including an alleged improvement in public security. These initiatives have been much criticized by human rights organizations and specialists on the subject, due to the lack of compliance with Human Rights principles<sup>49</sup>, low level of transparency<sup>50</sup>, and the connection between the massive use of facial recognition and racism in Brazil<sup>51</sup>.

**Suggested questions to the state:**

1. What measures the State proposes to regulate the use of biometric technologies in order to adapt them to international Human Rights standards ?
2. What measures will be taken in order to develop an adequate data protection regime to be complied by security forces, which includes public security agencies of the Brazilian states, in accordance with international standards and as indicated in the current Data Protection legislation?

**12. Information security researchers and the Right to Privacy (Art. 19 of the of the Covenant)**

In 2021 there was a reform regarding the National Security Law - which dated from the period of the military dictatorship in Brazil. The Substitute Law Project implied the creation and maintenance of criminal offences aimed at the protection of the State. Amid the legislative debate prior to the enactment of the law, it was considered the possibility to establish new criminal offences that included topics related to integrity of IT systems that endangered security researchers.

These could lead to an environment that favored the criminalization of information security activists and researchers, who carry out legitimate and beneficial activities by detecting and analyzing system vulnerabilities. Although the provisions that put the researchers at risk did not come into force, they were deeply discussed during the processing of the law - which proceeded with little transparency and on an urgent basis.

In this context, it is important to consider the recent approval of the Budapest Convention in Brazil. In articles 2 and 8 of its content, there is no indication that certain prohibitions would be justifiably applied when there is a malicious intent to intrude into computer systems. This can lead to the criminalization of researchers that are, indeed, beneficial to security. This lack of specification

<sup>48</sup>FOLHA DE SÃO PAULO. Sob críticas por viés racial, reconhecimento facial chega a 20 estados. Available at: <https://www1.folha.uol.com.br/cotidiano/2021/07/sob-criticas-por-vies-racial-reconhecimento-facial-chega-a-20-estados.shtml>

<sup>49</sup>THE INTERCEPT. A ascensão do tecnoautoritarismo Parte 4. Available at: <https://theintercept.com/2021/09/20/rui-costa-esta-transformando-a-bahia-em-um-laboratorio-de-vigilancia-com-reconhecimento-facial>

<sup>50</sup>THE INTERCEPT. AS PERGUNTAS QUE O METRÔ DE SÃO PAULO NÃO RESPONDEU ANTES DE VENDER SEU ROSTO POR R\$ 58 MILHÕES. Available at: <https://theintercept.com/2020/02/11/metro-sao-paulo-reconhecimento-facial/>

<sup>51</sup>FOLHA DE SÃO PAULO. 151 pessoas são presas por reconhecimento facial no país; 90% são negras. Available at: <https://www1.folha.uol.com.br/cotidiano/2019/11/151-pessoas-sao-presas-por-reconhecimento-facial-no-pais-90-sao-negras.shtml>

occurs in a scenario where the country does not have a robust framework for the protection of personal data in the criminal sphere.

**Suggested questions to the state:**

1. What measures are the State proposing to increase the security of its digital systems, networks and data bases in a way they become less vulnerable and how does it intend to protect information security researchers?

**13. Freedom of expression online and responsibility of political agents in the use of social media (article 19 of the of the Covenant)**

In parallel, the government does not comply with human rights-based guidelines on the content published by official agents at the same time that inflates a particular political base to stand behind its narrative. The result is that the national government itself came to be recognized as a disseminator of hate speech<sup>52</sup> and, sometimes, as the center of disinformation campaigns<sup>53</sup>.

There are, however, legislative measures that seek to regulate freedom of expression online, including that of government officials. In this scenario, it is important to mention the Bill (Projeto de Lei - PL) 2630/2020, known as “Fake News’ Bill”<sup>54</sup>. It proposes, among other issues, rules for content moderation made by the platforms, and has been publicly debated for almost 2 years by the National Congress, civil society and the private sector. The official text of the Bill, approved by the Senate in June 2020, provides specific (and more restrictive) provisions for the accounts of political agents and its final text has not yet come into force, as it is still being debated in the Chamber of Deputies.

In 2021, the Executive Act n. 1.068/2021 was issued by the federal government. It aimed to prevent social media providers from moderate content on their platforms. As a consequence, the act would change the Civil Rights Framework for the Internet in Brazil<sup>55</sup>. This law has been regulating the use of the web since 2014 and this change would make it difficult for providers such as Facebook, Twitter, Instagram, Youtube, and other social networks to be able to remove accounts, profiles, and

<sup>52</sup> CARTA CAPITAL. Jair Bolsonaro traces hate speech as the official speech of the Presidency. Available at: <https://www.cartacapital.com.br/opiniao/jair-bolsonaro-traz-discurso-de-odio-como-fala-oficial-da-presidencia/>

<sup>53</sup> ARTIGO 19. Infodemia e a Covid-19 – A informação como instrumento contra os mitos. Available at: <https://artigo19.org/2021/05/17/artigo-19-lanca-relatorio-sobre-infodemia-e-direito-de-acesso-a-informacao-na-pandemia-de-covid-19/>; Agência Lupa. Desinformação sobre máscaras aumentou depois que Bolsonaro defendeu a desobrigação de seu uso. Available at: <https://piaui.folha.uol.com.br/lupa/2021/06/24/desinformacao-sobre-mascaras-bolsonaro/>; Congresso em foco. Na ONU, Bolsonaro mente sobre o desmatamento na Amazônia. Available at: <https://congressoemfoco.uol.com.br/projeto-bula/reportagem/bolsonaro-mente-sobre-o-desmatamento-na-amazonia-na-onu/>

<sup>54</sup> CHAMBER Working Group APPROVES BASE TEXT OF FAKE NEWS PL. Available at: <https://www.telesintese.com.br/gt-da-camara-aprova-texto-base-do-pl-das-fake-news/>

<sup>55</sup>UOL. Em 3 pontos: entenda MP de Bolsonaro que atinge as redes sociais.. Available at: <https://www.uol.com.br/tilt/noticias/redacao/2021/09/07/3-pontos-para-entender-a-mp-de-bolsonaro-que-altera-marco-civil-da-internet.htm>

content that violate its rules. The change would require more bureaucracy to suspend or cancel accounts, in addition to determining the restitution of banned content. The Provisional Measure was transformed into a draft bill, after being returned to the Executive Branch by the president of Brazil's National Congress.<sup>56</sup>

It should also be noted that in Brazil, there were some publicly relevant cases in which the private moderation of social networks led to take down content published by the President, labeling it as false information. The removal of harmful content and the reporting of content have already taken place at various times on Twitter<sup>57</sup>, Facebook<sup>58</sup>, Instagram<sup>59</sup>, and YouTube<sup>60</sup>.

**Suggested questions to the state:**

1. Especially considering electoral years, how does the State intend to ensure that high authorities do not use social networks in an unlawful or illegitimate way to obtain advantages in the political scenario, damaging the democratic debate?
2. How will the State commit to foster and support a wide public debate and the guarantee of fundamental rights taking into account modification, alterations, suspension and adoptions of legal measures and frameworks that affect online communications?

<sup>56</sup> Agência Câmara de Notícias. Proposta do Poder Executivo limita remoção de conteúdos na internet. Available at: <https://www.camara.leg.br/noticias/808176-proposta-do-poder-executivo-limita-remocao-de-conteudos-na-internet/>

<sup>57</sup> EXAME. Apos Twitter, Facebook e Instagram removem postagens de Bolsonaro. Available at: <https://exame.com/brasil/apos-twitter-facebook-e-instagram-removem-posts-de-bolsonaro/>

<sup>58</sup> UOL. Facebook and Instagram publish notice of false information in Bolsonaro's publicatio. Available at: [https://www.uol.com.br/tilt/noticias/redacao/2021/04/29/facebook-instagram-informacao-falsa-bolsonaro .htm](https://www.uol.com.br/tilt/noticias/redacao/2021/04/29/facebook-instagram-informacao-falsa-bolsonaro.htm)

<sup>59</sup> UOL. Instagram hides Bolsonaro's post about covid-19: 'False information. Available at: (<https://noticias.uol.com.br/saude/ultimas-noticias/redacao/2020/05/11/instagram-tira-do-ar-bolsonaro-post-on-covid-19-false-information.htm>)

<sup>60</sup> G1. YouTube removes Bolsonaro's live with a lie about the Covid and Aids vaccine and the channel is suspended for a week. Available at: <https://g1.globo.com/tecnologia/noticia/2021/10/25/youtube-live-bolsonaro.ghtml>