



**Report to the Third Review of the Federative Republic of Brazil
by the UN Human Rights Committee - 138th session**

**DEMOCRACY IN TIMES OF DIGITAL PLATFORMS AND
SHRINKING CIVIC SPACE**

Submitted by Conectas Direitos Humanos

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A. Introduction:

1. Conectas Direitos Humanos¹ is a leading Brazilian non-governmental organization based in São Paulo, Brazil. We work to protect and expand the rights of all, especially for the most vulnerable. Conectas was accorded consultative status with the United Nations in 2006, and since February 2022, it has been an observer of the Convention- UN Climate Change Framework.

2. This document is an alternative report for Brazil's review by the UN Human Rights Committee during its 138th session. Considering the List of Issues, the State report, and its Written Replies to the List of Issues, Conectas examines Brazil's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Brazil's fulfilment of the rights to freedom of association, assembly, and expression and unwarranted restrictions on human rights defenders (section B).

B. Rights to freedom of association, assembly, and expression and unwarranted restrictions on human rights defenders

Counter-Terrorism Measures (arts. 2, 4, 7, 9, 14, 15, 17 and 21)

3. **Paragraph 7** of the List of Issues in relation to Brazil's Third Periodic Report by the Human Rights Committee asks about the legislative measures that attempt to expand the legal framework for the fight against terrorism.

- a. We would like to inform the distinguished Committee that the attacks on January 8 in Brasilia severely undermined the Democratic Rule of Law. A thorough investigation and accountability of those who planned, organized, and financed such activities, as well as authorities that allowed the escalation of acts, either by omission or connivance, is necessary. However, the indiscriminate use of "terrorism" to classify such conduct is a cause for concern.
- b. The Brazilian Anti-Terrorism Law (Law 13,260 of 2016) requires specific motivation on the grounds of "*xenophobia, distinction or prejudice based on race, color, ethnicity or religion*" for an act to be recognized as terrorism. The investigations indicate the political-ideological motivation and the attempt to weaken the Rule of Law to prevent or restrict the exercise of constitutional powers of those acts of January 8.
- c. Brazil has specific legislation on the subject, emphasizing Law 14,197/2021, which defends the Democratic Rule of Law.

¹ Conectas Human Rights, Homepage, 2023, accessed May 29, 2023, <https://conectas.org/>. Contact: arquias.cruz@conectas.org.

- d. During the creation of the Anti-Terrorism Law in Brazil, the problematic predictions of “political and ideological” motivations were considered of highly criminalizing potential. The text was criticized by the Organization of American States (OAS)² and the United Nations³, which considered that its broad definition could restrict fundamental liberties. After intense pressure from civil society, this item was dropped.
- e. Besides the media, the current Minister of Justice, Flávio Dino⁴, stated that what happened in Brasília on January 8 would be “terrorism,” opening space for expanding the concept.
- f. As previously communicated, in recent years, Brazil has experienced a shrinking context of the democratic space in which a series of legislative proposals (such as Draft Bill 1595/2019) seeks to broaden the definition of terrorism in a generic, broad, and imprecise way falling into the danger of its misuse and misapplication. This is the case with Draft Bill 3283/2021. In several of its propositions, this project, which has been discussed at an accelerated pace and without the participation of civil society, falls into problems already pointed out in other proposals in progress on the subject or items already vetoed in the process of debate and approval of the Law in 2016.
- g. Draft Bill 3283/2021⁵ was recently approved by the Senate’s Public Safety Commission and the Constitution and Justice Commission on a terminating basis. It is⁶, however, unconstitutional. It does not meet the requirements imposed by the Constitution about the principle of criminal taxation, tainting, therefore, the principle of legality, the ultimate foundation of the criminal legal system.
- h. Civil society needs to be heard in this debate. No consultation efforts were made with interested parties.
- i. It should be noted that, during its approval by the Constitution and Justice Commission, Senator Márcio Bittar (União - AC) directly referred to the intention of broadening the concept so that social movements could be classified as “terrorists.” Another moment that should be highlighted is the rapporteur himself, Jorge Kajuru (PSB - GO), who ironically said, “*And I’m sorry for the social movements that are complaining. Sorry, you lost,*” highlighting once again the recognized effects that this legislation may have on civil society activities.

² UOL. Anti-terrorism law threatens to violate convention, says OAS rapporteur. October 27, 2015. Available at: <https://noticias.uol.com.br/ultimas-noticias/agencia-estado/2015/10/27/lei-antiterrorismo-ameaca-violar-convenc-ao-diz-relator-da-oea.htm>

³ OHCHR. Brazil anti-terrorism law too broad, UN experts warn. November 04, 2015. Available at: <https://www.ohchr.org/en/press-releases/2015/11/brazil-anti-terrorism-law-too-broad-un-experts-warn>

⁴ G1. 'This is terrorism, it's coup', says Dino about terrorist acts against the headquarters of the three powers. January 08, 2023. Available at: <https://g1.globo.com/politica/noticia/2023/01/08/dino-invasoes.ghtml>

⁵ Draft Bill 3283/2021. Available at: <https://www25.senado.leg.br/web/atividade/materias/-/materia/149933>

⁶ Public Statement about the risks in approving Draft Bill No. 3,283/2021. Available at: <https://www.conectas.org/wp-content/uploads/2023/04/Ingles-Nota-publica-Projeto-de-Lei-32832021.pdf>

- j. Regarding Draft Bill 272/2016, it was shelved in the Federal Senate, and there is no deadline for it to return to processing.
- k. Regarding Draft Bill 1595/2019, it is ready for voting in the Plenary. The creation of a National Counter-Terrorism Authority (ANC), appointed by the President of the Republic and responsible for implementing the National Counter-Terrorism Policy (under the supervision of the Institutional Security Cabinet of the Presidency of the Republic), referred to by the State as an essential point of the Bill, can serve to create a parallel structure of public security, linked directly to the Presidency of the Republic. Draft Bill 1595 establishes a political police that can act secretly, not foreseen in the constitutional structure of public security in Brazil, subordinated directly to the President of the Republic, who will have broad access to private data and privileged information of citizens and political organizations. The Bill also has the aggravating factor of violating the federal pact by providing for the coordination of the use of state security forces, in confidential actions, without the governors' knowledge.
- l. Civil society organizations fear that the resumption of proposals such as 3283/2021 will strengthen the debate around the other threatening projects we mentioned in the previous contributions to the distinguished Human Rights Committee.
- m. Brazil is also going through the 4th round of the International Financial Action Task Force's (FATF) mutual evaluation process. The FATF mission was in Brazil between the 13th and the 31st of March and evaluated the information presented by the government regarding money laundering and the fight against terrorism. The country's report will be voted on in the body's plenary in October this year.
- n. One of the sensitive points in Brazil's evaluation concerns compliance with Recommendation 8, which deals with the risk of civil society organizations being used for money laundering and terrorist financing. Given the Brazilian situation and the uses and effects of FATF's recommendations already registered in other countries, such as Nicaragua, there is a concern that the government or other state forces, such as the National Congress, will use this process to create obstacles to the natural activity of civil society, interrupting or making activities essential to democratic life unfeasible based on a generalization of the sector, causing problems of access to the banking system, financial exclusion, persecution of NPOs and hardening of legislation and policies.
- o. In this sense, for example, the progress of the analysis of Draft Bill 4953/2016 in the Administration and Public Service Commission (CASP) of the Chamber of Deputies is worrying. This Draft Bill establishes the obligation of civil society organizations (CSOs) to declare, informally, the resources received from abroad or from foreign entities or governments, even if in national currency. The proposal is unfavorable to civil society since all national and international resources received by CSOs are already subject to strict control by the Federal Revenue Service and the Central Bank, like all other Brazilian legal entities. It is redundant and unconstitutional, violating the principle of impersonality that should govern the Public Administration's relations with private actors, as well as the

principles of isonomy and freedom of association, which provides for the non-interference of the State in the functioning of associations, the legal form adopted by more than 90% of CSOs in Brazil. Furthermore, it does not comply with FATF recommendations, which consider that measures related to CSOs must be based on evidence and concrete risk situations.

- p. Attached to this proposal is Bill 736/2022, which aims to establish the “Law on Transparency of Non-Governmental Organizations.” In addition to obliging NGOs to account for the resources received every six months, it also shows fines and suspends the entities' activities. Once again, it is necessary to emphasize that the financial control system of NGOs in Brazil is sufficient, and it is not required to create a transparency law. Bill 736/2022 violates the principle of isonomy, according to which the Central Bank rules do not differentiate CSOs from other legal entities.

Right to Private Life (art. 17)

4. **Paragraph 23** of the List of Issues in relation to Brazil's Third Periodic Report by the Human Rights Committee asks about personal data protection and basic personal data management.

- a. We would like to inform the distinguished Committee that between 2020 and 2022, digital technologies were adopted in an accelerated and disorderly way in managing the Covid-19 crisis, collecting health information, biometric data, and geolocation of the population. Added to this worrying picture, there are failures in the transparency channels of the different spheres of government and the absence of information about these acquisitions, violating the right to information⁷.
- b. In the last few years, based on the justification that they would be used for public security in the fight against organized crime and terrorism, there has been a growth in the acquisition of software and hacking techniques that allow surveillance. Such spending, which occurred in different bodies and federative instances, was centered on acquiring hacking equipment and spy software, violating the rights of freedom of expression, association, privacy, and intimacy. The fragility of control mechanisms and the unwillingness of responsible institutions to monitor the use of these technologies effectively and with civil society participation aggravate this scenario.
- c. Since 2020, reports have revealed the federal government's growing use of vigilantism software. In September of that year, for example, a report by The Intercept⁸ highlighted the functioning of the *Córtex System*, which generates a connection between hundreds of

⁷ ANDRADE, Eduardo Goulart; BIONI, Bruno; CUNHA, Brenda; EILBERG, Daniela Dora; RIELLI, Mariana; SALIBA, Pedro; VERGILI, Gabriela. **Dados Virais**: Legado da COVID-19 nas aquisições de tecnologias pelo Poder Público. 2021. Available at: https://drive.google.com/file/d/1-PmjyYubF65W_8LuOiYR2pwFQjRWEyZ3/view >.

⁸ Intercept. Meet Cortex, a government surveillance system that integrates license plates with labor data. September 21, 2020. Available at: <https://www.intercept.com.br/2020/09/21/governo-vigilancia-cortex/>

databases with confidential and sensitive information from citizens and companies. According to an article in the *Crusoe*⁹, the system monitors at least more than 360 people. It has been used by public entities that do not have any authorization to carry out investigations.

- d. In May 2021, an article on the Antagonista portal and a report on Portal UOL¹⁰ revealed the existence of bidding by the Ministry of Justice and Public Security to acquire a spying tool. The objective would be to hire the Pegasus spy program, developed by the Israeli company NSO Group. Although, after great repercussion, the company withdrew its candidacy, the problem persisted, especially if considered the irregularities in the bidding modality, the precariousness of the technical documents (which prevent the population from knowing the limits of what exactly is being contracted with public money), and the illegality *per se* of the bid object. The contracted solution offered by the company *Harpia Tech* is potentially harmful to the public interest, which makes the investment of public resources in its contracting a highly questionable undertaking. After the Federal Court of Accounts (TCU) suspended the acquisition of the mentioned system in June 2022, the court authorized the resumption of contract¹¹.
- e. In 2022, a new article by The Intercept¹² denounced the *Excel Project*, which aims to provide tools for the administration, especially the Secretariat for Integrated Operations (SEOPI) and the Public Security Secretariats of the States, to analyze data from cell phones seized by court order. These technologies can access almost any device data, including messaging and game apps, deleted information, and private network (VPN) data. The solutions purchased in Excel Project allow the granting of device data, cross-referencing this data, analysis of information in the cloud, including blocked devices and applications, and password cracking.
- f. In March 2023, new accusations were revealed by O Globo¹³, this time regarding a secret system to monitor people by the Brazilian Intelligence Agency (Abin). According to the

⁹ Crusoe. Federal Big Brother. January 01, 2022. Available at: <https://crusoe.uol.com.br/edicoes/195/big-brother-federal/>

¹⁰ UOL. Carlos Bolsonaro intervenes in the purchase of a spy device and creates a military crisis. May 19, 2021. Available at: <https://noticias.uol.com.br/politica/ultimas-noticias/2021/05/19/briga-entre-militares-e-carlos-bolsonaro-racha-organos-de-inteligencia.htm> and UOL. Know who is on the list as possible targets of the Pegasus spy system. July 19, 2021. Available at: <https://www.uol.com.br/tilt/noticias/redacao/2021/07/19/quem-esta-na-mira-do-sistema-de-espionagem-israelense-pegasus.htm>

¹¹ CNN Brazil. TCU releases Ministry of Justice contract for intelligence system. June 08, 2022. Available at: <https://www.cnnbrasil.com.br/nacional/tcu-libera-contrato-do-ministerio-da-justica-para-uso-de-sistema-espiao-pegasus/>

¹² Intercept. Ministry of Justice equips police officers to search cell phones in exchange for data. March 21, 2022. Available at: <https://www.intercept.com.br/2022/03/21/ministerio-da-justica-equipa-policias-para-vasculhar-celulares-em-troca-de-dados/>

¹³ G1. Abin used a secret system to monitor people through cell phones during the Bolsonaro government. March 14, 2023. Available at: <https://g1.globo.com/jornal-nacional/noticia/2023/03/14/abin-usou-sistema-secreto-para-monitorar-pessoas-por-meio-do-celular-no-governo-bolsonaro.ghtml>

report, the *First Mile* program, by the Israeli company Cognyte, was used in the first three years of Jair Bolsonaro's government to monitor people. Without any official protocol, the tool allows controlling 10,000 phone owners every 12 months.

- g. In April 2023, a new article by The Intercept¹⁴ revealed Abin's use of another spying system during Bolsonaro's government, *Augury*, by the American company Team Cymru. This tool allows the continuous digital tracking of citizens, capturing traffic data, navigation details, and access credentials to private accounts and platforms - username and password.
- h. Data from a study conducted by the Recife Institute for Research in Law and Technology (IP.rec) show that spending by the federal and state governments on spy equipment, which allows the extraction of data from cell phones and other devices, increased significantly during Bolsonaro's government¹⁵.
- i. We would also like to highlight to the Committee that no information is available regarding the current status of these contracts and the use of these software.
- j. It is necessary to mention that the lack of transparency regarding these measures and other activities conducted by the government under the excuse of counterterrorism and public security also plays its part in the violation of freedom of expression, due process, and fundamental rights. Therefore, the scenario is very different from what the State presents in its replies, based on Law N.13,709.

Freedom of Expression (arts. 19 y 20)

5. **Paragraph 25** of the List of Issues in relation to Brazil's Third Periodic Report by the Human Rights Committee asks about threats to freedom of expression and the status of the Draft Bill 2630/2020.

5.1 Freedom of the press during the 2022 Elections

- a. First, we would like to inform the distinguished Committee about Brazil's scenario during the 2022 Elections regarding freedom of expression. After the first round, Former Minister of Justice Anderson Torres requested the Federal Police to open an investigation against electoral research institutes. He accused the institutes of committing a crime, as the results differed from the polls of voting intentions¹⁶. The president of the

¹⁴ Intercept. Abin de Bolsonaro used a program that can spy on everything you do on the internet, documents show. April 19, 2023. Available at:

<https://www.intercept.com.br/2023/04/19/abin-comprou-programa-que-pode-espionar-internet/>

¹⁵ Amaral, Pedro; Canto, Mariana; Pereira, Marcos César M. Mercadores da insegurança. Recife, 2022. <https://ip.rec.br/publicacoes/mercadores-da-inseguranca-conjuntura-e-riscos-do-hacking-governamental-no-brasil/>

¹⁶ Folha de São Paulo. Federal Police opens inquiry to investigate research institutes at request of Bolsonaro minister. October 13, 2022. Available at:

<https://www1.folha.uol.com.br/poder/2022/10/pf-abre-inquerito-para-investigar-institutos-de-pesquisas-a-pedido-de-ministro-de-bolsonaro.shtml>

Administrative Council for Economic Defense (Cade) also ordered the opening of an investigation against research institutes, claiming that they were wrong about the results in a similar way, which for him would indicate irregular coordinated conduct between the companies¹⁷.

- b. The government leader in the Chamber of Deputies, Ricardo Barros (PP/PR), presented a Bill to criminalize the publication, up to 15 days before the vote, of voting intention polls that differ from the official result beyond the margin of error. An urgent request for voting on the project was on the agenda of the plenary session of the Chamber of Deputies on October 10, but its deliberation was postponed¹⁸.
- c. The institutes stated that the difference between the polls and the results of the first round of the elections was due to the change in people's choice of candidates on election day to anticipate the second round vote. The president of the Superior Electoral Court's (TSE), Minister Alexandre de Moraes, suspended all investigations against research institutes, alleging that there was a usurpation of the competence of the Electoral Justice, also determining that electoral bodies investigated whether there was an abuse of authority and political power to favor the president's candidacy¹⁹.
- d. Journalists were harassed by supporters of Former President Bolsonaro in Aparecida do Norte (SP), commemorating the Catholic religious festival of Nossa Senhora Aparecida. TV Aparecida employees were threatened and cursed by the group²⁰. On occasion, Bolsonaro's followers also cornered a young man in red clothes (Worker's Party - PT - color)²¹. A TV Globo affiliate cameraman was attacked by supporters of former federal deputy Roberto Jefferson (PTB-RJ) and Jair Bolsonaro in Rio de Janeiro. He was pushed from behind and fell with the camera, hitting his head on the ground, suffering the onset of a seizure²².

¹⁷ G1. Cade president determines opening of inquiry to investigate research institutes. October 13, 2022. Available at: <https://g1.globo.com/politica/noticia/2022/10/13/presidente-do-cade-determina-abertura-de-inquerito-para-investigar-institutos-de-pesquisa.ghtml>

¹⁸ UOL. Congress delays voting on a project that punishes institutes which errors in electoral surveys. October 10, 2022. Available at: <https://congressoemfoco.uol.com.br/area/congresso-nacional/camara-pauta-punicao-a-institutos-que-erram-em-pesquisa-eleitoral/>

¹⁹ UOL. TSE: Alexandre de Moraes suspends investigations into research institutes. October 14, 2022. Available at: <https://noticias.uol.com.br/ultimas-noticias/agencia-estado/2022/10/14/tse-alexandre-de-moraes-suspende-investigacoes-sobre-institutos-de-pesquisa.htm>

²⁰ Estado de Minas. Journalists are harassed by bolsonaristas in Aparecida do Norte. October, 12, 2022. Available at: https://www.em.com.br/app/noticia/politica/2022/10/12/interna_politica,1406463/jornalistas-sao-hostilizados-por-bolsonaristas-em-aparecida-do-norte.shtml.

²¹ Folha de São Paulo. Bolsonaroist Catholics corner a young man in red next to the Basilica of Aparecida. October 12, 2022. Available at: <https://www1.folha.uol.com.br/poder/2022/10/catolicos-bolsonaristas-encurralam-jovem-de-vermelho-ao-lado-da-basilica-de-aparecida-veja-video.shtml>

²² UOL. Globo affiliated cameraman is attacked by Jefferson and Bolsonaro allies. October 23, 2022. Available at: <https://noticias.uol.com.br/ultimas-noticias/agencia-estado/2022/10/23/cinegrafista-de-afiliada-da-globo-e-agredido-por-aliados-de-jefferson-e-bolsonaro.htm#:~:text=De%20Paula%2C%2059%20anos%2C%20foi,Rios%2C%20onde%20passa%20por%20exames.>

5.2 The Draft Bill 2630/2020

- a. Regarding Draft Bill 2630/2020, we would like to inform the distinguished Committee that acts on January 8 were planned via digital platforms and publicized in high-intensity groups on Telegram and WhatsApp. Meta, owner of Facebook and Instagram, and Google, through Youtube, facilitated the live transmission of the violence carried out by the coup plotters on January 8²³.
- b. Immediately after the acts, several pieces of news that infiltrated people produced the shows invaded social platforms²⁴.
- c. In the beginning, the government announced the so-called “Pact for Democracy,” which would have, as one of the Ministry of Justice's proposals, a Provisional Measure that would guide the regulation of platforms on anti-democratic content. Adopting a hasty posture without dialogue with civil society signaled concern about possible responses from a unilateral process²⁵.
- d. Fundamental duties must be established for digital platforms and public and private agents on the Internet, such as transparency rules and due process in content moderation. Still, the fight against these practices cannot justify adopting vigilantism control or putting too much power over public debate in the hands of digital platforms or public entities²⁶.
- e. In March, the government sent its first suggestions on platform regulation to federal deputy Orlando Silva (PCdoB-SP), rapporteur for Draft Bill 2630/2020²⁷.

²³ Folha de São Paulo. Facebook will remove content supporting actions that took place on Sunday in Brasilia. January 9, 2023. Available at:

<https://www1.folha.uol.com.br/poder/2023/01/facebook-removera-conteudos-de-apoio-a-acoes-ocorridas-no-domingo-em-brasilia.shtml>; Sum of US. **Urgent Report: How Meta and Google enabled and profited from the terrorist attacks in Brazil's Capital.** 2023. Available at: https://s3.amazonaws.com/s3.sumofus.org/images/Research_SumOfUs_Brazilian_Riots_January_11th_2023.pdf and NETLAB. **Pro-cup ads in the Meta Library.** 2023. Available at:

[https://uploads.strikinglycdn.com/files/3d568249-328e-47ef-b5c1-de18a958b2ae/\[0123\]%20Pro-Coup%20Ads%20in%20the%20Meta%20Ads%20Library%20\(1\).pdf](https://uploads.strikinglycdn.com/files/3d568249-328e-47ef-b5c1-de18a958b2ae/[0123]%20Pro-Coup%20Ads%20in%20the%20Meta%20Ads%20Library%20(1).pdf)

²⁴ Folha de São Paulo. Bolsonaroist groups intensify false theory of infiltrators and accuse military of omission. January 9, 2023. Available at:

<https://www1.folha.uol.com.br/poder/2023/01/grupos-bolsonaristas-intensificam-narrativa-de-infiltrados-e-acusam-militares-de-omissao.shtml> and Folha de São Paulo. In groups, Bolsonaroistas celebrate the attack on Esplanada and blame the left. January 09, 2023. Available at: <https://www1.folha.uol.com.br/colunas/painel/2023/01/em-grupos-bolsonaristas-celebram-ataque-na-esplanada-e-culpam-esquerda.shtml>

²⁵ Folha de São Paulo. Lula government's plan of regular the coup on networks via MP is the target of criticism for trampling. January 27, 2023. Available at:

<https://www1.folha.uol.com.br/poder/2023/01/plano-do-governo-lula-de-regular-golpismo-nas-redes-via-mp-e-alvo-de-criticas-por-atropelo.shtml>.

²⁶ Direitos na Rede. Open letter: Platform regulation is necessary, but requires broad, plural and in-depth debate. 2023. Available at:

<https://direitosnarede.org.br/2023/01/27/regulacao-de-plataformas-e-necessaria-mas-requer-debate-amplo-plural-e-aprofundado/>

²⁷ Draft Bill 2630/2020. Available at:

https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=1909983

- f. After a series of attacks on schools, the Ministry of Justice issued Ordinance 351, which adopted, in practice, the regime of notice and takedown, which was rejected by the National Congress when the Marco Civil da Internet (Civil Rights Framework for the Internet) was approved (Law 12,965/2014). The ordinance is problematic since updates and improvements to this discussion, based on the Civil Rights Framework for the Internet, must be carried out by the National Congress and via the adoption of legal, democratic instruments. By proposing that digital platforms also take measures to share data that managed to identify the user, it legitimizes and encourages general monitoring of content and violates the principle of minimizing the collection of personal data of the Brazilian General Data Protection Law (LGPD)²⁸.
- g. Draft Bill 2630/2020 is ready to be voted. Digital Platforms are firmly against the Bill and are being accused of abuse of economic power because they are using their interfaces to propagate messages against the proposal. Google, for example, "when searching for terms on the subject of 'PL 2630', taking those who query directly to the link of a blog post by Google itself, with numerous criticisms to the Project," said a Netlab report²⁹. Minister Alexandre de Moraes determined that the Federal Police take the testimonies of the presidents of Big Techs on these accusations³⁰.

Right to peaceful reunion; Right to freedom of unionization and association, and Organizations of the Civil Society (Articles 19, 21, and 22)

6. **Paragraph 26** of the List of Issues in relation to Brazil's Third Periodic Report by the Human Rights Committee asks about threats to the right of peaceful reunion and association.

- a. We would like to inform the distinguished Committee on the initiative of Senator Plínio Valério (PSDB-AM), the request to install the Parliamentary Committee of Investigation (CPI) of non-governmental organizations (NGOs) was read in the Senate's Plenary on April 4³¹. The CPI will have 130 days to investigate the release of public funds to NGOs and civil society organizations of public interest (OSCIPs).

²⁸ Direitos na Rede. Crisis in schools: the response of the Brazilian State must start from a joint effort of all the Powers. 2023. Available at:

<https://direitosnarede.org.br/2023/04/17/crise-nas-escolas-resposta-do-estado-brasileiro-deve-partir-de-um-esforo-conjunto-de-todos-os-poderes/>

²⁹ NETLAB is the Laboratory of Internet and Social Media Studies from the Federal University of Rio de Janeiro (UFRJ). Access the report: NETLAB. **The war of the platforms against PL 2630**. 2023. Available at: <https://uploads.strikinglycdn.com/files/f4c47155-dab6-48ea-8371-73146abdfac7/The%20war%20of%20the%20platforms%20against%20the%20PL%202630%20-%20NetLab%20UFRJ.%20April%202023.pdf>

³⁰ CNN Brazil. STF determines that presidents of Google, Meta, Spotify, and Brasil Paralelo give testimonies to the Federal Police. May 02, 2023. Available at:

<https://www.cnnbrasil.com.br/politica/stf-determina-que-presidentes-de-big-techs-prestem-depoimentos-a-policia-federal/>

³¹ Request to install the NGOs CPI. Available at:

https://legis.senado.leg.br/sdleg-getter/documento?dm=9254023&ts=1681857479077&disposition=inline&_gl=1*185gw95*_ga*NTQxNzgyOTkyLjE2NjE4NjA4NDU.*_ga_CW3ZH25XMK*MTY4MTkxNjM2OS4xMS4xLjE2O DE5MTY0ODAuMC4wLjA

- b. The request is broad and needs to clearly explain the exact fact to be investigated, as presented in an opinion by former Supreme Federal Court (STF) minister Ayres Britto. It could serve to attack NGOs that defend the Amazon biome and its people³². In an audit by the TCU, the court stated that the Amazon Fund works perfectly well without facts that justify carrying out a CPI.
- c. Initiatives like this are familiar in the National Congress. There have already been two NGO CPIs in the Federal Senate (2001-2002 and 2007-2010). The number of irregularities verified in these CPIs was negligible compared to the universe of organizations and the intensity of the investigations. The effects of lack of confidence and stigmatization of the sector were profound and persistent³³.
- d. In addition, in recent years, the production of data on organizations, including by the government itself, has improved, and the widespread idea that NGOs do not have control or are not submitted to inspection mechanisms is unfounded. Investigating all sectors is inadequate and may undermine public confidence in organizations that play a relevant social and economic role in democracy.
- e. In April, the president of the Chamber of Deputies also read the request to create the CPI of the Landless Workers Movement (MST), the most significant Brazilian social movement. The work of the CPI should start by the end of May. The agribusiness people aim to investigate who finances the MST and other movements linked to the land issue. In the MST's CPI, agribusiness people must have between 15 and 17 of the 27 holders, all with a strong argument against the invasion of private properties³⁴.

Participate in Public Affairs (Articles 25 and 26)

7. **Paragraph 28** of the List of Issues in relation to Brazil's Third Periodic Report by the Human Rights Committee asks about participation in public affairs, political violence, and human rights violations that generate a deterrent effect on political representation.

7.1 *Political Violence*

- a. Although the State indicated efforts to combat political violence, a survey by the Datafolha Institute, which heard more than 2,000 male and female voters, showed that

³² O Globo. Pacheco rejects protest against former STF minister and paves the way for CPI of NGOs. April 04, 2023. Available at:

<https://oglobo.globo.com/blogs/lauro-jardim/post/2023/04/pacheco-rejeita-parecer-contrario-de-ex-ministro-do-stf-e-abre-caminho-para-cpi-das-ongs.ghtml>

³³ Souza, Aline Gonçalves; Pannunzio, Eduardo. The requirements of the Amazon CPI in 2019: what the former NGO CPIs have to teach. 2019. Available at:

https://bibliotecadigital.fgv.br/dspace/bitstream/handle/10438/28072/Workingpaper_CPI_24.09.19.pdf?sequence=5&isAllowed=y

³⁴ O Globo. In crisis with agribusiness, Lula government seeks strategy for MST CPI. May 15, 2023. Available at:

<https://oglobo.globo.com/blogs/malu-gaspar/post/2023/05/em-crise-com-o-agro-governo-lula-busca-estrategia-para-cpi-do-mst.ghtml>

67.5% of Brazilians feared being physically attacked because of their vote³⁵. Still, according to this institute, in another survey, 1 in 3 voters (34%) were very afraid of some act of political violence during the campaign for the second round, and 29% reported being a little scared. 43% of women were terrified compared to 24% of men. In the Northeast, 41% of people feared political violence³⁶.

- b. Amnesty International's report "Political Violence: Human Rights Violations in the 2022 Election Period" pointed out that, in Brazil, at least one human rights violation occurred every two days in the last three months of the electoral period. Between July 2nd and September 29th, 42 human rights violations were recorded in 17 of the 26 Brazilian states³⁷.
- c. During the campaign, male and female candidates canceled rallies out of fear³⁸. Deputy Duda Salabert, a trans woman elected by Minas Gerais, voted wearing a bulletproof vest, following the requirement of the security team that escorts her. She received nine threats, including a link to a website with footage of how the attackers wanted to kill her³⁹.
- d. This scenario guided the TSE decision to restrict the carrying of weapons in a 100-meter restriction from the polling places between the 48 hours before and the 24 hours after the election and the STF's decision to suspend parts of President Bolsonaro's decrees that would facilitate the access to arms and ammunition in Brazil⁴⁰. In addition, the

³⁵ O Globo. Vote of silence: why candidates are avoiding talking about politics. September 15, 2022. Available at: <https://oglobo.globo.com/politica/eleicoes-2022/noticia/2022/09/voto-de-silencio-por-que-os-eleitores-estao-evitando-falar-de-politica.ghtml>

³⁶ Folha de São Paulo. Datafolha: 1 in 3 guests are very afraid of acts of violence in the second round. October 08, 2022. Available at: <https://www1.folha.uol.com.br/poder/2022/10/datafolha-1-em-cada-3-eleitores-tem-muito-medo-de-atos-de-violencia-no-segundo-turno.shtml>

³⁷ Amnesty Internacional. Amnesty International Brazil documents episodes of political violence during the 2022 election period. 2022. Available at: <https://anistia.org.br/informe/anistia-internacional-brasil-documenta-episodios-de-violencia-politica-no-periodo-eleitoral-2022/>

³⁸ Some examples: i) G1. Guilherme Boulos is threatened with a weapon during a campaign in São Bernardo do Campo, in Greater SP. September 10, 2022. Available at: <https://g1.globo.com/sp/sao-paulo/eleicoes/2022/noticia/2022/09/10/guilherme-boulos-e-ameacado-com-armaduradurante-campanha-em-sao-bernardo-do-campo-na-grande-sp.ghtml>; ii) G1. Haddad says he received 'explicit threats' and cancels agenda in Presidente Prudente on September 7. September 09, 2022. Available at: <https://g1.globo.com/sp/sao-paulo/noticia/2022/09/06/haddad-diz-que-recebeu-ameacas-explicitas-e-cancela-agenda-de-7-de-setembro-em-presidente-prudente.ghtml>; iii) Brasil de Fato. Haddad cancels rally in Ribeirão Preto, after PF alert of lack of security. September 16, 2022. Available at: <https://www.brasildefato.com.br/2022/09/16/haddad-cancela-comicio-em-ribeirao-preto-apos-alerta-da-pf-de-falta-de-seguranca>; iv) UOL. Bolsonaro supporters fire insults at northeasterners for voting for Lula. October 02, 2022. Available at: <https://noticias.uol.com.br/ultimas-noticias/bbc/2022/10/02/apoiadores-de-bolsonaro-disparam-ofensas-a-nordestinos-por-votos-em-lula.htm>

³⁹ UOL. After threats, Duda Salabert votes wearing a bulletproof vest in Minas Gerais. October 02, 2022. Available at: <https://noticias.uol.com.br/eleicoes/2022/10/02/duda-salabert-vai-votar-colete-a-prova-balas-em-bh.htm>

⁴⁰ TSE. TSE prohibits carrying weapons in polling places on election day. August 30, 2022. Available at: <https://www.tse.jus.br/comunicacao/noticias/2022/Agosto/ao-responder-a-consulta-tse-proibe-porte-de-armas-nos-locais-de-votacao-no-dia-da-eleicao> and Folha de São Paulo. Justice Claims Risk of Violence and Suspends Bolsonaro's Gun Decrees. September 06, 2022. Available at:

legislation prohibits CACs (collectors, shooters, and hunters) from carrying weapons and ammunition on election day and in the 24 hours before and after the elections. However, on October 29, Bolsonaroist federal deputy Carla Zambelli chased a black man, reportedly a supporter of Lula, in the streets of São Paulo with a gun in her hand after arguing with him⁴¹. After the incident, the deputy was the subject of an Electoral Judicial Investigation Action, which reached the Supreme Federal Court⁴². The STF suspended the deputy's gun possession in February this year.

7.2 Election harassment

- a. We would like to inform the distinguished Committee that during the 2022 Elections, the Public Ministry of Labor (MPT) received 334 complaints of cases of electoral harassment - when employers coerce employees to vote for a particular candidate. A survey by the MPT, released on October 17, pointed out a jump in complaints of electoral harassment after the first round (from 45 to 334). Most of them were registered in the southern region of the country. Minister Alexandre de Moraes, the president of the TSE, said he was seeking to align himself with the MPT and the Electoral Public Ministry to combat this type of practice⁴³.

7.3 Access to polling places

- a. Before the first round of the 2022 Elections, President Jair Bolsonaro's campaign requested the TSE to limit the decision of Minister Luís Roberto Barroso of the STF that public transport services were at normal levels on election days and that city hall had the conditions to provide free public transport. TSE Minister Benedito Gonçalves considered the request an absurd⁴⁴.
- b. On October 19, the STF formed a majority of Ministers to authorize city halls and bus companies to offer free public transport in the second round of the elections⁴⁵.

<https://www1.folha.uol.com.br/internacional/en/brazil/2022/09/justice-claims-risk-of-violence-and-suspends-bolsonaros-gun-decrees.shtml>.

⁴¹ UOL. Carla Zambelli chases and points a gun at a black man in São Paulo. October 29, 2022. Available at:

<https://noticias.uol.com.br/politica/ultimas-noticias/2022/10/29/zambelli-arma-rua-sp.htm>

⁴² Folha de Pernambuco. Carla Zambelli is the target of an Electoral Judicial Investigation Action filed by Glauber and Sâmia. December 16, 2022. Available at: <https://www.folhape.com.br/politica/xxxx/250680/>

⁴³ CNN Brazil. Moraes says he intends to meet with MP to align the fight against electoral harassment. October 13, 2022. Available at:

<https://www.cnnbrasil.com.br/politica/moraes-diz-que-pretende-se-reunir-com-mp-para-alinhar-combate-ao-assedio-eleitoral/> and Folha de São Paulo. Electoral harassment complaints multiply by 7 after 1st round, says MPT.

October 18, 2022. Available at:

<https://www1.folha.uol.com.br/mercado/2022/10/denuncias-de-assedio-eleitoral-aumentam-mais-de-7-vezes-apos-1o-turno-diz-mpt.shtml>

⁴⁴ UOL. Bolsonaro asks for transport limit in the elections: 'Absurd', says minister. October 01, 2022. Available at:

<https://noticias.uol.com.br/eleicoes/2022/10/01/ministro-tse-chama-de-absurdo-pedido-campanha-bolsonaro-transporte.htm>

⁴⁵ CNN Brazil. The majority of the STF supports the release of free passes on election day. October 19, 2022.

Available at:

<https://www.cnnbrasil.com.br/politica/stf-forma-maioria-para-garantir-gratuidade-do-transporte-publico-no-2o-tur-no/>

- c. We would like to inform the distinguished Committee that on the day of the 2nd round, the Federal Highway Police (PRF) organized a series of blitzes that caused traffic and delays for citizens who traveled to the polling places. The PRF failed to comply with a court decision that determined that this type of approach should be avoided not to harm voters on the way to the polls. The then general director of the PRF, Silvinei Vasques, a supporter of Bolsonaro, carried out hundreds of blockades focusing on vans and buses, mainly in the country's northeast region. Therefore, the northeast region, in which the then-candidate Lula had proportionally more support, was the most affected, with almost 300 approaches. Due to the blockages, some drivers arrived late at their polling places, which made the Superior Electoral Court extend the time for people to vote and ask the PRF to stop their operations⁴⁶.

7.4 Marielle Franco's case

- a. Regarding updated information on Marielle Franco and Anderson Gomes' case, in February 2023, the new Minister of Justice and Public Security, Flávio Dino, ordered the initiation of an investigation at the Federal Police, intending to deepen the investigations that are already being carried out by the Public Ministry of Rio de Janeiro (MPRJ) and by the Civil Police.
- b. In five years, the command of the investigations was changed several times. While the MPRJ already had three different groups of prosecutors in charge of the case, in the Civil Police, five delegates already headed the investigations.
- c. In May 2023, reserve military and former candidate for state deputy Ailton Barros (PL-RJ) said – in an audio message sent to Lieutenant Colonel Mauro Cid, former assistant to Jair Bolsonaro – that he knows who ordered the murder of Marielle Franco (PSOL-RJ), in 2018⁴⁷.
- d. Also in May, the Federal Police task force assisting in investigating the murder of Marielle Franco and Anderson Gomes found possible crimes committed by the Civil Police of Rio de Janeiro in conducting the investigation. The Federal Police shows that some of the prisoners involved in the case's investigation maneuvered to lead the diligence into dead ends and lead to error⁴⁸.

⁴⁶ UOL. Electoral blitz: PRF paid more off-duty agents in venues where Lula won. April 17, 2023. Available at: <https://noticias.uol.com.br/politica/ultimas-noticias/2023/04/17/bltize-eleicao-operacao-prf-estados-segundo-tur-no.htm>

⁴⁷ G1. In a message to Mauro Cid, the military said he knew who ordered Marielle killed: 'I know the whole d****'. May 03, 2023. Available at: <https://g1.globo.com/politica/noticia/2023/05/03/em-mensagem-a-mauro-cid-militar-disse-saber-quem-mandou-matar-marielle-sci-a-p-toda.ghtml>

⁴⁸ Metropoles. PF investigates possible crimes by the Civil Police of RJ in the investigation of the Marielle case. May 21, 2023. Available at: <https://www.metropoles.com/colunas/guilherme-amado/pf-encontra-possiveis-crimes-da-policia-civil-do-rj-em-investigacao-do-caso-marielle>