

# RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

PARLIAMENTARY OBSERVATORY OF THE UNIVERSAL PERIODIC REVIEW<sup>1</sup>

## RECOMMENDATIONS TO BRAZIL

### 3RD CYCLE OF THE UNIVERSAL PERIODIC REVIEW (2017 - 2021)

Recommendation	Assessment
56. Ensure that its Anti-Terrorist Legislation from 2016 corresponds to international human rights standards (Egypt)	✘
57. That anti-terrorism law combats only terrorist groups and does not consider human rights defenders (Iraq)	✘
58. Adopt a code of conduct based on international human rights standards in order to define specific conditions for the use of force by law enforcement officials during protests and riots (Slovakia)	↑
59. Strengthen measures to prevent abuses by some law enforcement officials, including through providing appropriate human rights training (Rwanda)	↑
123. Strengthen civil society to participate in humanitarian assistance and in major sports events (Sudan)	↓

Caption: ↑ In progress ↓ In retrogression ✘ Not fulfilled



<sup>1</sup> The Observatory is a government mechanism to monitor the effectiveness of the recommendations made to Brazil in order to improve our human rights situation. It is a partnership between the House of Representatives and the United Nations in Brazil (UN Brazil)

# RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY AND ASSOCIATION

They are part of a set of **fundamental rights** guaranteed by the Constitution and their free exercise is a premise to characterize a **democratic** system

The **RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY** covers all forms of expression of thought, whether verbal, written, corporal or symbolic, and includes both street demonstrations and journalistic production (freedom of the press), artistic and academic

The **RIGHT TO ASSOCIATION OR ORGANIZATION** ensures that any person can organize with others to achieve common goals

## LEGISLATION ON THE MATTER

CF/88

**Art. 5°**

(...)

IV - the manifestation of thought is free, and anonymity is prohibited;  
IX - the expression of intellectual, artistic, scientific and communication activity is free, regardless of censorship or license

XVI - all people may meet peacefully, without weapons, in places open to the public, regardless of authorization, provided that they do not frustrate another meeting previously called at the same location, and prior notice is required only to the competent authority.

XVII - there is full freedom of association for lawful purposes, with paramilitary nature prohibited.

**Art. 220** - The manifestation of thought, creation, expression and information, in any form, process or vehicle shall not be subject to any restriction, subject to the provisions of this Constitution.

(...)

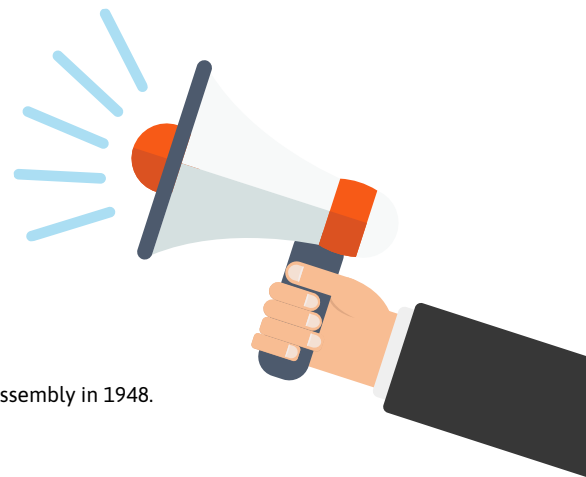
§ 2 Any censorship of a political, ideological and artistic nature is prohibited.

UNIVERSAL  
DECLARATION  
OF HUMAN  
RIGHTS <sup>2</sup>

**Art. 18** - Everyone has the right to freedom of thought, conscience and religion; this right includes the freedom to change religion or belief and the freedom to manifest that religion or belief, by teaching, practice, worship and observance, alone or collectively, in public or in private.

**Art. 19** - Everyone has the right to freedom of opinion and expression; this right includes the freedom, without interference, to have opinions and to seek, receive and transmit information and ideas by any means, regardless of borders.

**Art. 20** - Everyone has the right to freedom of peaceful assembly and association.



<sup>2</sup> Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948.

## OTHER FORMAL SOURCES

**International Covenant on Civil and Political Rights**  
Articles 19, 21 and 22

**American Convention on Human Rights**  
(Pact of San Jose, Costa Rica)  
Articles 13, 15, & 16)

**Declaration of Principles on Freedom of Expression**

**UN Human Rights Committee General Comment No. 37**

## ANTI-TERRORISM LAW - LAW NO. 13.260/2016

Regulates on terrorism, deals with investigative and procedural provisions and reformulates the concept of what constitutes a terrorist organization, among others.



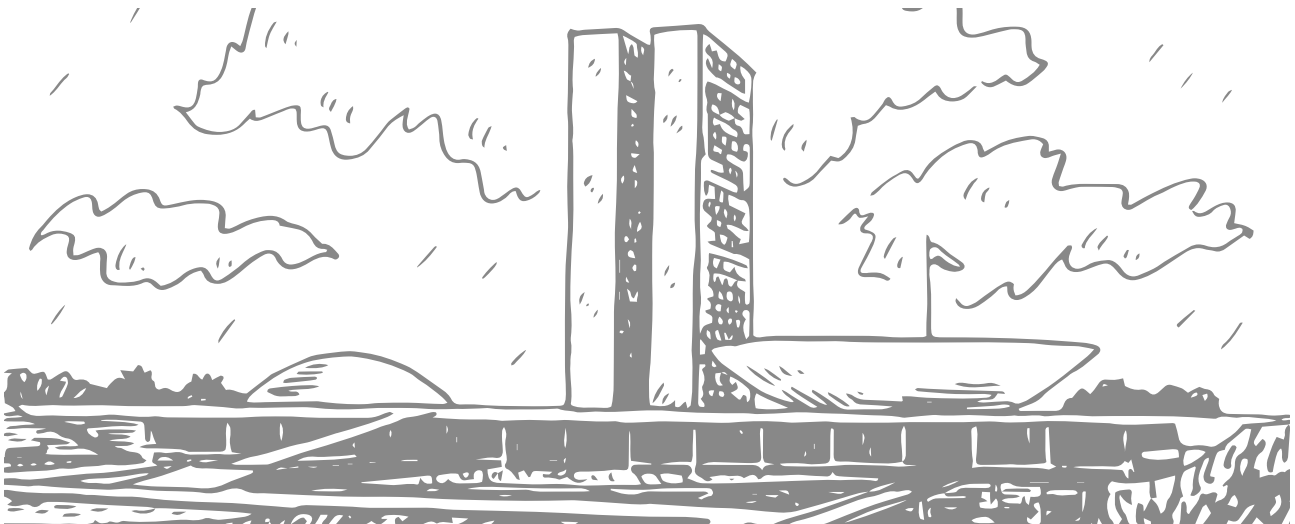
Criticism of the Anti-Terrorism Law

Considering the text content of the law, it gives leeway to be used in repressing social movements, as there would be an imprecise definition of what terrorism is and disproportionate penalties stipulation and could be characterized as a setback in terms of human rights.

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## CONSEQUENCES OF ITS PROMULGATION

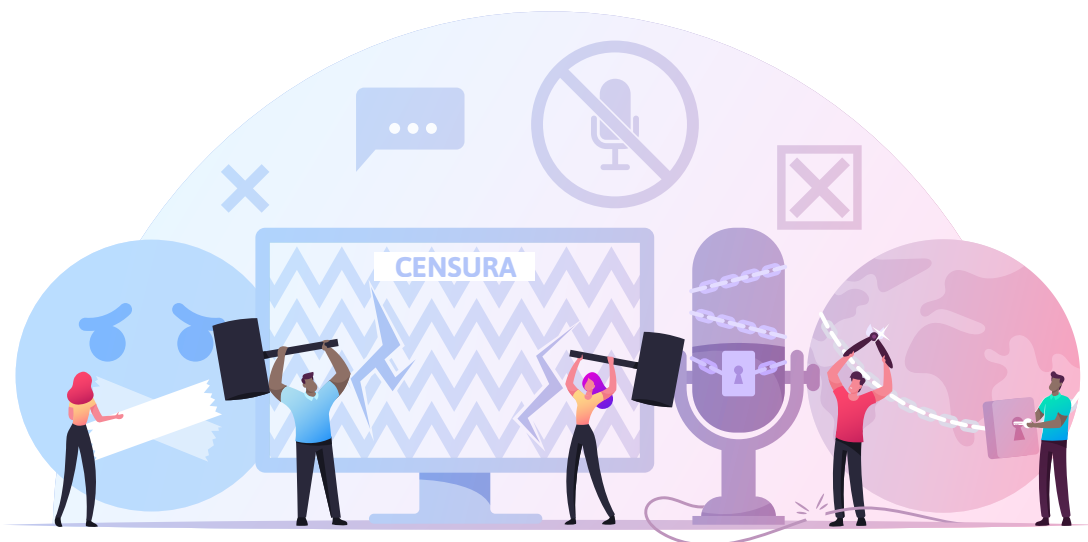
- **2019** – Bill No. 1.595/2019 was presented, which proposed stricter anti-terrorist measures, making it possible to criminalize social movements. The matter advanced in 2021 with the establishment of a special committee in the House of Representatives to discuss the Bill and the approval of the rapporteur's opinion in the same year. At the moment, the bill is ready to be considered in the plenary of the House of Representatives;
- **2021** – The Report on the Situation of Human Rights in Brazil, presented by the Inter-American Commission on Human Rights (IACHR), mentions the concern “with the progress at Brazilian Congress, of bills aimed at making changes to the Anti-Terrorist Law”, sanctioned in 2016.



<sup>3</sup> See: <http://www.justifying.com/2016/03/18/lei-antiterrorismo-sancionada-por-dilma-sofre-criticas-de-juristas-e-movimentos-sociais/> and <https://www.migalhas.com.br/depeso/344670/a-lei-antiterrorismo-brasileira-e-os-riscos-para-a-democracia>. Accessed on: 8/24/2021.

# PRESS FREEDOM

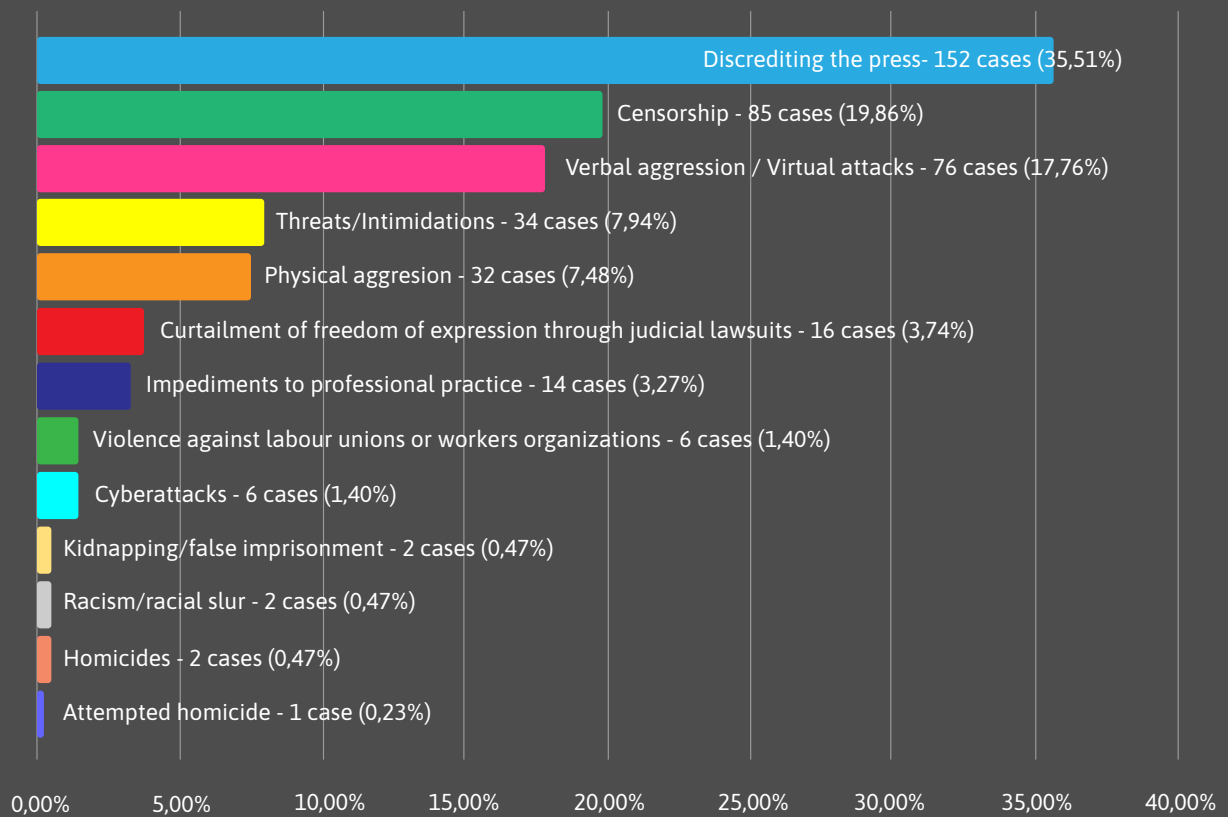
Sources	Conclusions
<b>Art. 19</b>	The <a href="#">Global Expression Report</a> (2020) points out that the practice of “harassment, censorship and persecution of journalists and communicators through statements by authorities, incitement to hate networks and harmful and dubious judicial processes”, along with academic freedoms undergoing increased curtailment, among others, has contributed to reducing the freedom of expression in the country.
<b>Brazilian Association of Radio and Television Broadcasters (Abert)</b>	The <a href="#">Report published in 2021</a> considers that Brazilian journalism has suffered “constant attempts at intimidation, threats and even physical aggression, in addition to virtual lynching”, and is ranked at the 107th position in the world press freedom index – the worst in the country since when it entered the ranking in 2002.
<b>National Federation of Journalists (Fenaj)</b>	The <a href="#">2020 Report</a> recorded an increase in aggression against journalists, stating that this has been the most violent year for these professionals since 1990. There were 428 cases of violence, 105.77% more than the already alarming number of 208 occurrences recorded in 2019.
<b>Reporters Without Borders Organization (RSF)</b>	The <a href="#">January 2021 balance</a> recorded 580 cases of attacks on journalists and press agencies in the country. According to the organization, high level authorities accounted for 85% of attacks against the press in 2020, a topic highlighted in the aforementioned balance, which also records sexist attacks on women journalists, public humiliation of press professionals and abusive proceedings against journalists and the media.
<b>Inter-American Commission on Human Rights (IACHR)</b>	The <a href="#">Report on the Situation of Human Rights in Brazil published in November 2018</a> does not focus on the issue of freedom of the press. It only mentions a concern with claims of “a series of criminal prosecutions and persecutions, invoking crimes such as contempt and defamation against journalists, human rights activists and protesters” and that “civil society organizations reported that there was an excessive use of the law of contempt by law enforcement agents against these people to criminalize legitimate expressions within the framework of a democratic society”.





## OTHER COLLECTED DATA

### Distribution of cases per type of violation (Fenaj)



Homicides accounted for (Fenaj)

Lourenço Veras

Edney Menezes



# FREEDOM OF EXPRESSION IN UNIVERSITIES

## POINTS OF CONCERN - IACHR REPORT



The possible restrictions “on freedom of expression and academic freedom experienced by teachers at all levels of education given threats received or being denounced to authorities due to the content of their classes”.



The possibility of approving Bill No. 867/2015, attached to Bill No. 7.180/2014, and which proposes to create the “Schools without Parties Programme”, in addition to others in progress in state legislative assemblies and council chambers in different parts of the country.



The police and electoral inspectors actions carried out in universities during campaigns for municipal elections in 2020 in at least nine states “to remove posters and other forms of expression, on the grounds that they involved irregular electoral propaganda”, but were subsequently suspended by a Supreme Court decision.



The prohibition by the Electoral Court, in 2018, of anti-fascist protests that were called in different cities by university students.



In the 2019 report "Free to think" by the non-profit organization Scholars at Risk (SAR), based at the University of New York, Brazil appears as the stage for "episodes that violate the right to freedom of expression and the implementation of critical thinking in academia". Since 2017, at least 41 Brazilian teachers have sought help from the organization due to political persecution.



In 2019, the National Union of Professors from Higher Education Institutions (Andes-SN) published a note against the persecution and attacks on the freedom of thought of Professors in federal public universities.



# FREEDOM OF PEACEFUL ASSEMBLY, ASSOCIATION AND THE CONDUCT OF LAW ENFORCEMENT OFFICIALS

## IACHR REPORT (2021)

The report records cases of **people injured** by rubber bullets during demonstrations and people arrested on the occasion of their practice of freedom of association and social protests

It also notes an increased presence of the **military police** at protests, **dispersing and intimidating demonstrators**

It exposes **restrictions on the freedom of expression promoted by judicial decisions** “that prevent the continuity of artistic demonstrations, based on a concept of public morality that is incompatible with a democratic society”

The IACHR has been notified of the **continued existence of restrictive laws** and the **use of lawsuits to limit** the holding of demonstrations and that “criminal or administrative investigations into these violations are infrequent and they tend to remain unpunished”





## REPORT ARTICLE 19 (2019)

According to the Report, "police repression has merged with other initiatives to limit freedom of expression and the right to peaceful assembly (...). The resulting panorama is protest criminalization and it relates to a more general scenario of **setbacks in guaranteeing freedoms and basic rights**, with reduced spaces for participation and occupation of public space, and the weakening and dismantling of the country's institutions"

The Report notes that there are about **70 proposals restrictive to the right to peaceful assembly** in the country that are in progress with objectives such as "the creation of new crimes, the hardening of sanctions for existing crimes and the regulation of the right to peaceful assembly", which is replicated at the state and municipal levels as well

It adds that the actions of the Executive to restrict the right to peaceful assembly occur through the **refining of the methods of law enforcement repression**, with the acquisition of "armored vehicles, trucks with water jets, robocop suits, among others, and by the development and application of new policing tactics"

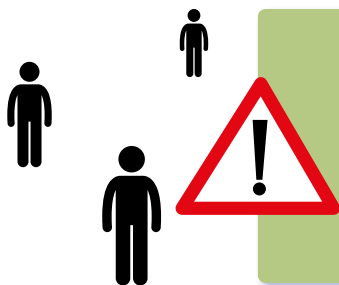
With regard to the **justice system**, it indicates a bias in **protest criminalization** by the refusal of "requests aimed at guaranteeing freedom of peaceful assembly or the reparation of violations committed in this context", where claims are disregarded due to inconsistencies; protesters being convicted ; "criminal judicial decisions during investigations", among others

It reports many cases of law enforcement officials whose **conducts directly violate human rights**. The training of military police, responsible for ostensive policing, occurs in each state **without uniformity** in such training courses





Also according to the Inter-American Commission on Human Rights (IACHR), Brazil has already been condemned by the Inter-American Court to adopt measures of **reparation** and **non-repetition** due to its **use of the judicial and police apparatus for repressing social movements**. However, the Commission “received new complaints about this type of case, especially in relation to social movements defending **access to land and housing**”. For example: the black singer, Janice Ferreira Silva, Preta Ferreira, was arrested in São Paulo.



Regarding **strengthening civil society** to participate in humanitarian assistance, no programmes were found that indicate enactment. In 2019, the federal government **extinguished** several councils and social participation bodies and **limited** the performance of others through Decree No. 9.759/2019.

<sup>4</sup>HDI Cut, Escher Case and Others vs Brazil. Judgment of July 6, 2009. IACHR (2021), p. 178.

## LEARN MORE



### Full report – Right to Peaceful Assembly and Association

- [Public Hearing held on 3/9/21](#)
- [Report on the hearing](#)
- [Parliamentary Observatory of the Universal Periodic Review](#)