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**Submission by CIVICUS: World Alliance for Citizen Participation,
NGO in General Consultative Status with ECOSOC
And
Instituto Igarapé,
NGO in General Consultative Status with ECOSOC**

**CIVICUS: World Alliance for Citizen
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1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 180 countries throughout the world.
- 1.2 Instituto Igarapé is an independent think-and-do-tank focused on the areas of public, climate and digital security and the consequences for democracy. Its objective is to propose solutions and partnerships for global challenges through research, new technologies, communication and influence on public policies.
- 1.3 In this submission, the two organisations examine the Brazilian Government's compliance with 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 the freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in May 2017. To this end, we assess Brazil's implementation of recommendations received during the 3rd UPR cycle relating to these issues and provide a number of follow-up recommendations.
- 1.4 During the 3rd UPR cycle, the Brazilian Government received 17 recommendations relating to the space for civil society (civic space). All 17 were accepted. However, an evaluation of a range of legal sources and human rights documentation addressed in this submission demonstrates that Brazil has not implemented 14 of the recommendations. Only one recommendation was fully implemented. The government has persistently failed to address unwarranted restrictions on civic space since its last UPR examination. Acute implementation gaps were found with regard to the protection of HRDs and journalists.
- 1.5 We are deeply concerned by the rapid deterioration of the freedom of expression through the use of legal and extra-legal instruments to intimidate, harass, criminalise and silence journalists, HRDs and government critics.
- 1.6 We are further alarmed by the unrelenting violence against HRDs and journalists. Attacks continue with impunity as the environment for civil society worsens, with the government unilaterally reducing social participation in policy-making and lawmakers proposing reforms that could criminalise civil society work.
- 1.7 As a result of these issues, civic space in Brazil is currently classified as 'obstructed' by the CIVICUS Monitor, indicating that the space for civil society is constantly undermined.¹

¹ CIVICUS Monitor: Brazil, 2021, <https://monitor.civicus.org/country/brazil/>.

- Section 2 of this submission examines Brazil's implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of association.
- Section 3 examines Brazil's implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines Brazil's implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, media freedom and access to information.
- Section 5 examines Brazil's implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
- Section 6 contains recommendations to address the concerns raised and advance implementation of recommendations under the 3rd cycle.
- An annex on the implementation of 3rd cycle UPR recommendations related to civic space is in Section 7.

2. Freedom of association

- 2.1** During the 3rd UPR cycle, Brazil received two recommendations on the right to the freedom of association and creating an enabling environment for CSOs. The government accepted both recommendations, committing to ratifying the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and to strengthening 'civil society to participate in humanitarian assistance and in major sports events'.² Brazil has not implemented either recommendation.
- 2.2** It has not ratified ILO Convention No. 87.³ This would require amendment of Brazil's Constitution, which prohibits the existence of more than one labour union for the same professional category in a given territory.⁴ More generally, since the last review the legitimacy of civil society has been consistently questioned by the authorities while the environment for civil society's work has grown more hostile.
- 2.3** Articles 5, 8 and 37 of the Brazilian Constitution guarantee the right to the freedom of association.⁵ Moreover, article 22 of the International Covenant on Civil and

² 136.17 and 136.123, A/HRC/36/11.

³ Ratifications of C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO::P11300_INSTRUMENT_ID:312232.

⁴ Bills on the matter have been proposed but not moved forward in Congress. E.g. PEC 369/2005, <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=277153>; PEC 161/2019, <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2224476>.

⁵ Brazilian Constitution, 1988: http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm.

Political Rights (ICCPR), to which Brazil is a state party, also guarantees the freedom of association.

2.4 However, Brazil's anti-terrorism legislation (Law No. 13.260, 2016) employs overly broad terms to define terrorism.⁶ While the text is clear in excluding the law's application to CSOs and political demonstrations aimed at defending rights, its vague provisions could still be used to criminalise legitimate activities.⁷ Bills proposing changes to the legislation lack safeguards for civil society. Among those, Bill 272/2016 would modify the law with provisions that, if adopted, could be used to classify direct protest actions and strikes as 'acts of terrorism' and to criminalise 'interference, sabotage or damage to computer systems or databases, with ideological or political motivation'.⁸

2.5 Bill 1.595/2019 would create a counter-terrorism system and expand the executive's surveillance powers.⁹ If enacted, the bill would create a presumption of legality for actions to combat terrorism, without effective mechanisms to control and hold public agents accountable.¹⁰ It could enable the use of anti-terrorism legislation to silence government critics and criminalise social movements.¹¹ The proposal was approved by a Special Commission of the Chamber of Deputies in September 2021 and is awaiting debate.

2.6 The complex regulatory framework governing CSOs in Brazil poses obstacles for groups seeking to register and maintain legal entities.¹² Civil society coalitions have played an important role in pressuring authorities for more enabling frameworks. In 2021, for instance, Law No. 14.215 enhanced the certainty of partnerships between CSOs and public administration in the context of the COVID-19 emergency.¹³ Drafted in collaboration with organised civil society, the legislation simplified processes and allowed the adjustment of agreements during the pandemic.¹⁴

⁶ Law 13.260 of 2016, https://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2016/Lei/L13260.htm.

⁷ 'Veto parcial ao PL antiterrorismo', Conectas, 17 March 2019, <https://www.conectas.org/noticias/veto-parcial-ao-pl-antiterrorismo/>.

⁸ PLS 272/2016, <https://www25.senado.leg.br/web/atividade/materias/-/materia/126364>.

⁹ PL 1.595/2019, <https://www.camara.leg.br/proposicoesWeb/fichadetramitacao?idProposicao=2194587>.

¹⁰ 'Why the bill 1.595/2019 must be rejected by Brazil's Chamber of Deputies', Instituto Igarapé, 1 December 2021, <https://igarape.org.br/en/why-the-bill-1-595-2019-must-be-rejected-by-brazils-chamber-of-deputies/>.

¹¹ 'Brazil: Bill amending Anti-Terrorism Law violates human rights', World Organisation Against Torture (OMCT), 25 October 2021, <https://www.omct.org/en/resources/news-releases/brazil-bill-amending-anti-terrorism-law-violates-human-rights>.

¹² 'Enabling Environment National Assessment of Civil

Society Organizations', ABONG, June 2015, https://www.civicus.org/images/EENA_Brazil_ENG.pdf.

¹³ Law 14.215 of 2021, <https://www.in.gov.br/en/web/dou/-/lei-n-14.215-de-7-de-outubro-de-2021-351591902>.

¹⁴ President Jair Bolsonaro vetoed the bill in full, but this was overturned in Congress and the law was enacted in October 2021. 'Brazil: environmental and land defenders killed, journalists attacked and pandemic data blackout', CIVICUS Monitor, 18 January 2022, <https://monitor.civicus.org/updates/2022/01/18/brazil-environmental-and-land-defenders-killed-journalists-attacked-and-pandemic-data-blackout/>.

- 2.7** However, since 2019, executive power has been used to reduce the role of civil society in policy-making. In April 2019, President Jair Bolsonaro abolished dozens of participatory collegiate bodies with a single decree (9.759).¹⁵ The government then altered the composition of bodies it could not close,¹⁶ reducing or excluding CSO representation.¹⁷ In 2021, the government launched a review of the National Human Rights Programme without civil society participation¹⁸ and later established secrecy over the process.¹⁹
- 2.8** Under the Bolsonaro presidency the authorities have made attempts to promote the control and surveillance of civil society. On 2nd January 2019, Bolsonaro attempted to grant the Secretariat of Government jurisdiction to ‘supervise, coordinate, monitor and keep track of activities and actions’ of civil society and international organisations.²⁰ Brazil’s intelligence also monitored CSOs they classified as ‘bad Brazilians’ during the 2019 UN Climate Conference (COP25).²¹ In 2020, the Justice Ministry and pro-government state legislators compiled personal information on people allegedly associated with anti-fascist groups, in particular public servants.²²
- 2.9** Funding restrictions have grown as an extra-legal strategy to constrain civil society. State-funded arts and culture institutions, a particular target, have experienced budget cuts. Projects expressing criticism of the government have been denied access to tax incentives.²³

¹⁵ ‘The ‘Agora’ is under attack: Assessing the closure of civic space in Brazil and around the world’, Instituto Igarapé, October 2020, <https://igarape.org.br/wp-content/uploads/2020/10/2020-10-23-The-Closure-of-Civic-Space-in-Brazil.pdf>.

¹⁶ A Supreme Court decision limited the effect of the April 2019 measure and ensured it did not affect bodies created by law, such as the National Human Rights Council. ‘STF limita decreto do governo que extingue conselhos federais’, Agência Brasil, 13 June 2019, <https://agenciabrasil.ebc.com.br/justica/noticia/2019-06/stf-limita-decreto-do-governo-que-extingue-conselhos-federais>.

¹⁷ Instituto Igarapé, October 2020, op. cit.

¹⁸ ‘Civic Space GPS Bulletin No. 2’, Instituto Igarapé, April 2021, <https://igarape.org.br/wp-content/uploads/2021/05/2021-05-05-Boletim-2-Espaco-Civico.pdf>.

¹⁹ ‘Brazil: Secret Review of Key Human Rights Policy’, Human Rights Watch, 29 October 2021, <https://www.hrw.org/news/2021/10/29/brazil-secret-review-key-human-rights-policy>.

²⁰ This provision was removed during a congressional review of the executive act in May 2019. MP 870/2019: https://www.planalto.gov.br/ccivil_03/_Ato2019-2022/2019/Mpv/mpv870.htm.

²¹ ‘Governo brasileiro, ao monitorar e vigiar ONGs e movimentos sociais, comete graves violações de direitos humanos, alerta Anistia Internacional’, Amnesty International, 17 October 2020, <https://anistia.org.br/informe/governo-brasileiro-ao-monitorar-e-vigiar-ongs-e-movimentos-sociais-comete-graves-violacoes-de-direitos-humanos-alerta-anistia-internacional/>.

²² ‘Pandemic in Brazil aggravates democratic backslide’, CIVICUS Monitor, 25 August 2020, <https://monitor.civicus.org/updates/2020/08/25/pandemic-brazil-aggravates-democratic-backslide/>.

²³ ‘Civic Space GPS Bulletin No. 4’, Instituto Igarapé, December 2021, <https://igarape.org.br/wp-content/uploads/2021/12/GPS-do-Espaco-Civico-4.pdf>.

2.10 These restrictions take place in the context of multiple attacks on democratic norms and institutions, through disinformation campaigns, political interference and power abuses.²⁴

3. Harassment, intimidation and attacks against HRDs, civil society activists and journalists

3.1 Under Brazil's previous UPR examination, the government received 14 recommendations on the protection of HRDs, journalists and civil society. Among these, Brazil committed to 'strengthen the national programme for the protection of human rights defenders, in particular its funding and human resources' and to 'ensure that the deaths of human rights defenders are promptly and thoroughly investigated'.²⁵ All recommendations were accepted. However, the government has failed to operationalise 11 of these recommendations. One was fully implemented and two were partially implemented.

3.2 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure the protection of HRDs. The ICCPR further guarantees the freedoms of association, peaceful assembly and expression. In 2018, Brazil signed the Escazú Agreement²⁶ which contains specific provisions on environmental defenders' protection and access to justice. However, Brazil has yet to ratify the Agreement.²⁷

3.3 Brazil has a National Programme for the Protection of Human Rights Defenders, Communicators and Environmental Defenders (PPDDH). This mechanism is active in the country's 27 states. It should be executed in cooperation with state governments but separate agreements must be reached with each state authority. Where agreements are not formalised, the service is implemented by a CSO contracted by the federal government. Among states of the Amazon, only Maranhão and Pará have formalised agreements as of 2021. In Pará, the state where the highest numbers of HRD killings take place, the programme was interrupted between 2016 and 2019.²⁸

3.4 The PPDDH was established by decree; its lack of institutionalisation enables administrative discretion. From 2016 until 2021, civil society was excluded from

²⁴ 'Civic Space GPS Bulletin No. 3', Instituto Igarapé, October 2021, <https://igarape.org.br/wp-content/uploads/2021/10/2021-20-10-GPS-3-Espaco-CivicoEN-1.pdf>.

²⁵ 136.119 and 136.112, A/HRC/36/11.

²⁶ Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean.

²⁷ Observatory on Principle 10 in Latin America and the Caribbean, <https://observatoriop10.cepal.org/en/treaties/regional-agreement-access-information-public-participation-and-justice-environmental>.

²⁸ 'Guia de Proteção a Defensoras de Direitos Humanos e Meio Ambiente na Amazônia' (forthcoming), Instituto Igarapé, 2022.

the programme's decision-making body via decree.²⁹ In 2021, CSOs were reinstated as a minority in the Deliberative Council.³⁰ Restrictions on civil society participation and inadequate budgets continue to be challenges for the mechanism. The PPDDH's funding has remained well below its planned budget since 2019.³¹

3.5 While a 2007 executive act mandated the formulation of a plan with broader policy guidelines to protect HRDs, this has not happened. In May 2021, a court said the government must take steps for the elaboration of a plan.³²

3.6 Criminal legislation continues to be used against HRDs and activists in Brazil. Charges such as land invasion, criminal association and vandalism are among those commonly used, particularly against Indigenous, environmental and land rights defenders. Between 2017 and 2020, for example, multiple members of the traditional Quilombola community of Barra do Parateca in Bahia faced accusations of 'theft' and 'criminal association' by farmers and local authorities, in proceedings that were later dropped.³³ The context is one where the community's land titling process has dragged on for 15 years.³⁴

3.7 Human rights lawyer José Vargas Sobrinho Junior has faced threats and criminalisation under trumped-up charges.³⁵ He has worked on high profile cases that challenge the interests of powerholders in Pará, such as the defence of victims of the 2017 extrajudicial execution of 10 rural workers by police in Pau D'Arco and the representation of the Kayapó Indigenous people against mining. On 1 January 2021, he was detained under accusations of participating in the disappearance of a former candidate for local office.³⁶ Specialists have expressed concern that these proceedings could be motivated by an attempt to thwart the Pau D'Arco case,³⁷

²⁹ In 2016, a decree (No. 8.724) created a Deliberative Council to steer the programme, but did not include civil society in its composition. Previously, CSOs had contributed to the PPDDH's coordination. Decreto Nº 8.724, 2016: https://www.planalto.gov.br/ccivil_03/_Ato2015-2018/2016/Decreto/D8724.htm.

³⁰ Decreto Nº 10.815, 2021: <https://www.in.gov.br/en/web/dou/-/decreto-n-10.815-de-27-de-setembro-de-2021-348154009>.

³¹ 'Começo do fim? O pior momento do Programa de Proteção aos Defensores de Direitos Humanos, Comunicadores e Ambientalistas', Justiça Global and Terra de Direitos, December 2021, <http://www.global.org.br/wp-content/uploads/2021/12/comeco-do-fim-3.pdf>.

³² 'União deve elaborar plano de proteção a defensores de direitos humanos', Conjur, <https://www.conjur.com.br/2021-mai-05/uniao-elaborar-plano-protECAo-defensores-direitos-humanos>.

³³ 'Vidas em luta: criminalização e violência contra defensoras e defensores de direitos humanos no Brasil', <https://comiteddh.org.br/wp-content/uploads/2020/12/Dossie-Vidas-em-Luta.pdf>.

³⁴ Barra do Parateca, Comitê Pró-Índio, <https://cpisp.org.br/barra-do-parateca/>.

³⁵ 'José Vargas Sobrinho Junior responds to criminal charges in freedom', Front Line Defenders, 17 February 2022, <https://www.frontlinedefenders.org/en/case/human-rights-lawyer-jose-vargas-sobrinho-junior-detained>.

³⁶ Later that month, he was placed under house arrest. In January 2022, house arrest was substituted by other precautionary measures. Front Line Defenders, *Ibid*.

³⁷ AL BRA 2/2021, Mandates of the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and

and have highlighted that the civil police investigating Vargas are also accused of the massacre.³⁸ Vargas and another lawyer in the case have faced threats.³⁹ Shortly after Vargas' arrest, a key witness and survivor of the massacre was murdered.⁴⁰

3.8 Trumped-up charges are used to delegitimise and obstruct defenders' work. On 26 November 2019, police in Pará arrested four volunteers with the Alter do Chão Forest Fire Brigade, accusing them of setting fires in a protected area to receive funding from international donors.⁴¹ They were detained for three days and released with conditional measures. President Bolsonaro shared a video about the arrest, restating unfounded accusations that CSOs might be responsible for fires in the Amazon.⁴² This caused a surge in online attacks calling the Brigade a 'terrorist association'.⁴³ While state police claimed to have proof incriminating the group, a parallel federal police investigation found no evidence. The Public Prosecutor-General's Office requested the investigation's dismissal, challenging state prosecutors for jurisdiction over the case.⁴⁴ By the end of 2021, this legal challenge had yet to be considered. Meanwhile, the group's equipment was still held by the authorities and the smear campaign against them continued.⁴⁵

3.9 Journalists and communicators are subjected to long judicial proceedings in both civil and criminal courts. Defamation, libel and slander complaints against them are commonplace. From 2019, the authorities also resorted to the dictatorship-era National Security Law (LSN), which defines crimes against national security

sustainable environment; and the Special Rapporteur on extrajudicial, summary or arbitrary executions, 8 February 2021,

<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26003>.

³⁸ 'Upcoming decision of habeas corpus on criminal case against human rights defender José Vargas Sobrinho Júnior', Front Line Defenders, 2 June 2021, <https://www.frontlinedefenders.org/en/case/human-rights-lawyer-jose-vargas-sobrinho-junior-detained>.

³⁹ 'Human Rights Defender Rivelino Zarpellon continues to face threats', CIVICUS Monitor, 21 June 2018, <https://monitor.civicus.org/updates/2018/06/21/human-rights-defender-rivelino-zarpellon-continues-face-threats/>.

⁴⁰ 'Assassinato do defensor de direitos humanos e trabalhador rural sem-terra Fernando dos Santos Araújo', Front Line Defenders, 4 February 2021, <https://www.frontlinedefenders.org/pt/case/killing-human-rights-defender-and-landless-worker-fernando-dos-santos-ara%C3%BAjo>.

⁴¹ 'Activists criminalised and continuous delegitimation of press in Brazil', CIVICUS Monitor, 7 January 2020, <https://monitor.civicus.org/updates/2020/01/07/activists-criminalised-and-continuous-delegitimation-press-brazil/>.

⁴² 'Em outubro declarei que muitos focos de incêndios poderiam estar ligados a ONGs. Agora a polícia paraense prende alguns suspeitos pelo crime', jairbolsonaro, 27 November 2019, <https://twitter.com/jairbolsonaro/status/1199697700796665857>.

⁴³ 'Juiz estende prisão de voluntários de ONG de Alter do Chão em meio a protestos de ativistas', Joana Oliveira for El País, 28 November 2019, <https://brasil.elpais.com/brasil/2019-11-28/juiz-estende-prisao-de-voluntarios-de-ong-de-alter-do-chao-em-meio-a-protestos-de-ativistas.html>.

⁴⁴ 'Justiça Federal arquiva inquérito sobre incêndios em Alter do Chão', Agência Brasil, February 2021, <https://agenciabrasil.ebc.com.br/geral/noticia/2021-02/justica-federal-arquiva-inquerito-sobre-incendios-em-alter-do-chao>.

⁴⁵ 'Defenders of our planet: resilience in the face of restrictions', CIVICUS, November 2021, <https://civicus.contentfiles.net/media/assets/file/DefendersOfOurPlanet.pdf>.

and public order.⁴⁶ These included increased penalties for slander and defamation against the president, legislative leaders and Supreme Court justices. This law was used to conduct 77 investigations in 2019 and 2020, a 285 per cent increase in comparison with the previous two administrations.⁴⁷ Following widespread pressure, the LSN was repealed and replaced in 2021.⁴⁸

3.10 Recent cases include the sentencing of two journalists by the electoral court to suspended jail time for defamation in 2019⁴⁹ and the arrest of sports blogger Paulo Cezar de Andrade Prado in 2021 for criminal defamation.⁵⁰ In notable cases under the LSN, in 2020 Brazil's Justice Minister requested investigations into two journalists and a cartoonist for slander and defamation of the president.⁵¹

3.11 HRDs and journalists in Brazil face a violent environment marked by stigmatisation, threats, harassment, physical attacks and killings. Monitoring by international watchdogs places Brazil in the 10 countries globally with the most killings of HRDs from 2017 to 2021.⁵² Between January and December 2021, Instituto Igarapé recorded 325 cases of harassment and intimidation, and 39 physical attacks.⁵³

3.12 LGBTQI+ defenders are particularly vulnerable to violence for both their activism and their identities.⁵⁴ The National Association of Travestis and Transsexual Persons reported that five trans and travesti defenders were killed in 2021, all of whom were Black. There were three killings in 2020 and four in 2019.⁵⁵

⁴⁶ Law Nº 7.170 of 1983, www.planalto.gov.br/ccivil_03/leis/l7170.htm.

⁴⁷ 'Inquéritos como o do advogado na CNN duplicam e batem novo recorde sob Bolsonaro', Painei in Folha de S. Paulo, January 2021, <https://www1.folha.uol.com.br/colunas/painei/2021/01/inqueritos-com-base-na-lei-de-seguranca-nacional-duplicam-e-batem-novo-recorde-sob-bolsonaro.shtml>.

⁴⁸ Law Nº 14.197 of 2021, http://www.planalto.gov.br/ccivil_03/ato2019-2022/2021/lei/L14197.htm.

⁴⁹ 'Brazilian electoral court sentences 2 journalists to suspended jail time for defamation', Committee to Protect Journalists, 2 December 2019, <https://cpj.org/2019/12/brazilian-electoral-court-sentences-2-journalists/>.

⁵⁰ 'Blogueiro está preso há quase 1 mês, condenado por difamação', Brazilian Association of Investigative Journalism (ABRAJI), December 2018, <https://abraji.org.br/noticias/blogueiro-esta-presos-ha-quase-1-mes-condenado-por-difamacao>.

⁵¹ CIVICUS Monitor, 25 August 2020, op. cit.

⁵² 'Global Analysis', Front Line Defenders 2018-2021:

https://www.frontlinedefenders.org/sites/default/files/2021_global_analysis_-_final.pdf;

https://www.frontlinedefenders.org/sites/default/files/fl_d_global_analysis_2020.pdf;

https://www.frontlinedefenders.org/sites/default/files/global_analysis_2019_web.pdf;

https://www.frontlinedefenders.org/sites/default/files/global_analysis_2018.pdf;

https://www.frontlinedefenders.org/sites/default/files/annual_report_digital.pdf.

⁵³ 'Civic Space GPS Bulletin No. 5', Instituto Igarapé, March 2022, <https://igarape.org.br/wp-content/uploads/2022/03/Boletim-GPS-do-Espaco-Civico-5.pdf>.

⁵⁴ 'Global Analysis 2019', Front Line Defenders, 2020,

https://www.frontlinedefenders.org/sites/default/files/global_analysis_2019_web.pdf.

⁵⁵ 'Dossiê: assassinatos e violências contra travestis e transexuais brasileiras em 2021', ANTRA, 2022, <https://antrabrasil.files.wordpress.com/2022/01/dossieantra2022-web.pdf>.

- 3.13** Rising political violence has particularly impacted on women politicians, LGBTQI+ people, Black people and HRDs.⁵⁶ The emblematic case of the 2018 assassination of city councillor and Black feminist activist Marielle Franco remains one where impunity has prevailed.⁵⁷
- 3.14** Indigenous, land and environmental defenders also face acute risk. Between 2017 and 2020, Global Witness registered 121 murders of land and environmental defenders in Brazil.⁵⁸ Eight in every 10 women HRDs in the Brazilian Amazon report facing violence, particularly stigmatisation, physical and psychological violence, and threats against themselves and their families.⁵⁹ Impunity is widespread.⁶⁰
- 3.15** Violence continues to be driven by land conflict,⁶¹ further fuelled by the Bolsonaro government's efforts to dismantle environmental governance⁶² and scale back on law enforcement against criminal activity such as illegal mining, logging and land grabbing.⁶³ As a result, criminal operations that openly attack Indigenous territories and threaten their leaders have grown. Attackers linked with illegal mining in Pará have raided and burnt houses belonging to Munduruku leaders, who reported that federal police evacuated the area and left them unprotected in 2021.⁶⁴
- 3.16** Communities and defenders are frequently systematically targeted and victims receive little support even when reporting multiple attacks. Between August 2018 and March 2020, five leaders of the Guajajara peoples in Maranhão were

⁵⁶ 'Global Analysis 2021', Front Line Defenders, February 2022,

https://www.frontlinedefenders.org/sites/default/files/2021_global_analysis_-_final.pdf.

⁵⁷ 'Black feminist activist and politician assassinated in Rio de Janeiro', CIVICUS Monitor, 6 April 2018,

<https://monitor.civicus.org/updates/2018/04/06/black-feminist-activist-and-politician-assassinated-rio-de-janeiro/>.

⁵⁸ 'Land and environmental defenders: annual report', Global Witness, 2018 – 2021,

<https://www.globalwitness.org/en/campaigns/environmental-activists/land-and-environmental-defenders-annual-report-archive/>.

⁵⁹ 'Vitórias-régias na proteção dos direitos humanos e meio ambiente', Instituto Igarapé, January 2022,

<https://igarape.org.br/temas/seguranca-climatica/defensoras-da-amazonia/>.

⁶⁰ 'Rainforest Mafias: How Violence and Impunity Fuel Deforestation in Brazil's Amazon', Human Rights Watch, September 2019, <https://www.hrw.org/report/2019/09/17/rainforest-mafias/how-violence-and-impunity-fuel-deforestation-brazils-amazon>.

⁶¹ 'Global commodity traders are fuelling land conflicts in Brazil's Cerrado', Global Witness, November 2021, <https://www.globalwitness.org/en/campaigns/environmental-activists/global-commodity-traders-are-fuelling-land-conflicts-in-brazils-cerrado/>.

⁶² 'Vidas em luta: criminalização e violência contra defensoras e defensores de direitos humanos no Brasil', <https://comiteddh.org.br/wp-content/uploads/2020/12/Dossie-Vidas-em-Luta.pdf>.

⁶³ Human Rights Watch, September 2019, op. cit.

⁶⁴ "'Estão enganando nosso povo", diz a liderança Maria Leusa Munduruku', Amazonia Real, 8 June 2021, <https://amazoniareal.com.br/estao-enganando-nosso-povo-diz-maria-leusa-munduruku-lideranca-que-teve-casa-incendiada-por-garimpeiros/>.

murdered.⁶⁵ The lack of government response led the Indigenous Peoples' Articulation (APIB) to request support in April 2020 from the Inter-American Commission on Human Rights in demanding a response to the escalating violence.⁶⁶ Meanwhile, APIB leader Sônia Guajajara faced a complaint filed by the country's Indigenous affairs agency over alleged slander of President Bolsonaro, based on her testimony about neglect and institutional violence against Indigenous peoples. A judge later halted the police probe, saying in court documents that its main goal was to silence APIB.⁶⁷

3.17 Journalists face violence for reporting on rights violations, denouncing corruption, investigating organised crime and criticising the authorities. In a notable case, on 26 October 2020, Romano dos Anjos, a journalist with Imperial TV, was kidnapped from his home in Roraima state and violently assaulted. He had exposed corruption and public mismanagement. Police investigations indicated the abduction was masterminded by a state assembly representative and carried out by military police officers.⁶⁸

3.18 Radio journalist Jairo de Sousa was executed by armed assailants on 21 June 2018 as he arrived at the headquarters of Rádio Pérola in Pará. Sousa reported on corruption, homicide and drug trafficking. A police investigation showed that the killing was ordered by a city council member in coordination with criminal groups. Prosecutors charged the councillor and 10 others with homicide.⁶⁹ The resolution of Sousa's case was an exception: Brazil ranks eighth in the Committee to Protect Journalists' Global Impunity Index. Between 2011 and 2021 at least 14 cases of murdered journalists were left unsolved in Brazil.⁷⁰

3.19 Harassment and smear campaigns against journalists, particularly women journalists, have been encouraged by high-ranking authorities in the government.⁷¹ Reporters Without Borders (RSF) showed that members of the Bolsonaro family were responsible for hundreds of attacks on the press in 2020

⁶⁵ 'Brazil continues to be a hostile place for journalists, two killed in recent months', CIVICUS Monitor, 19 September 2021, <https://monitor.civicus.org/updates/2018/09/19/two-journalists-killed-less-month/>; 'Brazil: defenders vilified and criminalised, censorship and attacks against media on the rise', CIVICUS Monitor, 31 October 2019, <https://monitor.civicus.org/updates/2019/10/31/brazil-defenders-vilified-and-criminalised-censorship-and-attacks-against-media-rise/>; CIVICUS Monitor, 25 August 2020, op. cit.

⁶⁶ 'Apib faz apelo à CIDH em favor do povo Guajajara', APIB, 9 April 2019, <https://apib.info/2020/04/09/apib-faz-apelo-a-cidh-em-favor-do-povo-guajajara/>.

⁶⁷ 'Dictatorship-era National Security Law used to intimidate critics in Brazil', CIVICUS Monitor, 11 May 2021, <https://monitor.civicus.org/updates/2021/05/11/dictatorship-era-national-security-law-used-intimidate-critics-brazil/>.

⁶⁸ CIVICUS Monitor, 18 January 2022, op. cit.

⁶⁹ Committee to Protect Journalists, <https://cpi.org/data/people/jairo-souza/>.

⁷⁰ 'Killers of journalists still get away with murder', Committee to Protect Journalists, 28 October 2021, <https://cpi.org/reports/2021/10/killers-of-journalists-still-get-away-with-murder/>.

⁷¹ 'RSF tallied 580 attacks against media in Brazil in 2020', Reporters Without Borders, 22 January 2021, <https://rsf.org/en/reports/rsf-tallied-580-attacks-against-media-brazil-2020>.

and 2021.⁷² These range from stigmatisation of the press to personal insults, which often generate an avalanche of online and offline attacks. Journalist Patrícia Campos Mello, who reported on disinformation campaigns during the 2018 elections, has faced years of cyber harassment, threats and misogynistic insults from government supporters.⁷³

3.20 In a positive development, in June 2021 the Supreme Court ruled to hold the state accountable in cases of journalists being injured by law enforcement officers while covering demonstrations. The decision determined that São Paulo state must pay compensation to photojournalist Alex Silveira, who in 2000 was left blind in one eye after being shot with a rubber bullet by military police. The ruling overturned a decision by a lower court, which had concluded that the journalist put himself at risk and was responsible for his own injuries.⁷⁴

4. Freedom of expression, media freedom and access to information

4.1 Under the 3rd UPR cycle, the government did not receive any recommendations relating to the freedom of expression, media freedom and access to information.

4.2 Article 19 of the ICCPR guarantees the right to the freedoms of expression and opinion. Articles 5 and 220 of Brazil's Constitution also guarantee the right to the freedom of expression. In practice, this right is constrained by legislation and extra-legal practices such as censorship and judicial harassment. Respect for the freedom of expression in Brazil has sharply deteriorated in the past five years.

4.3 Law No. 12.527 of 2011 recognises access to information as a right and creates an oversight body to guarantee its implementation.⁷⁵ The use of the internet in Brazil has been governed by civil rights-based framework, Marco Civil da Internet (Law No. 12.965), since 2014.⁷⁶ This legislation was complemented by the 2018 General Data Protection Law (LGPD, No. 13.709).⁷⁷

4.4 Following widespread disinformation campaigns in the 2018 election,⁷⁸ a number of legal and judicial responses have been considered. A draft law (No. 2.630), known as the 'Fake News Bill', was introduced in April 2020, raising concern about

⁷² 'Bolsonaro family vents more anger than ever on Brazil's media', Reporters Without Borders, 27 July 2021, <https://rsf.org/en/reports/bolsonaro-family-vents-more-anger-ever-brazils-media>.

⁷³ Reporters Without Borders, 22 January 2021, op. cit.

⁷⁴ 'Brazil's civic space in dispute amid democratic backsliding', CIVICUS Monitor, 19 August 2021, <https://monitor.civicus.org/updates/2021/08/19/brazils-civic-space-dispute-amid-democratic-backsliding/>.

⁷⁵ Law No. 12.527 of 2011: https://www.planalto.gov.br/ccivil_03/ato2011-2014/2011/lei/112527.htm.

⁷⁶ Law No. 12.965 of 2014: https://www.planalto.gov.br/ccivil_03/ato2011-2014/2014/lei/112965.htm.

⁷⁷ Law No. 13.709 of 2018: https://www.planalto.gov.br/ccivil_03/ato2015-2018/2018/lei/113709.htm.

⁷⁸ 'Íntegra das fake news das eleições de 2018 no Brasil', Dourado, Tatiana Maria Silva; dos Santos, João Guilherme; Cerqueira Lima, Juliana; Teles, Alexandre; Santos de Almeida, Benedita (2020), Mendeley Data, v. 1, 2020. DOI: <http://dx.doi.org/10.17632/fr8wy3fpz.1>.

the potential negative impacts on the freedom of expression and data privacy.⁷⁹ Modifications were made and a new version was presented in October 2021.⁸⁰ However, concerns remain, and more consultation is needed to ensure that the regulation does not restrict or enable the repression of fundamental freedoms.

- 4.5** Chapter 5 of the Brazilian Criminal Code defines calumny, defamation and slander as criminal offences punishable with fines and imprisonment.⁸¹ Law 13.834 of 2019 also amended the Electoral Code to include ‘slandorous denunciation with electoral objective’ as a criminal offence punishable with up to eight years of imprisonment.⁸² Both civil and criminal statutes are used to file defamation suits.⁸³ Before being repealed, the National Security Law had also been used, particularly during the COVID-19 pandemic, to intimidate critics of the authorities through investigations for defamation.⁸⁴
- 4.6** Powerholders in Brazil often use judicial harassment to intimidate and impose financial costs on critics. Economist Ricardo Sennes faced dozens of lawsuits in 35 municipalities after commenting on the Bolsonaro government’s retraction of gun control regulation in 2020.⁸⁵ A magistrate in one of the cases said the action was ‘clearly intended to intimidate and generate spending and inconvenience’.⁸⁶
- 4.7** Judicial censorship continues to be used by powerholders to force media to redact and suppress information.⁸⁷ In September 2020, for example, a city court in Rio de Janeiro ordered a digital news outlet to take down 11 articles related to alleged corruption practices in an investment bank.⁸⁸

⁷⁹ ‘Os Desafios da Câmara dos Deputados no PL das Fake News’, Coalizão Direitos na Rede, 6 July 2020, <https://direitosnarede.org.br/2020/07/06/os-desafios-da-camara-dos-deputados-no-pl-das-fake-news/>.

⁸⁰ ‘Report From The Working Group On The Improvement Of The Brazilian Legislation - Internet’, 28 October 2021, https://www.camara.leg.br/proposicoesWeb/prop_mostrarintegra?codteor=2097604&filename=Tramitacao-REL+1/2021+GTNET.

⁸¹ Brazilian Criminal Code, https://www2.senado.leg.br/bdsf/bitstream/handle/id/529748/codigo_penal_1ed.pdf.

⁸² Law No. 13.834 of 2019: http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2019/lei/L13834.htm.

⁸³ ‘In Brazil, outdated defamation laws and costly court cases used to pressure critics’, Committee to Protect Journalists, April 2017: <https://cpj.org/2017/04/in-brazil-outdated-defamation-laws-and-costly-court/>.

⁸⁴ ‘Brazil: Crackdown on Critics of Covid-19 Response’, Human Rights Watch, 28 January 2021, <https://www.hrw.org/news/2021/01/28/brazil-crackdown-critics-covid-19-response>.

⁸⁵ ‘Presidente da ABI, Paulo Jeronimo palestra na Associação Nacional dos Procuradores da República’, Associação Brasileira de Imprensa, 12 December 2021, <http://www.abi.org.br/198267-2/>.

⁸⁶ ‘Ricardo Sennes sofre perseguição judicial por comentário sobre posse de armas’, Victor Felix in Portal dos Jornalistas, 25 August 2020, <https://www.portaldosjornalistas.com.br/ricardo-sennes-sofre-perseguiacao-judicial-por-comentario-sobre-posse-de-armas/>.

⁸⁷ ‘Brazil quarterly analysis: media face censorship on multiple fronts’, Reporters Without Borders, 19 October 2020, <https://rsf.org/en/news/brazil-quarterly-analysis-media-face-censorship-multiple-fronts>.

⁸⁸ ‘Closing civic space in Brazil: censorship, harassment and attacks on journalists and activists’, CIVICUS Monitor, 18 December 2020, <https://monitor.civicus.org/updates/2020/12/18/closing-civic-space-brazil-censorship-harassment-and-attacks-journalists-and-activists/>.

- 4.8** A report by the National Journalists Federation counted 138 complaints about censorship or interference by the government from January 2019 to June 2020, most often targeting coverage of politics and human rights.⁸⁹ Content related to LGBTQI+ rights was frequently targeted. In 2020, a federal grant for films was suspended from funding productions with LGBTQI+ rights themes. It was reinstated after courts ruled that the suspension amounted to censorship.⁹⁰ Several similar cases have taken place at federal,⁹¹ state⁹² and municipal⁹³ levels.
- 4.9** The education, academic and scientific sectors have also been affected by censorship. In 2021, two publicly-funded scientific institutes adopted internal regulations to allow prior censorship of its scientists' publications, determined by politically appointed officials.⁹⁴ Researchers and academics in Brazil have reported that harassment has forced them to self-censor since 2019.⁹⁵
- 4.10** Surveillance and privacy remain prominent concerns of Brazilian rights groups. Both the public and private sectors adopt surveillance technologies, citing reasons such as public safety and fraud detection.⁹⁶ Facial recognition technologies were adopted, for example, by the São Paulo Metro network, without the consent of its users.⁹⁷ Civil society groups took the issue to court and, in March 2022, a court decision recognised that this surveillance system could impact users' fundamental rights.⁹⁸ According to Access Now, several states in the northeast and southeast have heavily promoted the use of such technologies. Inaccuracy in these

⁸⁹ '2º Dossiê Censura EBC', GT Censura : Comissão de Empregados da EBC, Sindicatos dos Jornalistas DF, Rio e SP, Sindicatos dos Radialistas DF, RJ e SP, Federação Nacional dos Jornalistas (FENAJ), September 2020, https://fenaj.org.br/wp-content/uploads/2020/09/Dossie_Censura_EBC_2020.pdf.

⁹⁰ Instituto Igarapé, October 2020, op. cit.

⁹¹ In 2019, a competition rewarding excellence in television was also suspended over controversy around the categories of gender and sexual diversity. Brazil's then-special secretary for culture resigned in protest at the federal government's censorship attempts. CIVICUS Monitor, 31 October 2019, op. cit.

⁹² CIVICUS Monitor, 11 May 2021, op. cit.

⁹³ CIVICUS Monitor, 31 October 2019, op. cit.

⁹⁴ 'Ascema Nacional denuncia mais uma tentativa de censura no ICMBio', Ascema Nacional, 12 March 2021, <http://www.ascemanacional.org.br/ascema-nacional-denuncia-mais-uma-tentativa-de-censura-no-icmbio/>; 'IPEA cria censura prévia para divulgação de pesquisas científicas', Pacto pela Democracia, 16 March 2021, <https://www.diariodeataques.org/blog/ipea-cria-censura-previa-para-divulgacao-de-pesquisas-cientificas>.

⁹⁵ 'Researchers face attacks from Bolsonaro regime', Herton Escobar in Science, 16 April 2021, <https://www.science.org/doi/10.1126/science.372.6539.225>.

⁹⁶ 'Reconhecimento facial no Brasil', Instituto Igarapé, 2020, <https://igarape.org.br/infografico-reconhecimento-facial-no-brasil/>.

⁹⁷ 'Metrô de SP é alvo de ação inédita que pede fim do reconhecimento facial', Leonardo Sakamoto, 3 March 2022, https://noticias.uol.com.br/colunas/leonardo-sakamoto/2022/03/03/metro-de-sp-e-alvo-de-acao-inedita-que-pede-fim-do-reconhecimento-facial.htm?aff_source=56d95533a8284936a374e3a6da3d7996.

⁹⁸ 'SP: Justiça proíbe que metrô utilize sistema de reconhecimento facial', Agência Brasil, 23 March 2022, <https://agenciabrasil.ebc.com.br/geral/noticia/2022-03/sp-justica-proibe-que-metro-utilize-sistema-de-reconhecimento-facial>.

recognition systems may contribute to discrimination, in particular through misidentification of people of colour and trans and non-binary people.⁹⁹

4.11 Despite legal protections on access to information, since 2019 this right has been challenged via executive acts. For instance, President Bolsonaro attempted to enable a wide range of officials and civil servants to classify public information¹⁰⁰ and to suspend response to public information requests during the COVID-19 pandemic.¹⁰¹ In both cases, executive measures were later overturned by other government branches.¹⁰²

4.12 The government has continued to undermine Brazil's transparency and accountability practices with extra-legal measures.¹⁰³ Local watchdogs have reported that more access to information requests were denied in 2020 than in the previous four years.¹⁰⁴ Authorities also withheld public interest data using secrecy rules.¹⁰⁵

4.13 International watchdogs have noted a significant decline in the freedom of expression in Brazil over the 2017–2021 period, in particular since 2019.¹⁰⁶ For the first time in 20 years, in 2021 Brazil was judged by RSF to have a 'difficult' situation for press freedom, the second-lowest ranking available.¹⁰⁷ In 2021, Article 19 also reported that in five years, Brazil dropped from being among the

⁹⁹ 'Surveillance Tech in Latin America: Made abroad, deployed at home', Access Now, August 2021, <https://www.accessnow.org/cms/assets/uploads/2021/08/Surveillance-Tech-Latam-Report.pdf>.

¹⁰⁰ 'Nota sobre o Decreto n. 9.690/2019 que altera regras de classificação de informação', Transparência Brasil, 24 January 2019, <https://blog.transparencia.org.br/nota-sobre-o-decreto-n-9-6902019-que-altera-regras-de-classificacao-de-informacao/>.

¹⁰¹ 'Organizações repudiam medida que suspende atendimento a pedido de acesso à informação', Conectas, 24 March 2020, <https://www.conectas.org/noticias/organizacoes-repudiam-medida-que-suspende-atendimento-a-pedido-de-acesso-a-informacao/>.

¹⁰² 'Câmara aprova suspensão de decreto sobre sigilo de documentos', Agência Câmara de Notícias, 19 February 2019, <https://www.camara.leg.br/noticias/552179-camara-aprova-suspensao-de-decreto-sobre-sigilo-de-documentos/>; 'Ministro do STF suspende trecho de MP que alterou Lei de Acesso à Informação', Agência Câmara de Notícias, 26 March 2020, <https://www.camara.leg.br/noticias/648690-ministro-do-stf-suspende-trecho-de-mp-que-alterou-lei-de-acesso-a-informacao/>.

¹⁰³ Instituto Igarapé, October 2020, op. cit.

¹⁰⁴ 'Negativas de acesso a informação pioram sob governo Bolsonaro', Transparência Brasil, 30 July 2020, https://www.transparencia.org.br/downloads/publicacoes/Negativas_de_acesso_a_informacao_pioram_sob_governo_Bolsonaro.pdf.

¹⁰⁵ In two examples in 2019, the government sought to classify technical reports underpinning a social security reform and imposed reservations on the visitor register to the president and vice-president's residences. 'Veja medidas do governo Bolsonaro que reduziram a transparência oficial', Raquel Lopes and Renato Onofre in Folha de S. Paulo, 21 June 2020, <https://www1.folha.uol.com.br/poder/2020/06/veja-medidas-de-bolsonaro-que-reduziram-transparencia-no-governo-desde-2019.shtml>.

¹⁰⁶ 'Global Expression Report 2018/19: Update on Brazil', Article 19, December 2019, <https://www.article19.org/reader/global-expression-report-2018-19/regional-overviews/the-americas-regional-overview/the-americas-countries-in-focus/update-on-brazil/>.

¹⁰⁷ 'Latin American countries fall in global press freedom ranking', LatAm Journalism Review, 21 April 2021, <https://latamjournalismreview.org/articles/latin-american-countries-fall-in-global-press-freedom-ranking/>.

world's highest-scoring countries to being considered a crisis country for the freedom of expression.¹⁰⁸

5. Freedom of peaceful assembly

- 5.1** During Brazil's examination under the 3rd UPR cycle, the government received one recommendation on the freedom of peaceful assembly. This was accepted, with Brazil committing to adopting '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'.¹⁰⁹ However, this was not implemented.
- 5.2** Article 5 of the Brazilian Constitution guarantees the right to assemble peacefully in public spaces without prior authorisation¹¹⁰ and 'to petition the Government in defence of rights or against illegal acts or abuse of power'.¹¹¹ ICCPR article 21 also guarantees this right. Yet, in practice, the right to peaceful assembly is often constrained by police violence and criminalisation.
- 5.3** Law No. 14.197, which repealed the National Security Law in September 2021, included a chapter on crimes against democracy in Brazil's Criminal Code.¹¹² While criminal offences such as 'sabotage' and 'political violence' remain, the legislation represents an advance by clearly stating that 'manifesting criticism of constitutional powers, journalistic activity or the claiming of constitutional rights and guarantees through marches, meetings, strikes, agglomerations or any other form of political manifestation with social purposes' do not fall within this law's purview. However, when enacting the legislation, President Bolsonaro vetoed provisions to establish penalties for the prevention of peaceful assemblies, saying they would hinder policing of protests.¹¹³
- 5.4** Repeated use of criminal legislation to criminalise protests, particularly 'criminal association' charges, is concerning. An emblematic case is that of 23 protesters convicted in 2018 for their alleged actions during anti-corruption demonstrations during the 2014 World Cup.¹¹⁴ In some cases, political affiliation was the only basis

¹⁰⁸ 'The Global Expression Report 2021', Article 19, July 2021, <https://www.article19.org/wp-content/uploads/2021/07/A19-GxR-2021-FINAL.pdf>.

¹⁰⁹ 136.58, A/HRC/36/11.

¹¹⁰ Although the Constitution requires notification of authorities, a 2020 Supreme Court decision ruled that this requirement is satisfied by the dissemination of information enabling authorities to prepare for an assembly. Extraordinary appeal 806339, <https://portal.stf.jus.br/processos/detalhe.asp?incidente=4555912>.

¹¹¹ Brazilian Constitution, http://www.planalto.gov.br/ccivil_03/Constituicao/Constituicao.htm.

¹¹² Law 14.197 of 2021, http://www.planalto.gov.br/ccivil_03/_ato2019-2022/2021/lei/L14197.htm.

¹¹³ CIVICUS Monitor, 18 January 2022, op. cit.

¹¹⁴ Sentence in 0229018-26.2013.8.19.0001, 29 June 2018, https://drive.google.com/file/d/180KHU4QK_y2ksdlz0WnXWzjyWoOUZMS/view.

for the ‘criminal association’ allegations made against protesters.¹¹⁵ Their conviction was annulled by Brazil’s Supreme Court in 2019 due to the use of illegally obtained evidence.¹¹⁶

- 5.5** Detentions, investigations and threats of charges, in particular over ‘crimes against honour’, have also been used to intimidate and silence protesters and protest leaders. In March 2020, Brasília police detained five protesters for defamation of the president after they displayed a banner calling Bolsonaro ‘genocidal’ for his handling of the COVID-19 pandemic.¹¹⁷
- 5.6** A 2019 study by Article 19 showed that at least 70 bills in Brazil’s Congress sought to regulate the right to protest.¹¹⁸ Most bills sought to increase penalties for crimes such as ‘damage to patrimony’ or codify new criminal conduct, in particular criminalising the use of masks during demonstrations or the blocking of public roads. Similar bills were considered at state and municipal levels. This push toward restrictive protest legislation followed 2013 mass anti-government mobilisations and, the study showed, continued five years on. In the same period, repression grew more sophisticated, with the adoption of new tactics and less-lethal weapons, and with law enforcement increasingly militarised.
- 5.7** In 2017, protests against reforms and budget cuts by the government of President Michel Temer were often met with police violence.¹¹⁹ In April, a student was hospitalised with brain trauma after being beaten by military police during a protest in Goiânia.¹²⁰ In May, 49 people were injured in an anti-government demonstration in Brasília, at least one with a firearm.¹²¹
- 5.8** Instances of excessive use of force and arbitrary detention of protesters are far from isolated. They are recurrent and take place nationwide. In January 2020, police in São Paulo dragged a young woman by her hair as they detained her

¹¹⁵ ‘ONGs denunciam na ONU condenação dos 23 manifestantes de 2013 e 2014’, Conectas, 6 August 2018, <https://www.conectas.org/noticias/ongs-denunciam-na-onu-condenacao-dos-23-manifestantes-de-2013-e-2014/>.

¹¹⁶ Testimony by infiltrated police was used as evidence in the case. The infiltration was ruled illegal because it lacked judicial authorisation. ‘STF anula condenações contra os 23 ativistas dos atos contra Copa de 2014’, Conectas, 27 February 2019, <https://www.conectas.org/noticias/stf-anula-condenacoes-contra-os-23-ativistas-dos-atos-contra-copa-de-2014/>.

¹¹⁷ CIVICUS Monitor, 11 May 2021, op. cit.

¹¹⁸ ‘5 anos de junho de 2013’, Article 19 Brazil, 2018, <https://artigo19.org/wp-content/blogs.dir/24/files/2019/04/5-Anos-de-2013.pdf>.

¹¹⁹ ‘Violência policial e detenções arbitrárias viraram regras em manifestações’, Instituto Humanitas Unisinos, 5 July 2017, <https://ihu.unisinos.br/186-noticias/noticias-2017/569345-violencia-policial-e-detencoes-arbitrarias-viraram-regras-em-manifestacoes>.

¹²⁰ ‘Estudante agredido por PM em manifestação tem alta após 14 dias’ Veja, 12 May 2017, <https://veja.abril.com.br/brasil/estudante-agredido-por-pm-em-manifestacao-tem-alta-apos-14-dias/>.

¹²¹ ‘UN Human Rights and IACHR Condemn Excessive Use of Force during Social Protests and during Security Operations in Brazil’, Organization of American States, 26 May 2017, https://www.oas.org/en/iachr/media_center/PReleases/2017/069.asp.

during a protest against rises in transport fares.¹²² In May 2020, police used teargas and rubber bullets to disperse an anti-racism protest in Rio de Janeiro. Video showed police officers pointing a rifle at an unarmed protester; this was later recognised by authorities as a protocol breach.¹²³ In June 2020, authorities in Belém do Pará arrested over 100 people to prevent a pro-democracy march.¹²⁴ In May 2021, police shock troops in Recife advanced on peaceful protesters without provocation, using teargas and rubber bullets indiscriminately, resulting in permanent eye injuries for two people.¹²⁵ Also in May 2021, a police officer in Paraty fired a rifle to disperse around 50 people protesting against femicides in front of a police station.¹²⁶ In June 2021, two separate demonstrations by Indigenous populations in Brasília were met with repression.¹²⁷

5.9 Other typical rights violations include the failure of law enforcement agents to identify themselves and obstruction of recording by protesters and communicators. So-called ‘fact-finding detentions’, when protesters are detained for carrying objects such as spray paint, are also common. Short-term detentions are used to intimidate protesters and disperse demonstrations. Most people are released without charges. Many detained demonstrators report being subjected to abuses such as threats, physical aggression and sexual harassment in police custody.¹²⁸

5.10 Communities and small groups protesting in rural or small urban areas have also reported facing increasing violence and retaliation, including from non-state actors and private security agents, when attempting to protest.¹²⁹

6. Recommendations to the Government of Brazil

CIVICUS and Instituto Igarapé call on the Brazilian Government to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

¹²² ‘Amiga, chegou? Cuidado e segurança de mulheres em protestos na América Latina’, Article 19, 2021, https://artigo19.org/wp-content/blogs.dir/24/files/2021/04/PT_protestos-feministas_revista-de-bolso_port_redes.pdf.

¹²³ CIVICUS Monitor, 25 August 2020, op. cit.

¹²⁴ Ibid.

¹²⁵ CIVICUS Monitor, 19 August 2021, op. cit.

¹²⁶ ‘Policial sai de delegacia e dá tiros de fuzil durante manifestação de mulheres em Paraty’, G1, 11 May 2021, <https://g1.globo.com/rj/sul-do-rio-costa-verde/noticia/2021/05/11/manifestacao-de-mulheres-em-frente-a-delegacia-de-paraty-termina-com-tiros-policiais.ghtml>.

¹²⁷ Ibid.

¹²⁸ ‘5 anos de junho de 2013’, Article 19 Brazil, 2018, <https://artigo19.org/wp-content/blogs.dir/24/files/2019/04/5-Anos-de-2013.pdf>.

¹²⁹ Information from consultation with Article 19, March 2022.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

6.1 Freedom of association

- Take measures to foster a safe, respectful and enabling environment for civil society, including by the removal of legal and policy measures that unwarrantedly limit the freedom of association.
- Ensure that counter terrorism legislation includes safeguards for civil society and the rights to association and peaceful assembly, including by using clear and precise language. Refrain from adopting vague provisions that can be used to promote surveillance and criminalisation of legitimate social movements and organisations.
- Guarantee the effective and independent functioning of autonomous trade unions by removing proscriptions on the formulation of independent labour unions.

6.2 Protection of HRDs

- Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work, conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation and bring the perpetrators of such offences to justice.
- Strengthen the National Programme for the Protection of HRDs, including by enhancing cooperation between the federal and state governments, ensuring appropriate funding and establishing clear criteria for defenders' inclusion in the programme.
- Ratify the Escazú Agreement and promote responsible business practices.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction, or legal and administrative harassment. As part of this, develop specific mechanisms to respond to harassment of women HRDs.

- Publicly condemn at the highest levels of government instances of harassment and intimidation of CSOs and activists.

6.3 Freedom of expression, media freedom and access to information

- Ensure the freedom of expression and media freedoms by bringing all national legislation into line with international standards.
- Reform defamation legislation in conformity with ICCPR article 19.
- Halt the use of legal instruments and police investigations to persecute critics, silence debate and judicially harass opponents.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government deems sensitive.
- Protect the Access to Information Law in full, guarantee compliance and refrain from adopting measures that restrict access to data and information, in line with international best practices.
- Curb the proliferation of government measures that use technology to increase control and surveillance of the public, and safeguard the right to privacy.
- Organise inclusive consultations with civil society, journalists and the media to resolve disputes that exist concerning proposed disinformation laws.
- Refrain from adopting any laws or practices providing for censorship or undue control over social and conventional media content.
- Refrain from censoring social and conventional media and ensure that the freedom of expression is safeguarded in all arenas, including in the arts and sciences.

6.4 Freedom of peaceful assembly

- Adopt best practices on the freedom of peaceful assembly, as put forward by the 2012 report of the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association and by General Comment No. 37 on the right to peaceful assembly adopted by the UN Human Rights Committee in 2020.

- Archive all proposed legislation that imposes undue restrictions on the right to protest and criminalises legitimate protest tactics.
- Unconditionally and immediately release all protesters and HRDs detained for exercising their right to the freedom of peaceful assembly and review their cases to prevent further harassment.
- Immediately and impartially investigate all instances of excessive force committed by security forces during protests.
- Review and update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Publicly condemn at the highest levels all instances of the use of excessive and brutal force by security forces in response to protests, launch formal investigations into such instances and bring the perpetrators to justice.
- Provide recourse to judicial review and effective remedy, including compensation, in cases of unlawful denial of the right to the freedom of peaceful assembly by state authorities.

6.5 Access to UN Special Procedures mandate holders

- The Government should reiterate their standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the: 1) Special Rapporteur on the situation of human rights defenders; 2) Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression; and 3) Special Rapporteur on the right to privacy.

6.6 State engagement with civil society

- Implement transparent and inclusive institutional mechanisms for social control and accountability on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Restore the inclusive participation of civil society in public policy and ensure the effective functioning of existing collegiate bodies and other spaces for civic dialogue.

- Ensure equal and meaningful civil society engagement in any proposed reform of the National Human Rights Programme.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of UPR recommendations, including by holding periodical comprehensive consultations with a diverse range of civil society.
- Incorporate the results of this UPR in action plans for the promotion and protection of all human rights, considering the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations.

6. Annex: Assessment of implementation of civic space recommendations under the 3rd cycle

Recommendation	Position	Assessment
Freedom of association		
136.17 Ratify the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and finalize the domestic procedures to accede to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Ecuador); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
136.123 Strengthen civil society to participate in humanitarian assistance and in major sports events (Sudan); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
Protection of HRDs and journalists		
136.57 That anti-terrorism law combats only terrorist groups and does not consider human rights defenders (Iraq); Source of position: A/HRC/36/11/Add.1	Supported	Partially implemented
136.111 Continue efforts to provide better protection to human rights defenders and strengthen civil society as an essential partner in boosting the human rights system (Tunisia); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
136.112 Ensure that the deaths of human rights defenders are promptly and thoroughly investigated, and that those found to be responsible are brought to justice (Belgium);	Supported	Not implemented
136.113 Provide full implementation of the National Policy for the Protection of Human Rights Defenders (State of Palestine); Source of position: A/HRC/36/11/Add.1	Supported	Partially implemented
136.115 Restore functionality of the National Programme for the Protection of Human Rights Defenders (Norway); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
136.114 Take all necessary measures to ensure the physical integrity of journalists and human rights defenders, including an explicit and published decision on instituting a federal investigation and prosecution in all cases involving violence against human rights defenders (Netherlands); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
136.116 Take more decisive steps towards implementing the National Programme for the Protection of Human Rights Defenders (Poland); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
136.117 Review its respective Decree of 2016 related to protection of human rights defenders in order to ensure wider participation of civil society and enhanced protection of human rights defenders and their families (Slovakia); Source of position: A/HRC/36/11/Add.1	Supported	Implemented
136.118 Implement the National Plan for the Protection of Defenders (Australia); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
136.119 Strengthen the national programme for the protection of human rights defenders, in particular its funding and human resources (Czechia); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented

136.120 Take all necessary measures to guarantee the safety of human rights defenders and journalists as they carry out their tasks (France); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
136.121 Take further steps to protect human rights defenders, including those working in relation to the rights of indigenous, including through ensuring impartial, thorough and effective investigations into all attacks, harassment and intimidation against human rights defenders and prosecution of all alleged perpetrators of such offences; and further, fully implement the national programme to protect human rights defenders through the adoption of a specific legal framework, allocation of a budget and the setting up of multi-disciplinary teams to implement it (Ireland); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
136.122 Further intensify the implementation of the National Policy for the Protection of Human Rights Defenders, and the Programme to Protect Human Rights Defenders (Mongolia); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
136.230 Guarantee adequate consultation and full participation of indigenous peoples in all legislative and administrative measures affecting them, protect indigenous people including indigenous human rights defenders from threats and attacks, and protect their land rights, in particular by strengthening protection programmes, completing pending land demarcation processes and providing adequate funding and capacity to the Indian National Foundation (FUNAI) (Germany); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented
Freedom of Peaceful Assembly		
136.58 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); Source of position: A/HRC/36/11/Add.1	Supported	Not implemented