

Members of the Brazilian National Congress,

We, the undersigned organizations, address the Brazilian National Congress to express our concern about the Draft Bill No. 1595/2019, an initiative seeking to reform the 2016 Anti-Terrorism Law to create a parallel intelligence apparatus in the federal Executive Branch.

The bill presented by Deputy Major Vitor Hugo (PSL) was approved on September 17, 2021, by a Special Committee of the Chamber of Deputies—an accelerated procedure with reduced opportunities for participation and debate—pending approval by the plenary of this chamber and analysis by the Senate.

The decision ignores the recommendation of a group of United Nations Special Rapporteurs, who requested Brazilian State to review and reconsider the legislation due to the high risks it poses to human rights, particularly freedom of expression and association<sup>1</sup>. The project seeks to create a new surveillance apparatus directly under the authority of the President of the Republic, which will be able to monitor the exercise of a wide range of activities under the justification that they may be related to terrorism.

The text has three main problems:

1. PL 1595/2019 creates a new concept of terrorism based on broad and undefined criteria. There is no element that differentiates the so-called "terrorist act" from common crimes; moreover, the text criminalizes mere intentionality. Any individual or collective action with the "appearance of intent" to "intimidate or coerce the civilian population or affect the definition of public policies" may be criminalized. The vague nature of the concepts will easily allow the prosecution of not only organized public demonstrations, like protests and strikes, but also of any attempt, including individual and digital, to participate in the public debate.
2. In order to identify and prosecute "terrorist" acts, the legislation would create new State powers—"counter-terrorist measures"—ranging from the control of national borders to the elaboration of sophisticated strategies of intelligence, surveillance and infiltration of public agents. The bill seeks to create a parallel system of surveillance and social control centralized under the authority of the president of the republic, who acquires the power to coordinate armed and police forces, in addition to mobilizing any public agent to carry out secret actions. This would be rolled out with limited oversight mechanisms and without any mechanism of social scrutiny. Additionally, in its Article 23, the bill delegates to the president powers related to the regulation of the law.
3. Finally, article 13 of the bill determines that counter-terrorism related measures constitute hypotheses of "exclusion of unlawfulness," a presumption of legality that generates less control and responsibility of public agents. In the Brazilian context and

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<sup>1</sup> Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the situation of human rights defenders; and the Special Rapporteur on the right to privacy in a letter to Brazilian president, 15 June 2021.

given the broad framework created by the text, civil society points out that in practice this may mean a license to kill.

The stigmatization, persecution and criminalization of dissident voices and social movements has increased at an accelerated rate in Brazil in recent years. This process represents a serious threat to Brazilian democracy and poses a risk to influence similar legislation in the Latin American region.

The World Organisation Against Torture (OMCT) and the members of its global Torture and Terrorism Working Group are concerned over the serious risk of arbitrariness this bill will entail and the human rights violations their implementation could bring about, including breaches of the right to liberty and security of the person. We strongly recommend the Brazilian National Congress to review and reconsider this legislation to ensure it is in compliance with Brazil's international human rights obligations.

### *Signatories*

Aprodeh - Peru

Asociația Promo-LEX - Moldova

Cairo Institute for Human Rights Studies (CIHRS) – USA

Centro de Estudios Legales y Sociales (CELS) – Argentina

Centro de Políticas Públicas y Derechos Humanos - Peru

EQUIDAD CLEEN Foundation - Nigeria

Fundación 1367 Casa Memoria José Domingo Cañas - Chile

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