

URGENT ACTION

LAWS COULD CRIMINALIZE FREEDOM OF EXPRESSION

New proposed legislation on “terrorism” and “disorder” being discussed in Brazilian Congress puts freedom of expression and the right to peaceful assembly at risk. The new “crimes” could be used to criminalize citizens attending protests.

The proposed new law PL 499/2013 creates the crime of “terrorism” under Brazilian criminal law and is scheduled to go to vote in the Brazilian Senate on 25 February or immediately thereafter. The way “terrorism” is defined under this proposal is overly vague and therefore may be used to unlawfully restrict human rights: *“Cause or infuse terror or widespread panic by offense or attempted offense to life, physical integrity or health and deprivation of liberty of a person”*. Another proposal under discussion would see the creation of the crime of “disorder” in order to control current protests. The proposal as it is currently defines “disorder” in a vague manner and contains articles that could lead to the criminalization of any citizen attending a public demonstration, even if they are not involved in illegal activities. It also prohibits the use of masks during or immediately after the public demonstrations, protests or assemblies.

In June 2013 during the Confederations Cup and in October 2013 during the teachers strike, hundreds of thousands of people took part in massive protests throughout the country. The protests were severely repressed by police, who used excessive and unnecessary force in many cases and also unlawfully detained protesters. This led to increased violence and confrontations with the police, during which several people were injured. The current laws being used to charge participants in the protests, such as the Law for Criminal Organizations and the National Security Law, have resulted in several people being criminally charged for nothing more than the lawful exercise of the human right to participate peacefully in protests. The new proposed legislation is vaguely worded and presents a clear and immediate risk of further criminalization of peaceful protesters and their rights to freedom of expression and peaceful assembly. In order to be lawful, laws which restrict the rights to freedom of expression and peaceful assembly must be crafted with sufficient precision to allow people to regulate their conduct accordingly, and must not confer unfettered discretion on those charged with enforcing the law.

Please write immediately in Portuguese, English or your own language:

- Urging the Brazilian Senate to reject proposed law PL 499/2013 that defines the crimes of “terrorism”;
- Urging the Brazilian Congress not to approve any laws that create the crimes of “terrorism” and “disorder” using definitions of such terms that will criminalize the rights to freedom of expression and peaceful assembly;
- Calling on the Brazilian government to take all appropriate measures to ensure the rights to freedom of expression and peaceful assembly as guaranteed under Brazilian Constitution, including the safety of protesters.

PLEASE SEND APPEALS BEFORE 3 MARCH 2014 TO:

President of the Senate

Renan Calheiros

Senado Federal

Praça dos Três Poderes, Anexo I - 15º andar

CEP 70165-900 Brasília DF, Brasil

Fax: +55 61 3303 1695

Email: renan.calheiros@senador.gov.br

Twitter: @renanCalheiros_ ; @pr_senado

Salutation: Dear Senator / Exmo. Senador

Civil House Chief Minister

Aloizio Mercadante

Palácio do Planalto

Praça dos Três Poderes, 4º andar

CEP 70150-900 Brasília DF, Brasil

Fax: +55 61 3321 1461

Email:

<mailto:casacivil@presidencia.gov.br>

Twitter: @CasaCivilBR

Salutation: Dear Minister / Exmo. Sr. Ministro

And copies to:

Anistia Internacional Brasil

Rua das Laranjeiras n. 5, casa

Laranjeiras – 22.231-170

Rio de Janeiro, RJ, Brasil

Also send copies to diplomatic representatives accredited to your country. Please insert local diplomatic addresses below:

Name Address 1 Address 2 Address 3 Fax Fax number Email Email address Salutation Salutation

Please check with your section office if sending appeals after the above date.

**AMNESTY
INTERNATIONAL**



URGENT ACTION

LAWS COULD CRIMINALIZE FREEDOM OF EXPRESSION

ADDITIONAL INFORMATION

In June 2013, due to the increase in public transportation fares and the upcoming FIFA Confederations Cup, protests in Brazil reached a scale never seen before, with hundreds of thousands of people participating in public demonstrations in dozens of cities. The reaction of the police to such protests was violent and repressive, leading to several people, including journalists, being injured and detained. It was clear that Brazilian police were not prepared nor adequately trained to deal with public mass demonstrations or to use less lethal weapons. In October 2013, protests increased again due to the teachers strike and the police violence against teachers in a public demonstration. In Rio de Janeiro, hundreds of peaceful protesters were detained.

The legislation being applied to try to charge protesters is inappropriate and shows a clear intent to criminalize protesters' behaviour, for example by using the Law for Criminal Organizations (Law n° 12.850, 2 August 2013) which was developed for fighting international organized crime and militias in urban areas, and the National Security Law (law n° 7.170, 14 December 1983) which also targets organized crime and was developed while Brazil was still under a dictatorship. People who have never met before but were detained in the same protest are being indicted for being part of a criminal organization. Many people are also being charged with crimes of "resistance" and "contempt" (*desacato*).

Santiago Andrade, a cameraman, died on 13 February after being injured allegedly by a sort of firework launched by two protesters in a demonstration on 6 February. This incident strengthened discussions about "terrorism" as a crime and sped up the process for voting on the current proposal in Congress. Mainstream media and part of public opinion in Brazil is associating "terrorism" with the illegal or violent acts occurring during mass demonstrations.

Although Amnesty International has not taken a position on the definition of terrorism, it is useful to highlight that the proposal in Brazil is significantly broader than that put forward in the guidance offered by Martin Scheinin, the previous UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism: *"It is essential to ensure that the term 'terrorism' is confined in its use to conduct that is of a genuinely terrorist nature. The three-step characterization of conduct to be prevented - and if not prevented, punished - in the fight against terrorism in Security Council resolution 1566 (2004) takes advantage of the currently agreed upon offences concerning aspects of terrorism by using these as trigger-offences and goes on to establish an appropriate threshold by requiring that such offences are also: committed with the intention of causing death or serious bodily injury, or the taking of hostages; and for the purpose of provoking a state of terror, intimidating a population, or compelling a Government or international organization to do or abstain from doing any act."* (E/CN.4/2006/98, para. 42.)

Name: Brazilian protesters and citizens

Gender m/f: both

UA: 41/14 Index: AMR 19/001/2014 Issue Date: 24 February 2014