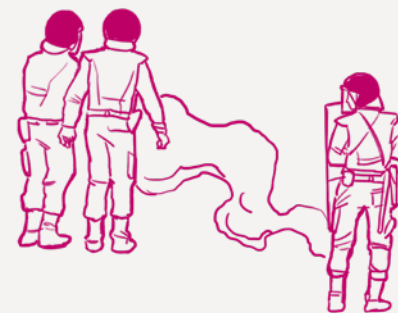
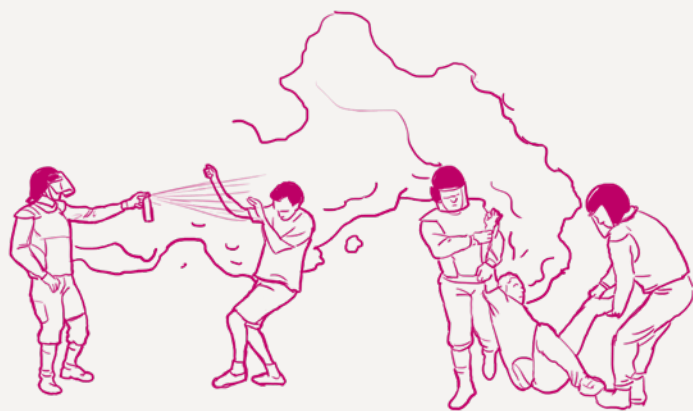




5 YEARS SINCE JUNE 2013

*How the three
government branches
intensified coordinated
actions and made
more sophisticated the
mechanisms that restrict
the right to protest over
the past 5 years*

ARTICLE 19



Introduction

THE EXERCISE OF THE RIGHT TO PROTEST in Brazil in the past 5 years has suffered a series of intense and sophisticated restrictions by the government, marked by institutional coordination among its executive, legislative and judiciary branches. Since June 2013, the starting point for this analysis, police repression was combined with other initiatives aiming to limit freedom of expression and the right of protest, such as legislative proposals and restrictive court decisions. The panorama resulting from protest criminalization relates to a broader scenario of regression in the guarantee of freedoms and basic rights, reduction of participatory spaces and use of public space, and the weakening of democratic institutions in the country.

Repression to popular demonstrations evidently has not started here in 2013; Brazil is a country with a history of violence against protesters and criminalization of social movements. The so-called June Journeys, however, are often considered a milestone of such narrative – at least when we take into account the period after Brazil's re-democratization –, due to the volume of protests and the intensity of repression, not common at the center of large capitals, but widely held against marginalized populations in the country. New and existing state practices to restrict the right to protest

were then put in evidence, driving an analysis of the period after the June Journeys to evaluate the current scenario regarding the freedom to demonstrate. In June 2013, the indiscriminate use of less-lethal weapons – such as rubber bullets, pepper spray and tear gas – and other arbitrary police practices generated emblematic imagery of protest repression. At that time, thousands of demonstrators, professional communicators, lawyers and even passersby were turned into targets for aggressions, arbitrary detentions and other illegalities. A reflection of such repression was seen in other areas of the Brazilian state that year, including the immediate proposal of at least 20 restrictive bills and criminalization of demonstrators and communicators by means of investigations and lawsuits.

In the following years, that logic did not change. Repression and criminalization actions remained intense – and, in several cases, more sophisticated – over the streets, the laws and courts; Furthermore, the coordination between different government bodies and levels became evident. In this sense, among the executive branch measures, the sophistication of weapons and tactics of police repression stands out, as well as restrictions to the right to protest becoming operational practices. In this regard, one example, among many, is the participation of security forces that were not traditionally employed in public demonstrations, such as Municipal Guards, and even the Army, in a whole chain of repression and criminalization.

It is worth highlighting that, since 2013, in view of the proximity of major events such as FIFA Confederations Cup in that same year and FIFA World Cup in 2014, the Brazilian government coordinated measures in the federal, state and municipal levels, through different agencies, to promote surveillance actions as a means to support police activity in demonstrations and other large public gatherings. Such practice has several developments, from systematic filming of protests by the police to the use of images and information from protesters in police investigations. The investigations also used activists' information available on social networks and even breached their message confidentiality, in cases with a clear criminalizing bias.

Regarding this point, it is important to highlight the role of the legal system – represented by the judiciary branch and the Public Prosecutor's Office for this analysis – on the reinforcement of protests' criminalization. On the one hand, the lack of external control for police activities, partly due to omission of these bodies, was key to the continuation of violations committed by the security forces over

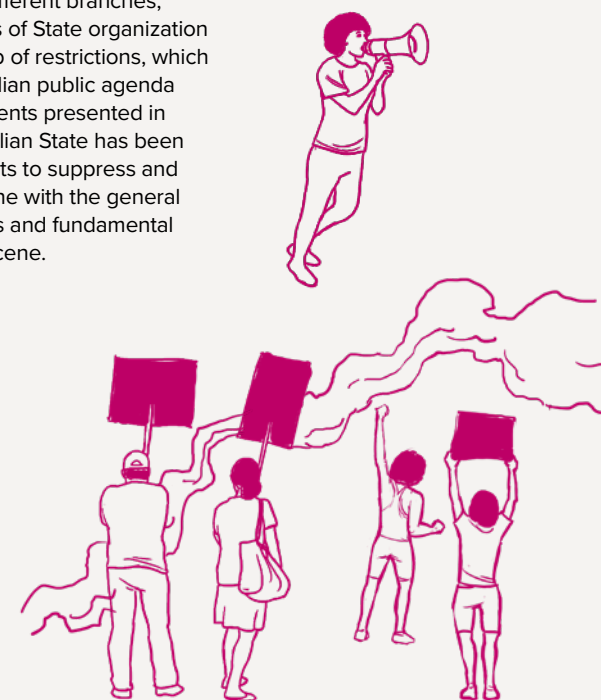
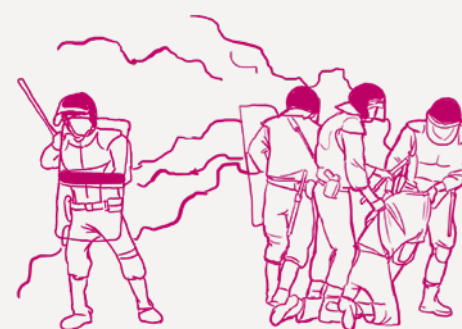
these five years. On the other hand, court cases against protesters remained arising, along with several examples of prior restraint in which the very occurrence of demonstrations became forbidden, completely curtailing the exercise of the right to protest. Moreover, as a direct reflection of protest repression, in this period were also observed decisions of explicit blaming of members of the press, who suffered serious injuries while covering these events.

Likewise, on the Legislative field, the period presented a high numbers of bills, often related to the main topics on protests under discussion at each moment, as illustrated by proposals on road blocking, on the need for prior notice for the exercise of the right of assembly and on the use of masks in demonstrations. There are currently at least 70 legislative proposals under consideration in the Brazilian Congress that aim to create new crimes, to harden sanctions to existing crimes and to regulate the right to protest. Similar measures can also be seen in the state and municipal levels.

Meanwhile, the emblematic Anti-Terrorism Law was approved, encompassing several concerns regarding the criminalization of protesters and social movements and strengthened by new bills that aim to make this law even more restrictive. In

addition to being the stage for the production of norms related to the right of protest, the legislative arena also paraded episodes of violence and the complete suppression of popular participation with the closure of the Congress' galleries and the recurrent withdrawal of protesters who disputed the proposals under discussion.

This summary on the five-year period since June 2013 is focused on two aspects. The first refers to the continuity of violations to the right of protest that, evidenced on that occasion, were perpetuated over the subsequent years. Adjustments were made to improve repression and criminalization mechanisms and to adapt them to relevant circumstances, such as major sport events, the wave of student occupations and the developments of the country's political and social crisis, among others. The second aspect is the coordination – in some cases deliberated – among different branches, government bodies and levels of State organization to implement a complex group of restrictions, which have been central in the Brazilian public agenda over the past years. The elements presented in this analysis suggest the Brazilian State has been strengthening all its instruments to suppress and silence dissenting voices, in line with the general deterioration of public liberties and fundamental rights in the current political scene.



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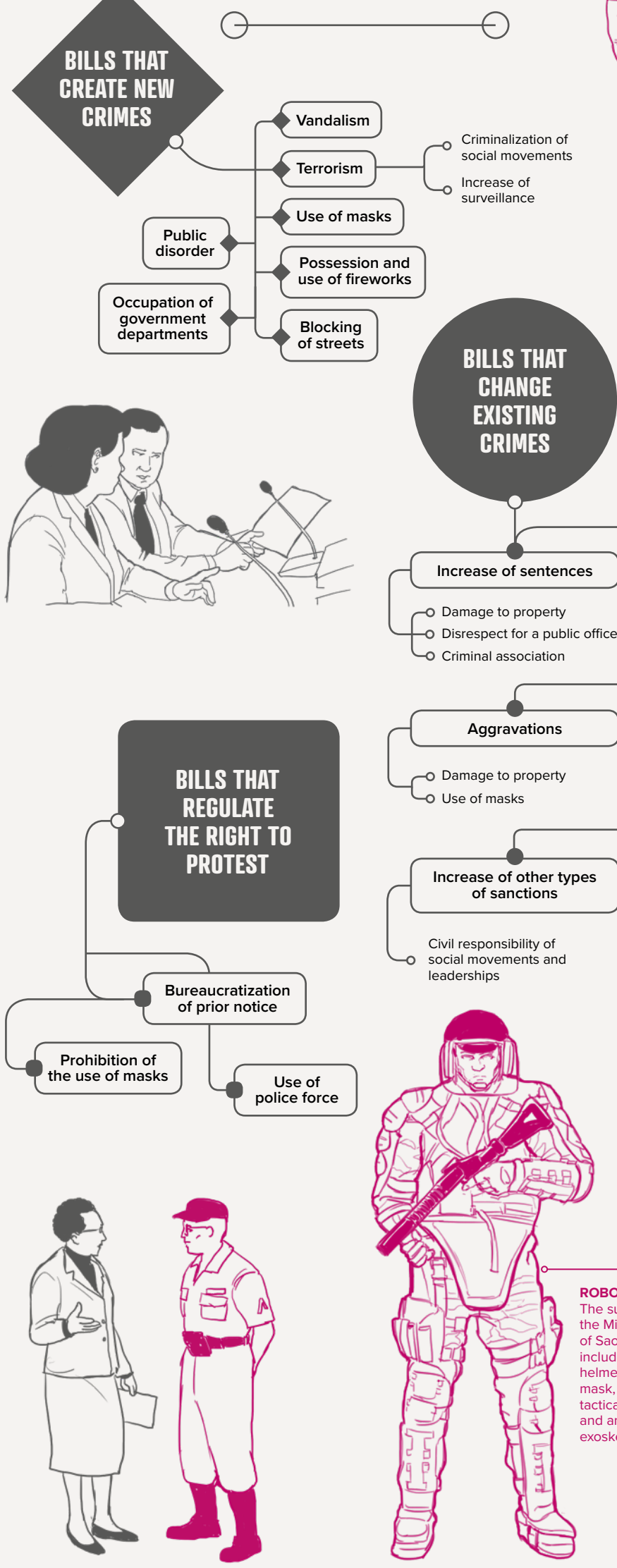
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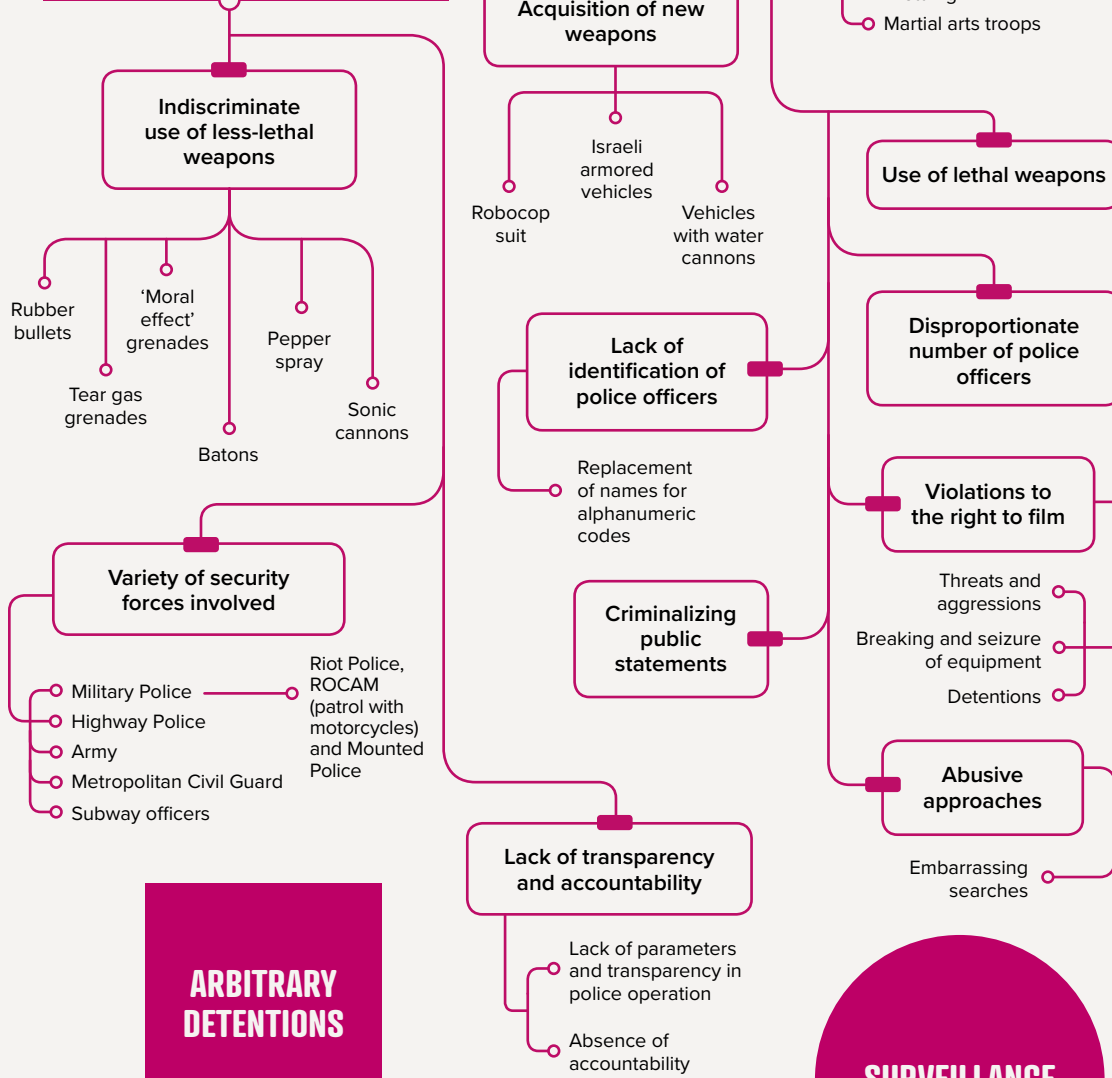
LEGISLATIVE



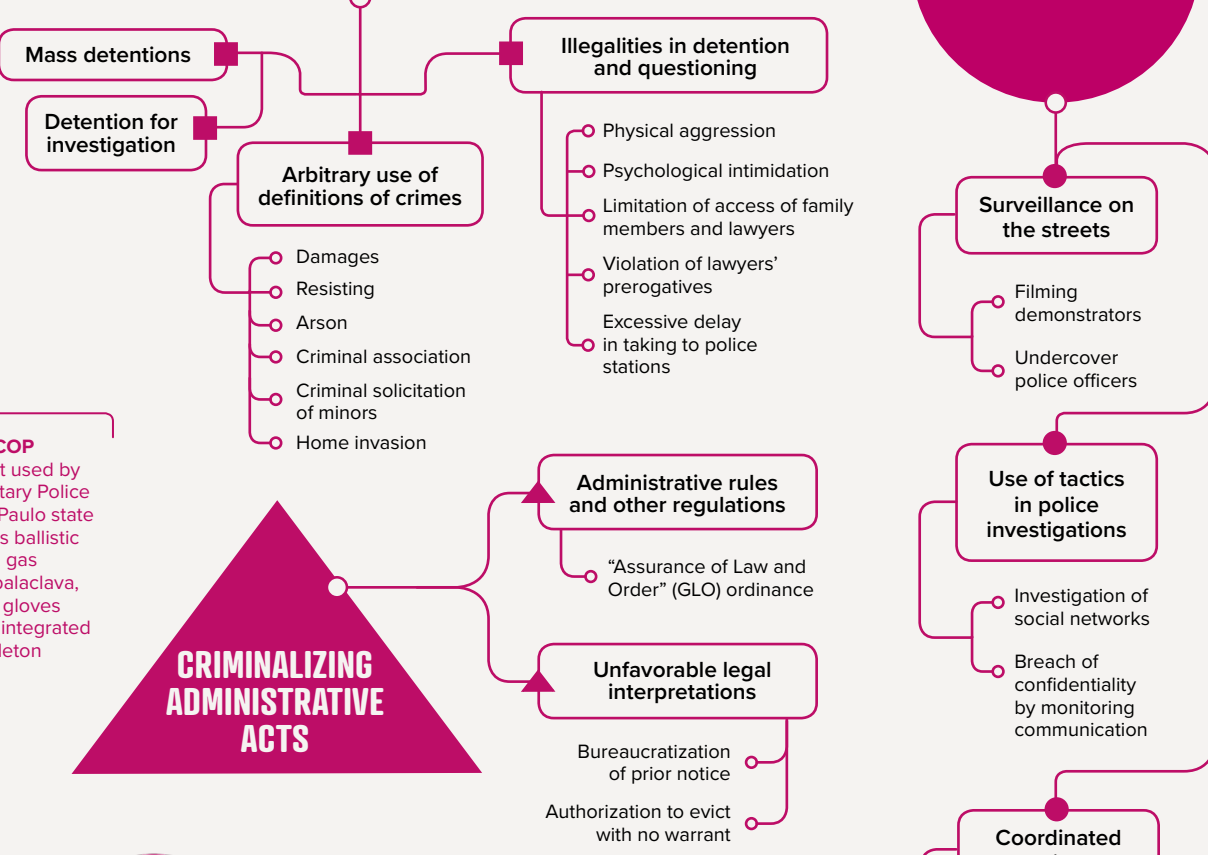
EXECUTIVE



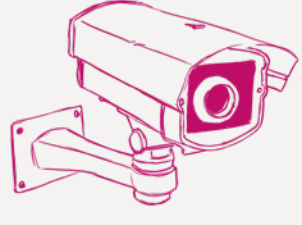
SOPHISTICATED POLICE REPRESSION



ARBITRARY DETENTIONS

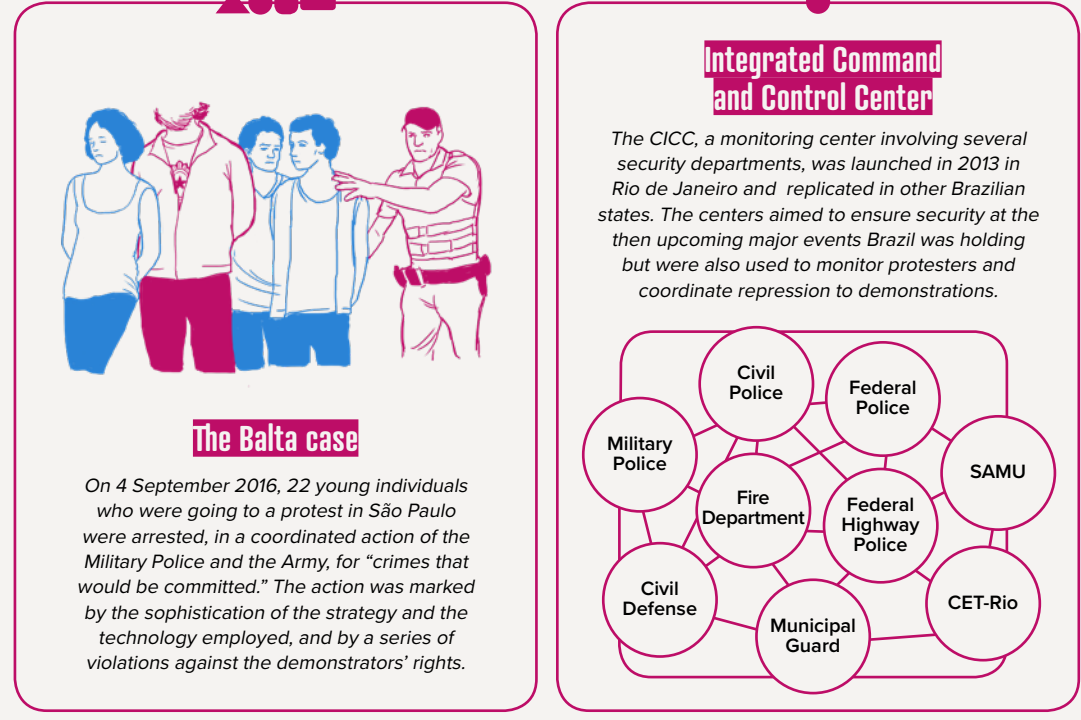


CRIMINALIZING ADMINISTRATIVE ACTS



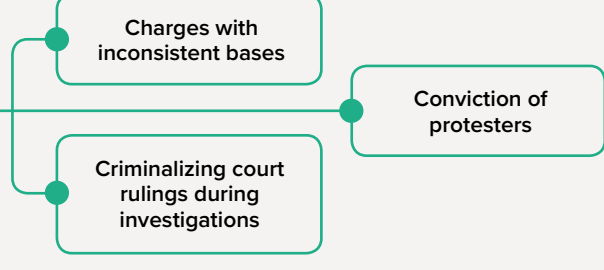
How actions are coordinated in the executive branch

Integration of security forces



LEGAL SYSTEM

CRIMINALIZATION



BLAMING OF VICTIMS OF POLICE REPRESSION



PRIOR RESTRAINT

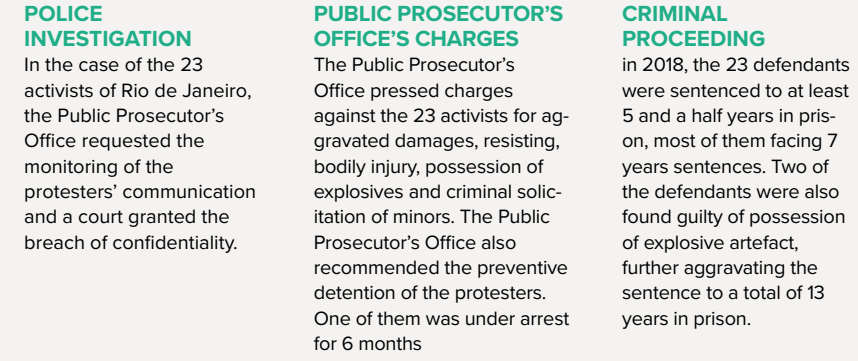


OMISSION IN THE EXTERNAL CONTROL OF POLICE ACTIVITY

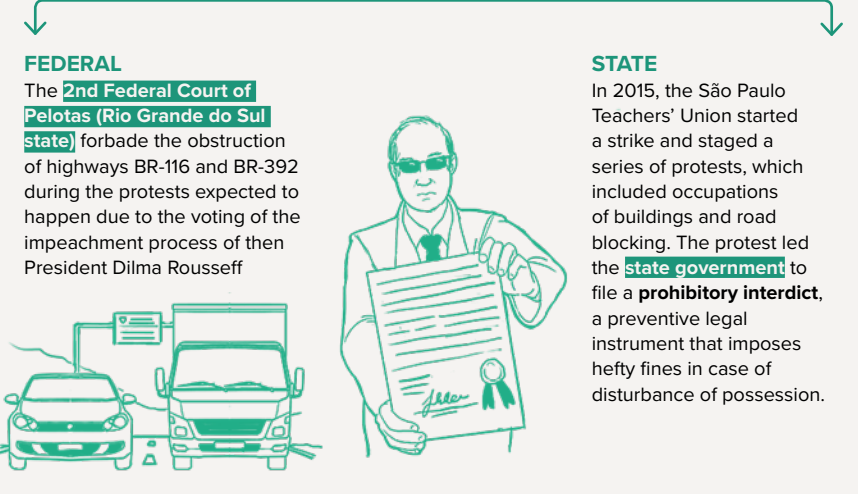


How actions are coordinated in the judiciary branch

Public Prosecutor's Office and Judiciary: the case of the 23 activists of Rio de Janeiro



Federal and state court systems



FEDERAL LEGISLATIVE BRANCH

Over the past years, the Brazilian Congress saw at least **70 bills** that fall into all the categories listed above. The **Anti-Terrorism Law** and **Law 13.281/2016** stand out among legislations in place that were approved in the period. The latter increased sanctions to road blocking and was motivated by the truck drivers' protests throughout the country's highways in 2015.

STATE LEGISLATIVE BRANCH

As of 2013, **state laws have been approved** to regulate the right to protest in the Brazilian states of São Paulo, Rio de Janeiro, Alagoas, Minas Gerais, and others. The laws were mainly focused on the **prohibition of the use of masks** in protests and on **setting requirements for the prior notice** provided in article 5, XVI of the Brazilian constitution.

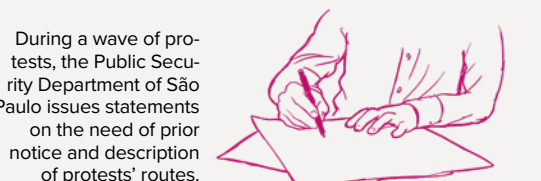
MUNICIPAL LEGISLATIVE BRANCH

Bills have also been proposed on the municipal level, such as **PL 368/2014 of São Paulo city**, which focused on the **responsibility of social movements and leaderships** for damages caused in public gatherings, among other subjects. **Porto Alegre city** recently approved **Supplementary Law 832/2018**, which relates to fighting **vandalism**, and among other things, tightens up regulation on **road blocking** and **prior notice**.

How actions are coordinated between different branches

PRIOR NOTICE

Discussions on the prior notice for protests, which has been used to legitimize repression against demonstrators, have been held in all government spheres, involving regulation and even Federal Supreme Court interpretations.



During a wave of protests, the Public Security Department of São Paulo issues statements on the need of prior notice and description of protests' routes.

Protests that do not provide prior notification on their planned route and causes could suffer police repression.

Bills on the matter come up in the **Chamber of Deputies**.

Courts issued decisions prohibiting protests or imposing fines for the lack of prior notice.

MASKS

The use of masks in protests has been generating different government responses, in addition to repression, such as the proposal and approval of several laws to forbid the practice, which will also be discussed in the Federal Supreme Court.



Use of masks as pretext for widespread repression.

In the Federal Supreme Court, there is an ongoing legal discussion on the constitutionality of one of the state laws that forbid the use of masks.

Several state laws approved the forbidding of masks in protests.

Several bills are proposed in the federal level.

SURVEILLANCE

Over the past few years, many coordinated surveillance strategies regarding protests have arisen, which include not only the integration of security forces, but also the use of surveillance data in investigations and legal proceedings against demonstrators and **bills to increase surveillance**.



In 2013, ABIN set up a system for internet monitoring seeking to anticipate protests.

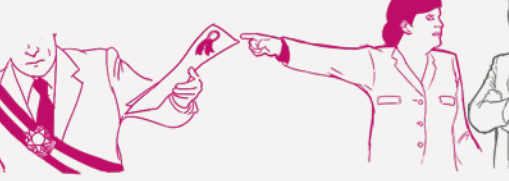
The Army used the "Guardião" software for internet monitoring and for sending information to the Federal Police and Public Security Departments.

Systematic use of cameras by police officers in large protests to film demonstrators.

Local police made "virtual rounds" across social networks profiles of demonstrators, who were then prosecuted based on the information collected.

ANTI-TERRORISM

The creation of the crime of terrorism in Brazil, which was driven by large events, is a threat to democratic freedoms and social movements. It involved both legislative and the federal executive branches.



Several bills, in a larger number after 2013, seek to define terrorism as a crime.

After approval, at least 10 new bills are proposed by legislators to make the Anti-Terrorism Law even more restrictive.

The Federal Executive branch proposes a bill that originated the Anti-Terrorism Law.

Negotiations on the wording of the law, during the process of bill 2016/2015, involve the executive branch.