

VIOLATIONS OF FREEDOM OF EXPRESSION

- 2015 ANNUAL REPORT -

ARTICLE 19 BRAZIL

RESEARCH

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This report is an adaptation of the protocol for the registering and monitoring of attacks against journalists, developed by ARTICLE 19 Mexico and Central America. It was also inspired by IFEX-ALC protocol for monitoring aggressions to freedom of expression.

WARNING:

This is not an exhaustive report on the status of individual cases. New information may emerge as cases develop, further reports are released, and official investigations progress.



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INTRODUCTION



CENSORSHIP

- OLD AND NEW METHODS -

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Ricardo GONZALEZ

Senior Global Protection Officer, ARTICLE 19

CENSORSHIP is a temptation intrinsic to power. Regardless of political ideologies or identities, censorship appeals to the powerful as an easy and definitive means to avoid the pillars of any truly democratic system: diversity and pluralism. Censorship often imposes silence, but it is also being increasingly used to change the past, distort the present and even to impose a monopoly of power on the future of whole communities and countries. More than an act of power, censorship is a reaction by the powerful when that power is threatened.

Even though it seems that at times the defence of the right to free expression is only a battle against silence, history provides countless examples where said defence implies something much more tangible and far-reaching. For instance, the defence of free expression is a defence of principles of equality and non-discrimination, regardless of an individual's skin colour, gender, sexual identity, or political or religious opinion, among others. At times, individuals are denied access to and permanence in public spaces for meetings and discussions, such as streets, public squares, the electromagnetic spectrum and the Internet.

This perspective, where censorship is seen as an act of desperation from those in power and the defence of the right to freedom of expression is seen as an act of resistance and vindication, provides us with an opportunity to take stock of the long list of problems and challenges that humanity faces in this regard.

We notice, for instance, that while in some countries under openly authoritarian regimes traditional censorship standards have consolidated, in democracies, the means and methods of censorship have reached unprecedented levels of sophistication, with the introduction of laws that intend to fight terrorism and organised crime being misused to censor. Over the last two years, we have seen the proliferation of counter-terrorism laws in at least thirty countries. The ambiguous content of these laws has served the purpose of restricting or inhibiting the right to free expression. **These laws must be added to the existing laws in many countries where defamation and slander continue to result in criminal punishment, which is therefore disproportional.**

In addition to the vulnerability caused by this type of disproportionate legislation, the unprecedented expansion of the Internet and the use of communication and information technologies has commenced a new chapter, creating opportunities as well as of threats for the full exercise of freedom of expression. The mass surveillance of communications by both states and corporations, restrictions on access to the Internet, and the filtering and blocking of content are some of the elements that have made us question the initial optimism that the Internet would be a suitable medium for the exercise of rights and freedoms.

Together with the emergence of new threats to freedom of expression and the multiplication of violent actors during the first decade of the 21st century, harsher censorship methods persist, such as imprisonment or attacks on physical and emotional integrity. 2015 was a particularly dangerous year for people exercising their freedom of expres-

sion. The number of murdered media workers and other social communicators throughout the world is estimated at between 60 and 100 worldwide, and there is an equally high number of murdered or missing human rights defenders.

In the statistics, we find stories that reflect the quantifiable seriousness of the situation, but, behind the figures we come across testimonies of bravery and commitment, a struggle to prevent people, communities and topics of public interest from being forcibly and definitively removed from public areas of discussion and debate. This is precisely where the greater force of this report lies: it presents us with a vivid picture of the situation regarding freedom of expression in Brazil, while also helping us to understand the general state of the country's democratic system.

Specifically, this report analyses the 67% growth in the number of serious violations of freedom of expression since 2014. At the same time, the report provides evidence that almost half of these aggressions were committed by civil servants or politicians against journalists, bloggers, and other communicators who investigated or disseminated information on topics related to governmental corruption or irregularities in public management. Impunity, which results from the lack of efficient investigations, continues to be the rule in most cases.

While this report presents a complex and worrying forecast for the exercise of freedom of expression, its content and conclusions provide the reader with ways and means to change and prevent such an outlook. We should never forget that the defence of the right to freedom of expression is also a fight for memory, imagination, and hope.

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SERIOUS VIOLATIONS OF THE
FREEDOM OF EXPRESSION OF COMMUNICATORS¹



REINFORCING TRENDS

...

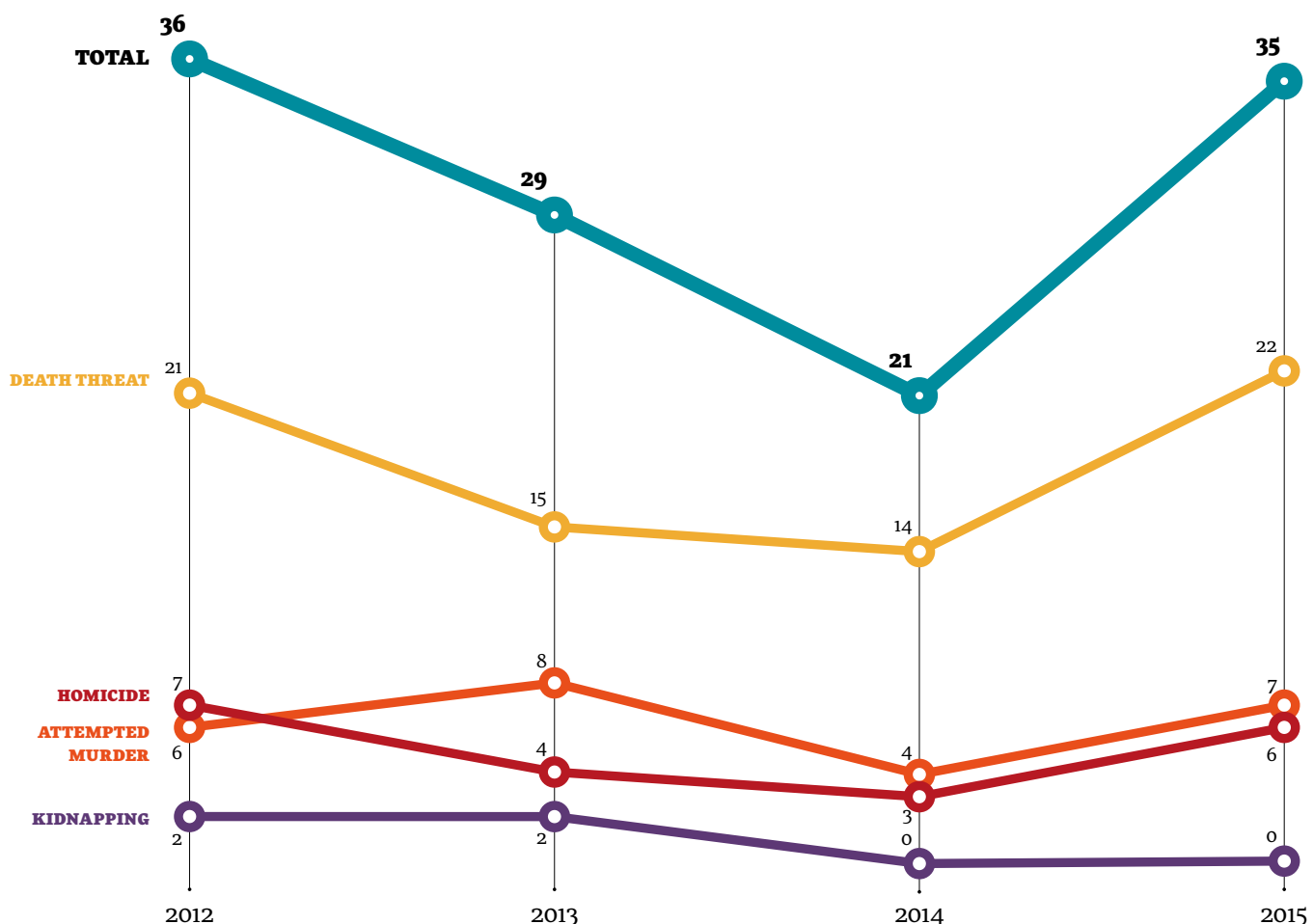
THIS IS THE FOURTH annual report on violations of freedom of expression in Brazil published by ARTICLE 19. By applying a methodology of case monitoring year after year, it is already possible to reveal certain trends that are reinforced and to draw a worrying picture for the country's freedom of expression.

Firstly, it is worth saying that the number of violations alone is considerably high when compared to other countries. Different studies carried out by international organisations for the protection of freedom of expression and the press place Brazil among the ten most dangerous countries for the exercise of communication.² In

this scenario, 2015 particularly stands out due to the increase in the number of violations in comparison to the previous year: a 67% increase in serious violations against communicators from 2014. 121 communicators were victims of murder, attempted murder, death threats, or kidnapping between 2012 and 2015.

Although the number of serious violations increased overall on the previous year, attention must be paid to the number of homicides, which doubled in 2015, with six communicators murdered for their communication's activities. Therefore, 2015 is now considered one of the most violent years for the exercise of communication in Brazil.

– TYPES OF VIOLATION YEAR BY YEAR –



¹ For this report, 'communicators' refers to all those who exercise communication as a regular activity, even if not in a professional capacity. It includes journalists, media workers, radio broadcasters, bloggers, and citizen journalists.

² <http://www.presselem.ch/casualties.shtml> e <https://www.cpj.org/killed/2015/>

GENERAL OVERVIEW

OF VIOLATIONS IN 2015

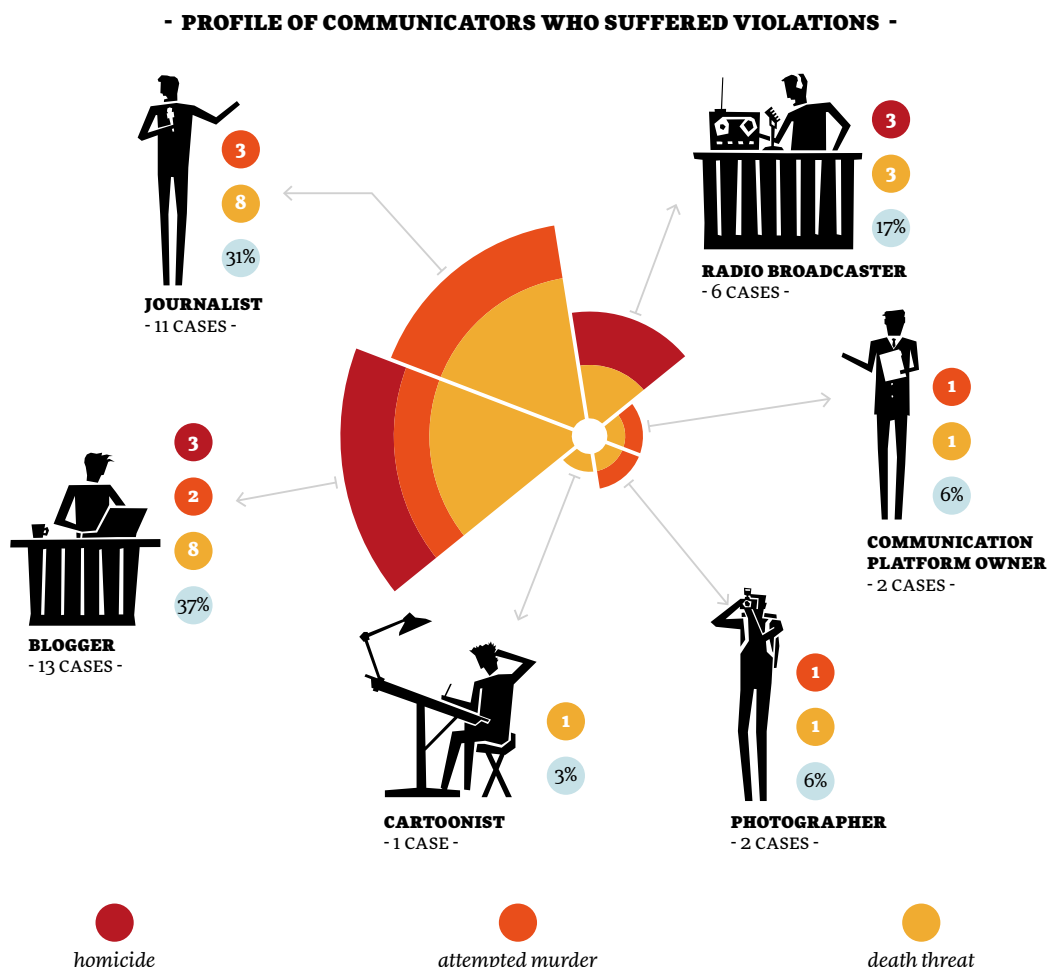
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FOLLOWING THE MONITORING of violations of freedom of expression in Brazil, 57 cases were registered regarding serious violations against communicators potentially related to the exercise of communication. After a detailed process of research into each case, a link could be established between the violation and the exercise of freedom of expression in 35 cases.

With regard to the victims' profiles, eleven were journalists and reporters, six were radio broadcasters, thirteen were bloggers, two were photographers, two were owners of communication platforms, and one was a cartoonist.

There was a striking increase in the number of cases that victimised radio broadcasters, which doubled in 2014. Attacks against bloggers increased three-fold on the previous year, accounting for 37% of the total cases in 2015.

The significant increase in the number of bloggers is reflected in the break-down of communication platforms used by the victims to perform their activities. While in the previous years, commercial communication platforms accounted for more than 60% of cases, in 2015 this number dropped to 49%, while alternative mediums reached 43% and community mediums reached 8% of total cases.



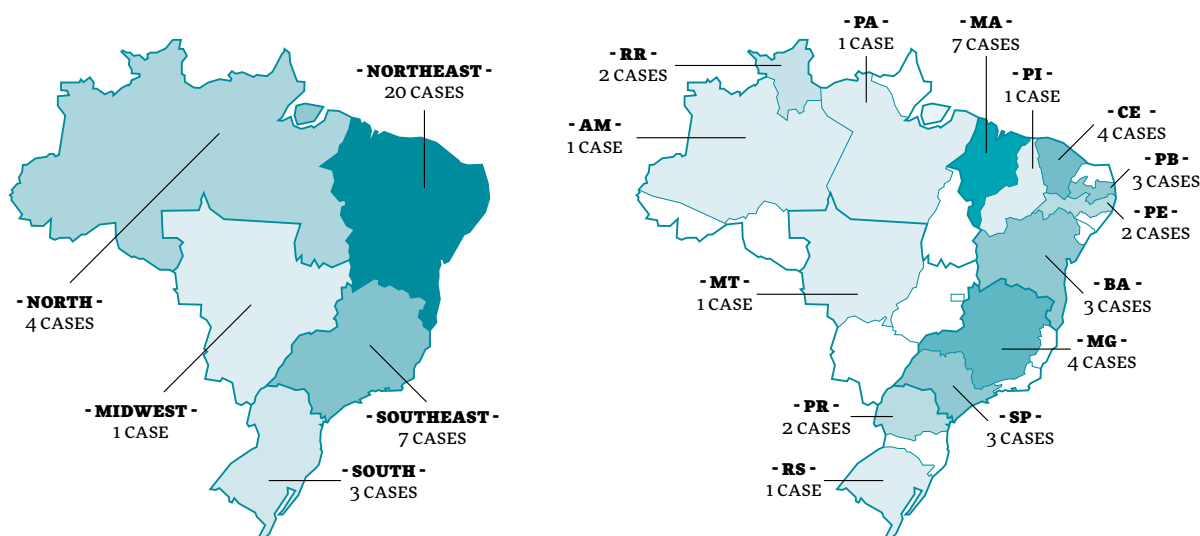
WHERE DID VIOLATIONS TAKE PLACE?

The greatest number of cases were recorded in Brazil's northeast region, accounting for 57% of cases, bucking the trend of previous years, when most cases were in the southeast region. This change is due to the increase in the number of cases of radio broadcasters and bloggers attacked in the northeast region, considerably higher than the pattern of the last three years.

As in 2014, the majority of cases in 2015 occurred in small towns with less than 100 thousand

inhabitants. Moreover, the proportion of cases in these towns increased, totaling 74%. The repetition of this pattern shows a trend of obstacles for those facing such violations. Small towns usually have fewer resources and poorer visibility on the national stage, which contributes to the creation of an atmosphere hostile to communicators, especially in places dominated by traditional political groups who consider the work of communicators a threat to their interests.

- MAPS: REGIONS AND STATES -



MOTIVATIONS AND PERPETRATORS

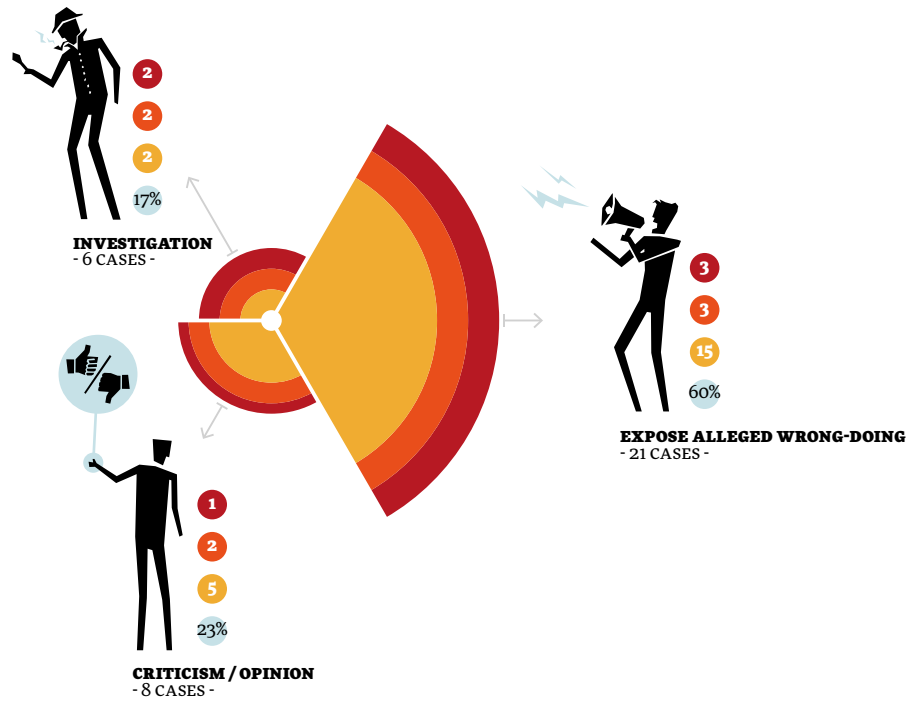
Just as in the previous years, from ARTICLE 19's work it is becoming increasingly clear that these violations take place because the victims make accusations, express criticisms and opinions, or investigate information of public interest. It is essential to understand these motivations so that the particularities and the social impact of such violations may be established when they are committed against communicators.

The role of a communicator is to obtain and disseminate information that allows society to form opinions and make informed decisions. Therefore, an attack against a communicator is not only an attack on the individual right of that person to perform their activity but also, an attack on society's collective right to access information.

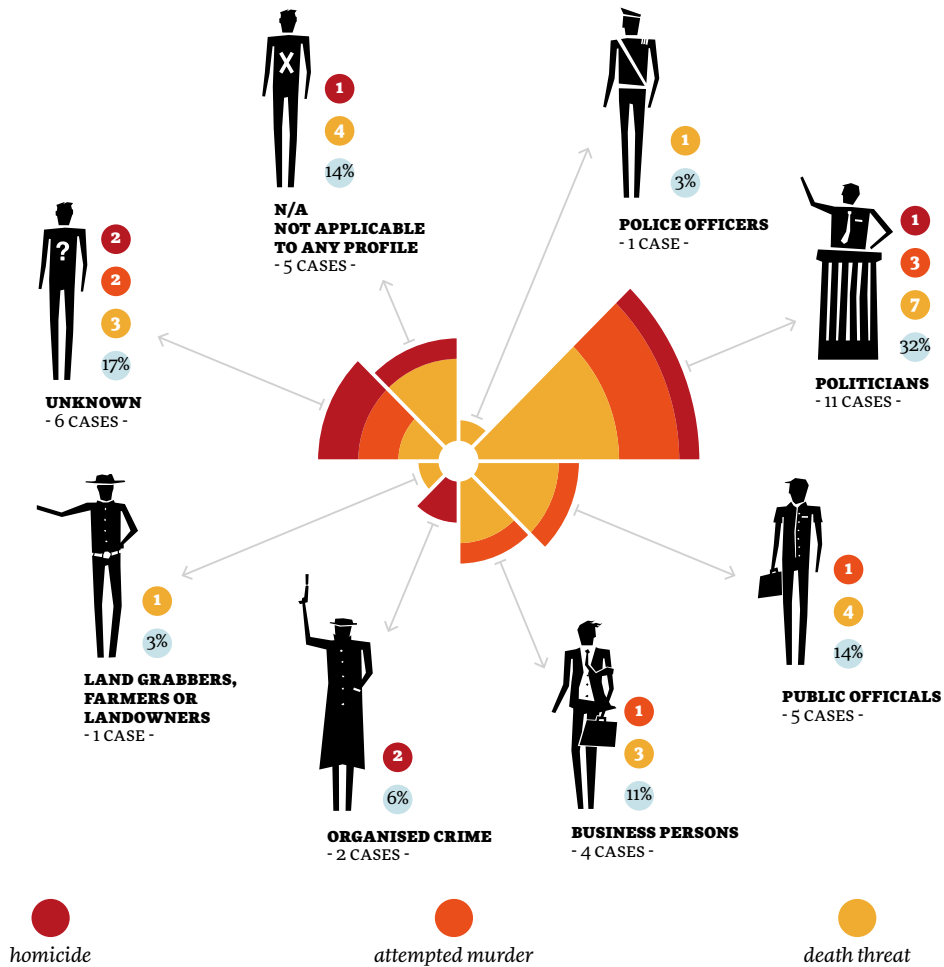
In 2015, the motive behind 60% of cases appears to be the victim's exposure of alleged wrong-doing, such as corruption. This reinforces the trends of previous years. The exposure of wrong-doing or dissemination of information on matters of public interest by communicators is important in order to hold government to account. Therefore, the high number of cases motivated by these allegations puts at risk society's ability to hold public administration to account.

Just as the majority of cases were motivated by these accusations, most of the alleged perpetrators of these violations are those who would feel most vulnerable if there were to be increased public accountability: public officials, such as politicians, police officers, and other civil servants appear likely to be responsible for the violation in 49% of cases.

- MOTIVATIONS FOR SERIOUS VIOLATIONS -

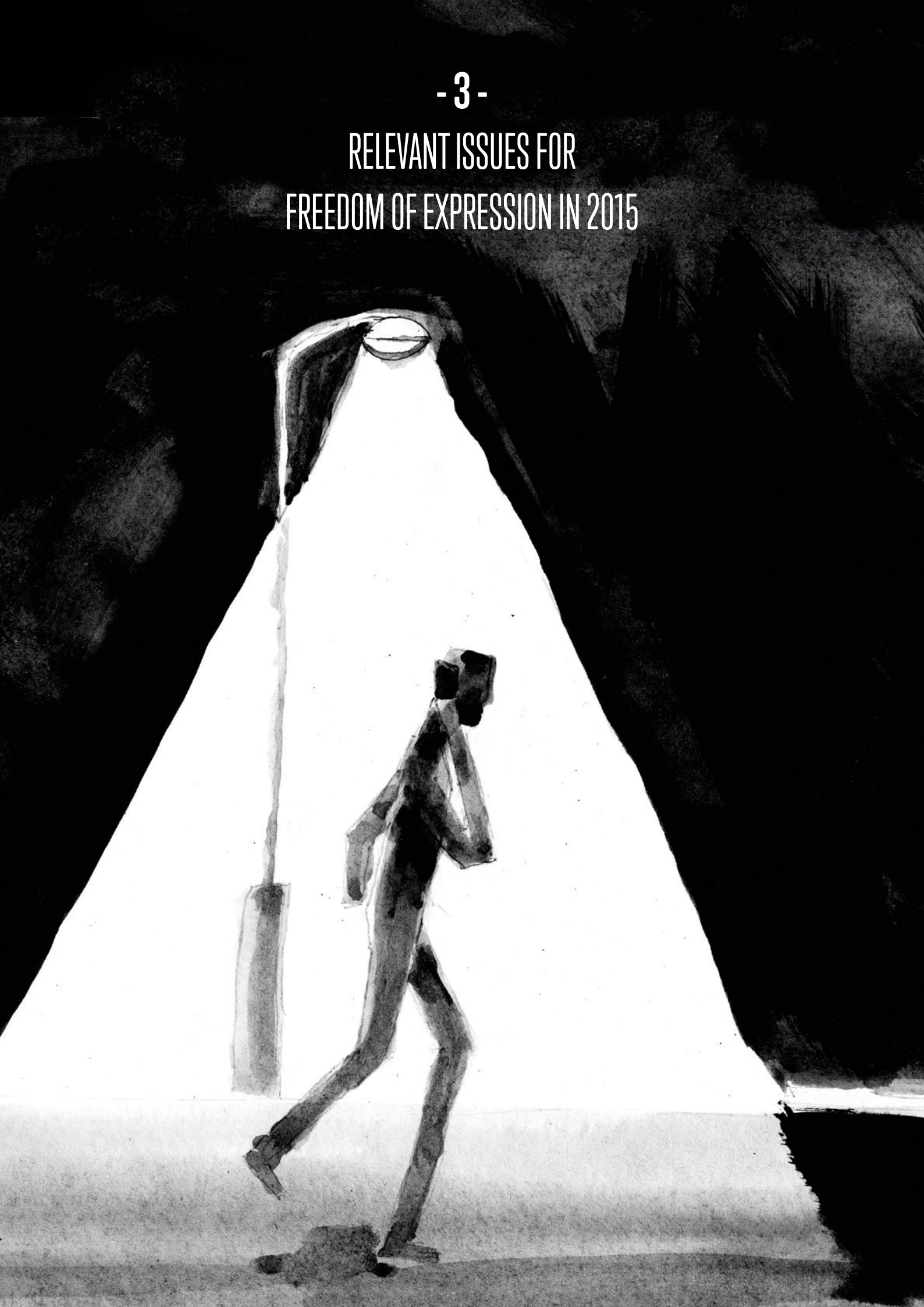


- PROFILE OF SUSPECTED PERPETRATORS -



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RELEVANT ISSUES FOR
FREEDOM OF EXPRESSION IN 2015



ALTERNATIVE COMMUNICATION, STANDARD CRIME

- VIOLATIONS AGAINST BLOGGERS -

• • •

*In 2015, serious violations against bloggers accounted for 37% of the cases.
For example, two bloggers were murdered in the Maranhão state in less than a week.*

IN BRAZIL and all over the world, the Internet has consolidated its role as one of the primary sources of information and communication. Dissemination of information occurs in many ways, through digital versions of the traditional communication mediums, through social media, and other tools for direct communication. Among these tools, blogs are increasingly nationally relevant and their role has consolidated since the launch of the first blogs in Brazil at the end of the 1990's.

Blogs are sites with a simple structure, usually written in the first person, and which are often frequently updated. Blogs are dynamic and usually thematic, focusing on matters of interest, and the specialties or familiarities of the blogger.

These mediums add informational plurality and diversity when topics of public interest are discussed, and are increasingly being accessed as sources of alternative information on matters related to such topics. Considering its importance in the field of communication and the right to information of the whole society, the blogosphere has been dealing with situations of risk, intimidation and violence.

The greater the importance or relevance of the public debates sparked via blogs, the more bloggers become a target of extreme attacks. Often, they are victims of physical and verbal attacks, legal proceedings and death threats.

Since 2004, when a court's ruling took a national blog³ offline for the first time, legal proceedings against bloggers have become more common, usually citing the publication of their own or third-party content, such as readers' comments as the complaint or offence. The rulings are often unjustified, curtailing freedom of expression and restricting the free flow of information.

In 2015, this pattern of legal proceedings continued, reflecting an attempt to silence bloggers and activists communicating online. With this in mind, ARTICLE 19 launched its second version

of the manual *I've been sued. What should I do?*⁴, which seeks to help bloggers through providing legal guidance and to shed a light on the most common dilemmas they face.

The decriminalisation of a number of speech offences most commonly cited against bloggers in criminal charges would help to tackle the challenge of these constant legal proceedings. The most common crimes are the so-called 'crimes against honour', such as slander, vilification, and defamation, which are the legal grounds for most of these criminal prosecutions and serve as tools for intimidation via the justice system.

In addition to legal proceedings, in 2015, attacks against bloggers include three murders, two of which took place in the Maranhão state. After an analysis of these two cases, ARTICLE 19 talked with several bloggers from Maranhão, all of whom reported to have suffered some kind of intimidation or threat. Altogether, six serious cases of bloggers from Maranhão were included in this report. The situation is worrying and demonstrates that as the repercussions of the work of these bloggers increases, so does the need to secure their safety.

Furthermore, victims often encounter difficulties accessing legal help. Just as with communicators who cover political issues, the first challenge is to overcome local power dynamics, which often make it impossible for an investigation to progress or even to commence. In several cases, bloggers did not take legal action because they did not trust the local institutions.

Although bloggers in general represent a new category of communicators who still are not officially recognised with regards to labour and organisational issues, the State must recognise the specific vulnerabilities and risks faced by bloggers and develop prevention and protection policies in order to halt the increase in the number of violations against them.

3 <http://observatoriodaimprensa.com.br/e-noticias/na-mira-da-justica/>

4 <https://www.docdroid.net/VsqMxof/a19-blogueiros-web-v2.pdf.html>

SCOPE OF VIOLENCE

- VIOLATIONS AGAINST RADIO BROADCASTERS -

• • •

RADIO REMAINS the second most used communication medium in Brazil⁵, second only to television. It is much cheaper to buy a radio than a TV and radios require less electricity. Currently, although the changes in the technological communication paradigm demonstrate a downward trend in the use of radio sets, the use of radio on the Internet or cellular phones means it is still a highly relevant medium of information dissemination, as well as being easy to access. The diversity of platforms, which allows radio access at home, in a car, through a cell phone, or via a desktop computer in an office, helps to explain radio's high rate of penetration and influence.

The impact of radio on communication culture is significant, with radio heavily influencing local public debate. It is worth drawing attention to the information revealed by the Data Medium's 2012 research⁶, which shows that local news is the favoured programme of radio listeners. Due to this, control of radio is grappled for by regional politicians and those in power. Between 2012 and 2015, ARTICLE 19 recorded that twenty radio broadcasters fell victim to serious violations throughout the country. Most of the recorded cases occurred in the north and northeast regions.

2015 had one of highest rates of serious violations against radio broadcasters in recent years, with double the violations over the previous year. Three broadcasters were murdered and three received death threats. All these cases occurred in smaller towns or cities, with less than 100 thousand inhabitants, in the northeast region.

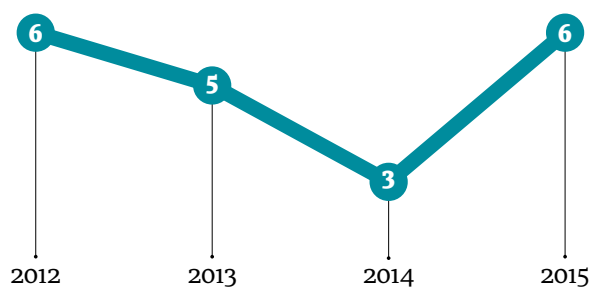
In all cases of attacks against radio broadcasters, the victims had already been subject to previous threats or violations. In addition, in five out of six cases, the victims had been working on a news piece on the police or on politics, most of which related to accusations of corruption and irregularities in public administration. In half of the cases public officials are the suspected perpetrators. Two of the cases were related to community radio sta-

tions. In a country where social communication is concentrated in the hands of large business conglomerates closely linked to political power, community radio stations are one of the most effective media to ensure diversity of communication. Community broadcasters are distinct from traditional private broadcasters, either because they are owned by grassroots associations, or because their content is aimed at the communities to which they belong.

Bearing this in mind, it is worth highlighting that community radio stations already suffer all kinds of persecution, including criminalisation. Research carried out by ARTICLE 19 emphasises that, among the legal cases involving community radio stations, there is a predominance of criminal prosecutions of community radio stations, over civil and administrative lawsuits. More than half (54%) of all the legal actions taken against community radio stations are criminal rather than civil. This demonstrates the trend towards criminalisation of community radio broadcasting. It has also been noted that most cases that reach court (86%) are decided unanimously, suggesting that there is a rigid understanding of the courts as to the application of sanctions to community radio stations.

In this context, with institutional hostility directed at these community mediums, the impact of such serious violations against the workers in these sectors further jeopardises freedom of expression.

**SERIOUS VIOLATIONS AGAINST
RADIO BROADCASTERS PER YEAR**



⁵ <http://www.secom.gov.br/atuacao/pesquisa/lista-de-pesquisas-quantitativas-e-qualitativas-de-contratos-atuais/pesquisa-brasileira-de-midia-pbm-2015.pdf>

⁶ <http://gm.org.br/midia-dados>

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IMPUNITY

- THE VICIOUS CYCLE OF VIOLATIONS -



ARTICLE 19 has endeavoured to investigate one of the core issues that facilitates violations of freedom of expression: impunity. Although impunity is often defined as a lack of accountability for those who commit violations, it is crucial to examine the different factors that contribute to impunity.

One factor relates to the police investigation itself. According to the data gathered by ARTICLE 19 Brazil up to January 2016, for investigations that took place in 2015, 62% of the cases did not see any significant progress. This shows the lack of commitment by authorities to thoroughly investigate these violations. There may be a variety of reasons for such lack of commitment, but some in particular may be inferred from the findings articulated in this report.

Firstly, considering the trends in previous years, those suspected of carrying out these violations are more likely to be public officials. In 2015, public officials were suspected of being the perpetrators in 49% of cases. Local authorities' implicated involvement in the crimes demonstrates the poor ability of the institutions to carry out complete investigations. In 14% of the cases suspects are business people or landowners. Such data suggests that most suspected perpetrators are people who are influential in local politics or who have access to vast financial and political resources to influence the investigation process.

In addition, in several cases the victims or people close to them have stated that they believe there was collusion between local police officers and the political authorities that are suspected of being behind the violations. In other cases, the victims did not seek the authorities to report a violation, either because of the alleged direct involvement of the local police in the violation, or because of a lack of trust in their investigative commitment.

In at least six cases in 2015, suspicions fell directly on the city mayors where violations occurred. Regarding these cases, reports from police authorities described the difficulty in investigating the involvement of the authorities on account of their jurisdictional prerogative, which means that the investigation is controlled by the state courts of justice.

The lack of commitment of the investigating authorities may also be related to the actual inves-

tigative infrastructure and the resources available for such purposes. In 2015, 74% of cases occurred in small towns, which usually have limited access to resources for investigations. This fact, together with the power of local political groups implicated in the violations, hinders the investigative initiative of the local authorities.

In this context, one of the difficulties that ARTICLE 19 faces when researching cases of violations is obtaining the official information on the progress of the investigations in the justice system. ARTICLE 19's interviews with the police chiefs responsible for the investigations have shed light on the lack of transparency and how poor access to this information is.

As a result, the monitoring of State actions by civil society, which is one of the ways to put pressure on the authorities to solve cases, becomes even more difficult. It is not surprising that the few cases for which the investigations were completed in less than one year are precisely those with greater coverage in the media, both locally and nationally.

Out of the 31 cases where further information on the investigation was sought, official information was provided in only fourteen instances. ARTICLE 19 repeatedly contacted the authorities in all of the cases. In more than half the cases the authorities were not available to provide information, or they simply refused to make any statement, not giving any legal justification for the refusal.

The lack of an effective response to the violations also has an impact on their continuity, and the violations in many situations become even more serious. In 2015, the data shows the same trend as previous, with 80% of the victimised communicators being those who had already suffered violations in the past. In an analysis of murder cases alone, the data is shocking with 100% of the victims having been previously victim of a violation.

All these factors create an environment where impunity can deepen, resulting in the repetition and intensification of violations. This becomes a vicious cycle that creates a hostile environment for the exercise of freedom of expression and the defence and promotion human rights in Brazil.



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CONCLUSION

The number of violations against communicators in 2015 was greater than the last two years and reinforces previously voiced concerns pointed out in prior reports prepared by ARTICLE 19. Unfortunately, this increase follows a worsening trend that has not been properly addressed.

THE REPETITION of these patterns indicate that the numbers reflect an intensification of violations of freedom of expression, since the crimes continue to have the same *modus operandi*, the same apparent motivations as noted in previous years, and alleged perpetrators frequently share specific profile markers.

Once again, public officials are the most frequently suspected perpetrators, appearing to be motivated by the desire to, repress communicators who address topics of public interest, make allegations of irregularities in the public administration, and seek transparency in the political activities of their representatives. The intimidations, threats, and attacks against communicators have allegedly carried out by public officials to silence communicators and the frequent failure in solving the cases and finding those responsible for the crimes creates a cycle of impunity suggesting that perpetrators will not be held accountable. In the most serious of cases, communicators have been murdered in order to inhibit the spread of information.

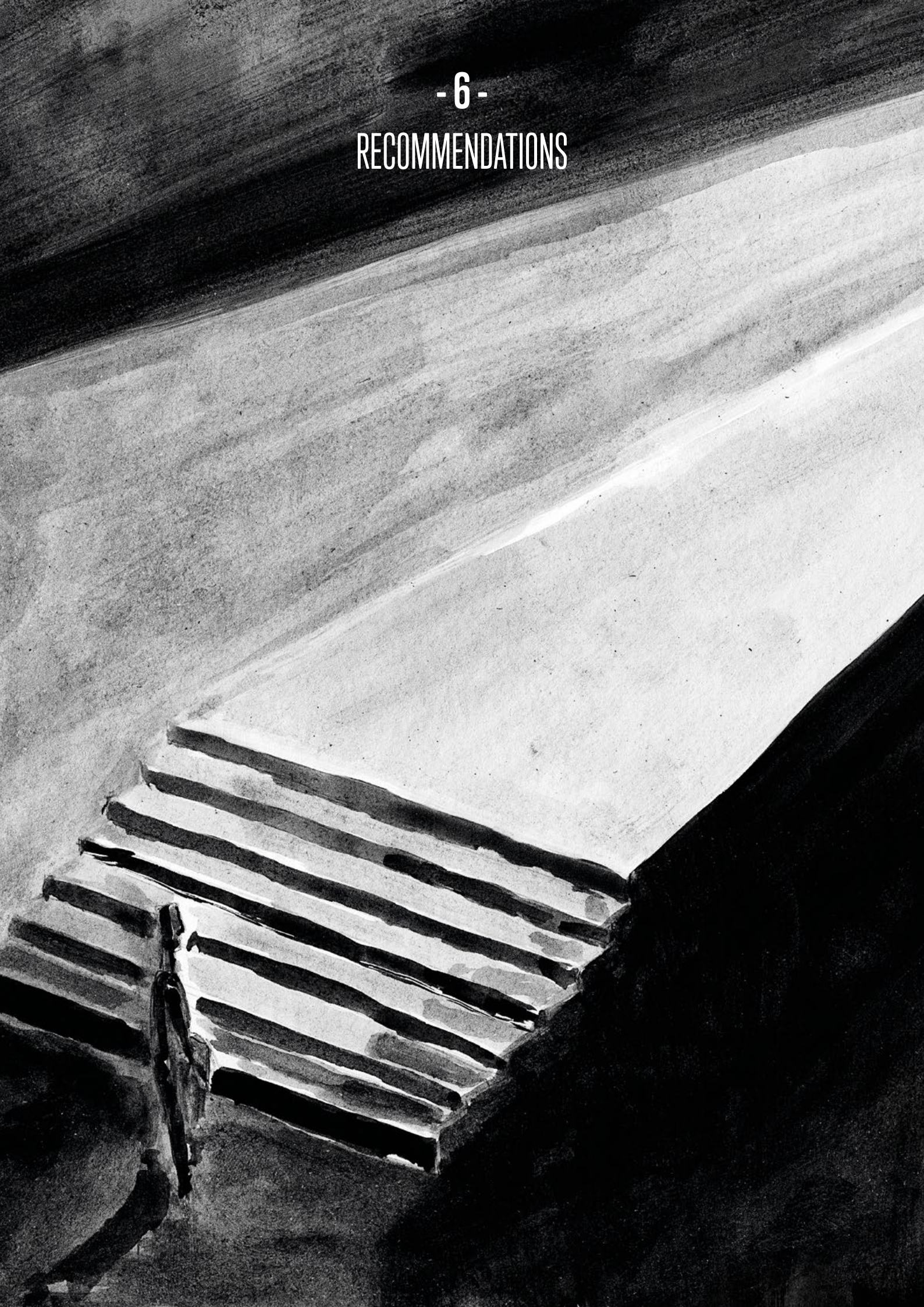
It is important to emphasise that there is no evidence to indicate that the Brazilian government

institutionally threatens freedom of expression in the country. However, it is evident that some public officials continue to act in the benefit of their individual interests by using the security and support that holding a public position provides.

In a country where attacks against communicators in relation to their exercising their freedom of expression, is higher than some countries experiencing armed conflict, it is imprudent not to have protection mechanisms specifically tailored to guarantee their security and autonomy to perform their activities. In the absence of data gathered by the State itself, which has been unable to systematise the information on the violations, civil society research is increasingly necessary to bring to the forefront the issue of violence against communicators and to support the development of public policies to tackle this issue. However, it is important to note that the State has all the necessary mechanisms to comprehensively gather data on these cases and to ensure that its own structure provides information and data.

- 6 -

RECOMMENDATIONS



RECOMMENDATIONS TO THE BRAZILIAN STATE

- 1 -

Develop periodic studies to identify the causes and main hotspots of violence against communicators, to put forward recommendations to government agencies and departments at all levels in order to tackle the root causes directly and strategically;

- 2 -

Offer prompt protection to communicators who are victims of attempted murder or receive death threats;

- 3 -

Guarantee a national mechanism for the protection of communicators to operate in all Brazilian states, with procedures suited to these professionals, bearing in mind their vulnerability and the activities performed by them; or ensure the inclusion of a 'communicator' category in the existing PPDDH (Programme for Protection of Human Rights Defenders) of the federal government, adjusting the programme to properly assist communicators, and make such service known to communicators;

- 4 -

Improve and enhance the PPDDH (Programme for Protection of Human Rights Defenders), so that it is consolidated as an effective public policy for the protection of human rights defenders and communicators;

- 5 -

Train civil servants and public officials, including those who work in law enforcement, on how to offer a quick and effective response when a communicator is threatened and on the corresponding procedures to file requests for protective measures;

- 6 -

Coordinate local authorities in all the states to allow a prompt response to security emergencies of communicators;

- 7 -

Create a public mechanism for monitoring information on crimes against communicators, disclosing the status of investigations and penalties for each crime and the relevant statistical data and information on the crimes in general, paying particular attention to unregistered communicators who don't have their data collected and systematised by unions or representative associations;

- 8 -

Coordinate authorities at all levels of the State, instructing them to follow up and disclose to society the data of non-confidential cases, giving priority to family members of the victims and lawyers;

- 9 -

Increase the number of authorities that can request the transfer of investigations of human rights crimes to a 'federal instance', that is, when the local authorities or other government bodies may be somehow involved in the crimes, the investigation shall be transferred to another authority outside the jurisdiction or scope of action of the local authority;

- 10 -

Encourage media companies to provide security and self-protection training, in addition to safety equipment to employees or freelance communication professionals;

- 11 -

Generate intelligence information to prevent murders and attempted murders of communicators, without violating the right to privacy of individuals. Agreements and cooperation must be established between institutions for such a purpose;

- 12 -

Facilitate the work of civil society and media organisations that monitor issues related to human rights, acknowledging the importance of this work as part of the process for tackling violations; and prioritise transparency in the relationship with these organisations, so that they may follow up on the initiatives of the State regarding issues of violence against communicators;

- 13 -

Facilitate the visits of UN and OAS Special Rapporteurs to monitor the situation of freedom of expression in Brazil.

RECOMMENDATIONS TO INTERGOVERNMENTAL ORGANISATIONS AND THE INTERNATIONAL COMMUNITY

- 1 -

Prioritise protection of communicators as part of respective human rights agendas;

- 2 -

Assist Brazil in complying with its international obligations on human rights, in accordance with international law, including monitoring the implementation of important decisions and rulings of international human rights bodies such as the Inter-American Human Rights Tribunal and the United Nations Human Rights Committee;

- 3 -

Promote international cooperation among countries regarding the safety of communicators;

- 4 -

Monitor and speak out on the situation of violence against communicators in Brazil;

- 5 -

Stress to the Brazilian state the importance of cooperation with international bodies when requested to provide official information;

- 6 -

Undertake to provide updated and detailed reports and briefs on the situation of freedom of expression in Brazil;

- 7 -

Encourage Special Rapporteurs to undertake official missions to Brazil. ●

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METHODOLOGY



ARTICLE 19 defines the violation of the right to freedom of expression as any action from governmental or non-governmental actors that directly or indirectly interferes in the free flow of ideas, opinions or information. The State's omission to respond to such actions is also considered a violation of freedom of expression.

According to **ARTICLE 19** of the UN Universal Declaration of Human Rights (1948), freedom of expression is the right that everyone has to "hold their own opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

The report on serious violations of freedom of expression of communicators refers to the cases where the human right of free expression was violated with intent to put the life of the victim at risk, through the crimes of murder, attempted murder and death threats.

To generate the data in this report, **ARTICLE 19** undertook daily media monitoring to map violations as they occurred, and also directly contacted communicators and local organisations.

After the data gathering stage, a more thorough investigation of the violations considered to be most serious was carried out, by contacting the victim him or herself or their family, as well as colleagues, unions or representative associations, and the local authorities responsible for following up on the case. After interviews, if it is clear that there is a causal relationship between the exercise of freedom of expression and the violation suffered by the victim, this violation is included in the report. Therefore, it is possible that cases with significant exposure in the media are not included in the report, if the causal relationship was not clearly established in the interview process. ●





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