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Introduction

In 2022, the mandate of former President Jair Bolsonaro ended and, with it, a process of accelerated dismantling of the legal and institutional anti-corruption frameworks that the country had taken decades to build. Along with the setback in the capacity to confront corruption, Brazil suffered unprecedented degeneration of its democratic regime, culminating in the attacks of January 8 on the Três Poderes square, which shocked the world. The two processes, of dismantling the anti-corruption framework and the degradation of democratic governance, are closely related.

Jair Bolsonaro was elected in 2018 by hijacking the anti-corruption discourse. Despite his three-decade political trajectory, in which he had never presented a bill to tackle corruption, participated in a parliamentary investigation or denounced any act of corruption -- even when affiliated with the most corrupt and crony parties -- he managed to sell himself to the electorate as an outsider committed to the fight against corruption.

Even before he took office, however, the "rachadinha" scandal revealed to Brazil the true corruption record of Bolsonaro and his family. Mountains of evidence showed a family dedicated for decades to getting rich by embezzling parliamentary funds in unsophisticated schemes in the offices of Jair Bolsonaro and his children. As an aggravating factor, there was evidence that the illicit money was laundered through operators associated with violent organized crime in Rio de Janeiro.

This event, on the eve of the inauguration of the Bolsonaro government, is fundamental to understanding the dynamics of institutional destruction that took place in the following four years. Under fire since taking office because of the family's widely proven corruption, the President's priority became, from the first day of his mandate, to guarantee his protection, which he did by neutralizing the institutional and legal apparatus that threatened him. Much more than putting the brakes on specific processes, he neutralized the system of checks and balances of Brazilian democracy, dismantling the three pillars that support it: legal, political and social. With this, his protection went far beyond past delinquency. He guaranteed impunity to commit new and much more serious crimes.

The dismantling of the pillar of legal accountability happened through systematic interference and loss of independence of the control ecosystem: Public Prosecutor's Office (PGR), Federal Police (PF), Office of the Comptroller General (CGU), Office of the Attorney Genral (AGU), Brazilian Intelligence Agency (Abin) and Federal Reserve. The central piece of the dismantling and with the most serious and lasting consequences was the appointment of the Prosecutor-General Augusto Aras, who not only dismantled the fight against macro-corruption, but was also responsible for a historic retreat in the functions of constitutional control of the acts of the government.

The consequences of the omission of the PGR go far beyond corruption, as it passively observed criminal management of the COVID-19 pandemic, which resulted in the greatest humanitarian tragedy in Brazilian history; the malicious dismantling of environmental governance, which accelerated deforestation rates and human rights violations among indigenous peoples and traditional communities; as well as the constant attacks on democratic institutions, culminating

in the Bolsonarist insurrection on 8 January.

If the attacks of the fanatical putschists physically destroyed the headquarters of the Three Powers, the omission of the PGR contributed to their institutional destruction. Perhaps the most harmful effect was on the Judiciary. In the face of very serious threats and effective attacks on the Supreme Court (STF) and the Superior Electoral Court (TSE), its members, and the democratic regime itself, the constitutional vacuum of a PGR captured by the Bolsonarism was filled with the exacerbation of the roles of the two Courts. Without being able to rely on the responsible for criminal charges or trust the Prosecutor-General, Augusto Aras, court judges began to act ex officio and collectively approve deviations that they would never have endorsed, if they did not perceive a situation of extreme risk. But if the subversion of the accusatory regime served as a tracheotomy to rescue a suffocated system, the continued violation of procedural guarantees and individual rights has harmful consequences for the rule of law and progressively undermines the authority of the judiciary.

The second pillar, of political accountability, was dismantled via purchase of the parliamentary bloc known as “Centrão”, through the “secret budget” scheme, in collusion with the multi-condemned President of the Chamber of Deputies, Arthur Lira. Behind a veneer of legality and a theatre of institutionality, the “secret budget” represented the largest scheme of budgetary appropriation for ulterior motives known in the country, with disastrous effects at various levels.

The scheme perverted formulation of public policies in essential areas such as health, education and social assistance, withdrawing resources from projects developed by technical experts and guided by long-term priorities and vision, in favor of parochial and unsustainable projects serving electoral interests. By pouring billions into municipalities without the institutional capacity to control them, corruption in the country became even more widespread, increasing the potential for fraud and embezzlement at the local level. The most serious effect, however, was the distortion of democratic representation.

Unequal access to billions from the “secret budget” greatly favored, in the October elections, “Centrão” candidates and their allies, not only in National Congress but in all state assemblies as well. A budget fraud, therefore, led to the expansion of the rotten underbelly of Brazilian politics and electoral feudalism, while imposing even greater obstacles to a process of inclusive and democratizing renewal of the Legislative.

It is important to understand that this scheme, so harmful to the country, did not originate with the objective of guaranteeing “governability” -- not least because it was a government lacking an agenda and projects -- but rather, its primordial objective was political shielding. In exchange for control over the “secret budget”, Arthur Lira kept more than 140 requests for impeachment languishing in his drawer, ensuring impunity for corruption and a series of crimes committed by former President Jair Bolsonaro.

Finally, the third pillar of the system of checks and balances of democracy undermined by Bolsonaro was that of social control. This occurred through the drastic reduction of transparency and access to public information, through the erasure of government data and abusive secrecy, extinction of institutionalized spaces for social participation, systematic dissemination of fake news and hate speech through official channels and manifestations of public authorities, articulation and

secret financing of digital militias, allocation of official publicity funds to disinformation vehicles and propagandist media, permanent attacks, including violent ones, on activists, academics, artists and journalists -- especially women journalists--, structuring of a clandestine apparatus of espionage with digital surveillance, and the conversion of the Federal Highway Police into a veritable praetorian guard.

But Brazilian society did not surrender to the deterioration of the civic space, nor did institutions completely bow to authoritarianism. The Bolsonarist threat provoked a mobilization of resistance comparable in recent history only to the movements for the end of the military dictatorship and for direct elections. Throughout the year, public and private agents acted permanently in defense of the electoral process. With attacks on the credibility of electronic ballot boxes and threats of non-recognition of the results intensifying as polls pointed to the then-president's defeat, resistance efforts also redoubled, uniting organized civil society, the business community and public authorities committed to democracy.

Besides action in the country, there was strong mobilization of the international community in defence of Brazilian democracy. Manifestations of foreign governments multiplied, expressing confidence in the country's elections. Unprecedented resolutions in the United States Congress and the European Parliament made clear their absolute repudiation of the threats of democratic breakdown.

It can be stated with a high degree of confidence that these actions and demonstrations achieved, at least in the short term, the goal of dissuading coup plans, whose existence was later materially proven.

Jair Bolsonaro and his family have managed to evade accountability for their crimes. The neutralization of the system of checks and balances of Brazilian democracy has achieved the goal of impunity. Despite this democracy resisted and, through it, the country denied Jair Bolsonaro a second presidential term.

The new president, Luiz Inácio Lula da Silva, has democratic credentials incomparable to those of his predecessor. But his election also brings great uncertainties about the anti-corruption agenda in Brazil. Like all the other Brazilian parties, the Workers' Party (PT) has so far refused to recognize and, above all, to promote corrections of widespread and deeply rooted corrupt practices in the Brazilian political system in collusion with economic power.

The PT governments, like all previous governments, were involved in immense corruption schemes with serious economic, social and environmental consequences and deep damage to democracy. But it was during the Lula and Dilma Rousseff administrations that Brazil made the most progress in strengthening laws and institutions to fight corruption, with emphasis on the defence and expansion of civic space, with public policies to promote transparency and social participation.

As always happens, the progressive reforms of the PT governments, which increased transparency and the independence of control bodies, were the result of internal tensions and clashes. On the one hand, a body of technical experts -- among them, an important group of young constitutional lawyers, specialists in public law and human rights -- who were the architects behind fundamental laws such as the Access to Information Law and the Anti-Corruption Law, of the strengthening

of organs such as the Federal Police and the CGU, and of appointments to the higher courts and, especially, the Public Prosecutor's Office, which resulted in a historic change in the level of its independence and accountability. These advances did not occur without resistance from powerful figures within government and traditional party leaderships, but the balance of power at that time was unfavorable to this group, shaken by the condemnations of the mega-corruption scheme of the "Mensalão".

Any prediction about what directions the transparency and anticorruption agendas will take in this third Lula administration, must necessarily take into consideration the same logic of confrontation and the actual pieces on the chessboard.

It is fundamental for Brazil that the new government does not give in to the temptation -- and pressure – to consolidate as a new pattern the Bolsonaro practices of subjecting control institutions to political interests, of opacity of public information, and of impunity pacts with the "Centrão".

Brazilian society and institutions must prioritize democratic redemption of the fight against corruption and, with it, its fundamental meaning: a fight for rights.

General Highlights

Positives

- Plenary decision of the Supreme Court judging the “secret budget” unconstitutional following the vote of President Rosa Weber and putting an end to the biggest scheme of institutionalized corruption known in Brazil.

- Electoral Justice conducts elections with integrity and transparency, even under serious and constant attacks by former President Jair Bolsonaro and his allies.

- Strong mobilization of Brazilian society in defence of democratic governance, uniting business, trade unions, NGOs and academia against the processes of disinformation and threats of institutional breakdown.

- Supreme Court decisions on the so-called “green agenda” establishing fundamental precedents for government accountability for the dismantling of environmental governance, as well as recognizing that international agreements on climate change are comparable to human rights treaties, hierarchically superior to ordinary laws in Brazil.

Negatives

- Continued interference by the Jair Bolsonaro government in control organs to shield itself, family members and allies and capture of state bodies for political interests, especially the Public Prosecutor's Office (PGR), Federal Police (PF), Federal Highway Police (PRF), Brazilian Intelligence Agency (Abin), Institutional Security Office (GSI), Federal Revenue Service, the Office of the Comptroller General (CGU), Ministry of Justice and Public Security, and the Armed Forces.

- Serious and persistent omission on the part of the Public Prosecutor's Office (PGR) regarding criminal conduct detected by the CPI of the Pandemic, the dismantling of environmental governance and the protection of indigenous rights, growing coup movements and attacks on democratic institutions by the former president Jair Bolsonaro and his allies, in addition to the dismantling of the institutional capacity of the Prosecutor's Office to confront macro-corruption.

- On an unprecedented scale, the "secret budget" scheme perverted the technical basis for allocating resources for public policies, spread corruption as federal resources poured into small municipalities with no capacity to control them, and distorted electoral competition, favoring political allies with unequal and secret access to budget resources.

- Recurrent attacks by former President Jair Bolsonaro and allies on democratic institutions and their members, malicious dissemination of fake news about the electoral process (including to the diplomatic community) and hate speech against journalists, especially women.

- Drastic reduction of transparency and access to public information through the erasure of government data and illegal use of secrecy, through abusive use of the General Data Protection Law.

- Continued decisions of the Judiciary annulling sentences upheld by multiple instances or transferring competence to try corruption cases in a generalized manner, causing legal insecurity, prescription of crimes and impunity for cases of macro-corruption, with serious consequences for human rights.

- Corruption schemes revealed by the press involving the Ministry of Education, Codevasf and cash payments for dozens of properties by the Bolsonaro family.

- Serious political interference with Petrobras resulting in setbacks to the company's recently established integrity system, accompanied by lightning approval by the Chamber of Deputies of a reform that weakens the State-Owned Companies Law. If confirmed by the Senate, this could open the way for the political distribution of state-owned companies as a substitute for the now defunct "secret budget", in the purchase of support in Congress.

- Deepening of the dismantling of environmental and indigenous policies on the part of the federal government, which led to the increase in environmental crimes, especially in the Amazon region, and in acts of violence against environmental defenders, such as the assassinations of the indigenous activist Bruno Pereira and the journalist Dom Phillips.

- Decisions by the Federal Court of Accounts (TCU) and the National Council of Public Prosecutor's Office (CNMP) condemning former members of Operation Carwash, contrary to technical opinions for acquittal and creating serious legal uncertainty for public officials who act in cases of corruption of powerful individuals.

- Support from former judge Sergio Moro and former prosecutor Deltan Dallagnol, symbols of Operation Carwash, to the extremist and anti-democratic candidacy of Jair Bolsonaro, distorting the significance of the anti-corruption cause as a struggle for rights.

Recommendations

For the Federal Government

- Reinstate the autonomy of control institutions, especially the Federal Police, the Federal Revenue Service, the COAF (Brazilian Financial Intelligence Unit), the Brazilian Intelligence Agency (Abin), the Administrative Council of Tax Appeals (CARF), the Office of the Comptroller General (CGU) and the Administrative Council for Economic Defense (CADE);

- Reaffirm the independence of the Public Prosecutor's Office, respecting the short list of the National Association of Prosecutors (ANPR) for the appointment of the next Prosecutor-General;

- Ensure full budget transparency and cease the use of opaque political bargaining mechanisms such as the "secret budget" or its equivalent;

- Fully respect the Access to Information Law, reassessing undue secrecy imposed by Jair Bolsonaro's administration, and ensuring that the General Data Protection Law is not misused to conceal information of public interest in various areas, such as education, socio-environmental, electoral and political;

- Remove from office senior government officials who are under investigation or prosecution for corruption and related offences;

- Promote, in addition to technical competence and integrity, inclusion and diversity in senior appointments, as a means of democratizing the state and tackling institutional corruption;

- Resume social participation in the construction and monitoring of public policies, and establish strict transparency and control mechanisms for the acquisition and use of monitoring tools;

- Submit the Escazú Agreement to Congress for ratification and implementation in Brazil. Use the provisions of the agreement related to access to environmental information, participation and justice, and the protection of environmental defenders as a guide to consolidate the rule of environmental law in Brazil;

- Mobilize the anti-corruption, money laundering and control bodies (ENCCLA, Comptroller Offices, COAF, Federal Revenue Service among others) to confront environmental crimes and related abuses, and re-establish and consolidate specialized structures in the field in agencies such as the Federal Police and the COAF;

- Rectify the Initial Memorandum for the country's accession to the OECD, correcting untrue information in the text prepared by the Bolsonaro administration so that it reflects the reality of the country, and defend with the OECD a more transparent, plural and participatory process of accession to the bloc;

- Re-establish Brazil's leadership position in the Open Government Partnership;

- Incorporate safeguards and mechanisms for the promotion of transparency and public and private integrity in the additional terms of the Mercosur-European Union Bi-regional Association Agreement.

For National Congress

- Fully respect the Supreme Court's decision that ruled the "secret budget" scheme unconstitutional and establish transparent, upstanding and technical mechanisms for the allocation of resources via parliamentary amendments;

- Ensure transparency, participation and respect for due legislative process, rejecting political maneuvers that sabotage parliamentary and public debate, ensuring transparent and balanced representation of all interest groups affected by the bills under consideration;

- Improve the bill that regulates lobbying, already approved in the Chamber of Deputies, expanding transparency and integrity mechanisms that allow the country to move towards international standards;

- Reject critical changes included in Bill 2.896/2022, currently under consideration by the Senate, which amends the State-Owned Companies Law to reduce the quarantine period for nominees for the presidency or management of state-owned companies and increase the ceiling of spending on advertising and sponsorship;

- Reject the bill that intends to legalize gambling in Brazil, at the risk of dramatically increasing money laundering in the country;

- Reject bills that encourage environmental crimes, such as the bill on mining in indigenous lands (PL 191/2020) and the bills that can consolidate land grabbing (PL 2.633/2020 and PL 510/2021);

- Deliberate on anti-corruption reforms, based on proposals by Brazilian experts brought together in the legislative package of New Measures Against Corruption.

For the Public Prosecutor's Office

- Re-establish the political independence of the Public Prosecutor's Office (PGR) so that it can fulfil its role of constitutional control and accountability of the acts of the authorities under its jurisdiction;

- Improve accountability mechanisms for members of the Public Prosecution Service, through increased transparency, clear and responsible institutional communication policies, adoption of syndication procedures of the PGR's filing decisions, expansion and democratization of the ombudsman system, unification of disciplinary regimes, rationalization of the appeal and prescription systems within the National Council of Public Prosecutor's Office (CNMP), improvement of internal information governance systems to curb leaks, measures to combat institutional racism and significant enhancement of the role of external control of police activity;

- Ensure legal certainty and protection for members of the Public Prosecution Service against retaliation for the performance of their constitutional functions, especially for those acting in cases involving powerful and influential individuals, and shielding disciplinary bodies and procedures from external interference and political interests;

- Promote a broad debate, involving the Superior Council of the Public Prosecution Service and internal technical opinions, regarding the best structures and mechanisms to improve the joint work model of the "task forces", in complement to the GAECOs, and ensure that both instances have the necessary resources and a system of governance to adequately conduct investigations against macro-criminality, protecting them from internal and external political interference;

- Reestablish the Amazon Task Force or the creation of a similar permanent structure within the Federal Prosecution Service for the region, allowing for greater coordination and scale of action, especially dedicated to fighting environmental macro-criminality and its connections with other crimes, such as corruption, drug and arms trafficking among others.

For the Judiciary

- Ensure accountability under the law for individuals involved in attacks against democratic institutions, especially those who incited, coordinated and financed them;
- Ensure that exceptional measures to address threats to Brazilian democracy do not themselves generate violations of fundamental rights and guarantees or lead to the weakening of institutions;
- Restore the jurisdiction of specialized courts for combating financial crimes and organized crime to investigate corruption cases associated with electoral contexts, considering the increased suitability of their structures;
- Ensure that decisions of higher courts which reverse jurisprudence and/or produce systemic effects are voted on by the full composition of their members and respect the reasonable duration of proceedings, avoiding the instability of judicial decisions and the worsening of impunity;
- Guarantee the effectiveness of the System of National Goals of the National Council of Justice and full compliance of the goals established for 2023, especially goal 4, which prioritizes the trial of cases related to crimes against the public administration, administrative improbity and electoral offences;
- Improve the internal rules of procedure of the Supreme Court and ensure their effective enforcement, regulating the administration of deadlines, agendas, and the predominance of collegiate decisions;
- Ensure effective compliance with the constitutional ceiling on the remuneration of judges, abolishing privileges;
- Significantly improve disciplinary mechanisms for the conduct of magistrates.

Federal Government

Highlights

Positives

- Recommendations of the National Strategy to Fight Corruption and Money Laundering (ENCCLA) to strengthen integrity and transparency in environmental governance, to strengthen the production of financial intelligence related to environmental crimes, and to expand timber control;

Negatives

- Continued interference by the Jair Bolsonaro government in oversight bodies to shield itself, family members and allies, and the capture of state agencies for political interests, especially the Public Prosecutor's Office (PGR), the Federal Police, the Federal Highway Police (PRF), the Brazilian Intelligence Agency (Abin), the Institutional Security Office (GSI), the Federal Revenue Service (Receita), the Office of the Comptroller General (CGU), the Ministry of Justice and Public Security, and the Armed Forces;
- On an unprecedented scale, the "Secret Budget" scheme perverted the technical allocation of resources for public policies, pulverized corruption, with federal resources poured into small municipalities with no capacity for oversight, and distorted electoral competition, favoring political allies with unequal and secret access to budgetary resources;
- Serious political interference in Petrobras resulting in setbacks to the integrity system recently established at the company;
- Recurrent attacks by former President Jair Bolsonaro and allies on democratic institutions and their members, malicious dissemination of fake news about the electoral process (including to the diplomatic community) and hate speech against journalists, especially women;
- Repeated questioning by the Armed Forces about the reliability of the electronic ballot boxes, not verified by the institution's own audit (but only revealed after the runoff);
- Suspicions of corruption revealed by the press involving the Ministry of Education, Codevasf and the payment for dozens of properties in cash by the Bolsonaro family;

- Support of former judge Sergio Moro and former prosecutor Deltan Dallagnol, symbols of Operation Carwash, to the extremist and anti-democratic candidacy of Jair Bolsonaro, distorting the meaning of the anti-corruption cause as a fight for rights;

- Campaign of attacks by Bolsonaro and allies against the Supreme Court (STF), including threats to expand the number of vacancies on the Court and to advance possible proceedings of impeachment against Supreme Court judges;

- Following the invitation to formally start the OECD accession, the Brazilian government delivered an Initial Memorandum containing false information and distortions about the country's current compliance with OECD recommendations;

- Deepening of the dismantling of environmental and indigenous policies by the federal government, which made possible and promoted the increase of environmental crimes especially in the Amazon region, and acts of violence against environmental defenders, such as the murders of the indigenous activist Bruno Pereira and the journalist Dom Phillips.

Federal Government

Weakening of the institutions

In 2022, as in previous years of Jair Bolsonaro's government, serious episodes of political interference were registered in key institutions of the federal administration, notably in the Federal Police (PF), the Federal Highway Police (PRF) and the state oil giant Petrobras.

During Mr. Bolsonaro's administration, from 2019 to 2022, his government changed the head of the Federal Police four times. In February 2022, it was announced that Mr. Paulo Maiurino, who took office in April 2021, would be replaced by the chief police officer Márcio Nunes de Oliveira. Reportedly, the change was due to the then Minister of Justice, Mr. Anderson Torres, being bothered by the proximity between Mr. Maiurino and judges from the Supreme Court — Mr. Maiurino's political connections were believed to be an important asset in his appointment, back in 2021.

As Director-General of the Federal Police, Mr. Maiurino substituted crucial staff, such as the head of the sector responsible for investigations into politicians by the Supreme Court and the Superior Court of Justice (STJ) – a police officer who identified illegalities in a controversial STJ inquiry against Carwash prosecutors. Mr. Maiurino also changed the Federal Police head in São Paulo, appointing Rodrigo Bartolamei, previously allocated to the Institutional Security Office (GSI), an office with close ties to then President Bolsonaro. The appointment and its potential to influence investigations reportedly raised concerns from the then governor of São Paulo, João Doria, a political adversary of Mr. Bolsonaro.

In Amazonas state, Mr. Maiurino also replaced the Federal Police chief. In April 2021, Mr. Alexandre Saraiva was removed after he claimed that the then Minister of Environment, Ricardo Salles, interfered with a criminal investigation into the largest seizure of illegally harvested logs in Brazilian history. Mr. Saraiva accused the minister of influence peddling and obstructing criminal investigations. He explained that Mr. Salles was acting directly to undermine the investigation in order to protect individuals suspected of operating the illegal logging scheme.

In January 2022, during Mr. Maiurino's term, the Federal Police concluded to the Supreme Court that President Bolsonaro did not incur malfeasance in an episode regarding negotiations of the Indian Covaxin vaccine by the Ministry of Health.

In June 2021, a Ministry of Health employee and his brother, then federal representative Luis Miranda, denounced uncommon pressure to guarantee imports of the Indian vaccine, in testimony to the Federal Senate Parliamentary Committee of Inquiry (CPI) investigating government mismanagement of the pandemic. Mr. Miranda claimed to have warned then President Bolsonaro, in March 2021, of irregularities in Covaxin negotiation, and said that the president attributed the case to interference from the then leader of government in the Chamber of Deputies, representative Ricardo Barros, and said he would alert the Federal Police — something the president did not do. This led the Federal Police to investigate whether Mr. Bolsonaro had incurred a malfeasance, for not reporting any suspicion to the authorities.

In conclusion, the Federal Police argued that it is not responsibility of a president, attributed by law, to communicate irregularities. A month later, the Public Prosecutor's Office (PGR) asked the Supreme Court to close the Covaxin inquiry into the president (read more in section Public Prosecutor's Office).

In March 2022, soon after the reshuffle in the Federal Police, its new director-general, Mr. Oliveira, substituted the head of a division focused on fighting organized crime and corruption, a sensitive position linked to a team that investigates politicians in office, responsible, for instance, for investigating alleged political interference of former President Bolsonaro with the Federal Police. In September, the Public Prosecutor's Office asked the Supreme Court for this inquiry to be closed.

At the beginning of May, the newspaper Folha de S.Paulo revealed that Mr. Oliveira was barred from changing the corporation's chief in the state of Alagoas, Mr. Sandro Valle Pereira, following complaints that Mr. Pereira allegedly tried to obtain information from a secret inquiry that implicated an unnamed politician from Alagoas. According to the newspaper, Mr. Pereira, whose father-in-law is said to have good local political connections, tried to reverse the reshuffle in Alagoas and even made a trip to Brasília to that end. Following the mobilization, the PF head reportedly heard directly from the then Justice Minister, Mr. Torres, that his proposed change would be barred — an unprecedented move in the corporation. At the end of May, however, after much criticism, Mr. Pereira was dismissed.

Recurring accusations of political interference have tarnished the corporation since former Carwash judge and former Minister of Justice, Mr. Sergio Moro, left government, in 2020, complaining that then President Bolsonaro wanted to change the PF's head in order to get access to intelligence reports. Since then, Mr. Moro made a turnaround and declared his support for Mr. Bolsonaro in his unsuccessful reelection bid. Like Mr. Moro, Mr. Deltan Dallagnol, former prosecutor and former Carwash coordinator in Curitiba, declared his support for Bolsonaro's reelection, claiming corruption fighting as an argument. At that time, Transparency International Brazil released a note criticizing the argument: "Each person is free to express his or her preference among the options for the runoff election or cast a null vote. Fostering intolerance against any of the choices is incompatible with defending democracy. However, to associate the fight against corruption with supporting candidate Bolsonaro is a huge disservice to the cause and distorts what it fundamentally represents."

Political interference with another body, the Federal Highway Police (PRF), was evident during the second round of the 2022 presidential elections. On the day of the vote, the PRF failed to comply with an express order from the Superior Electoral Court (TSE) preventing police operations aimed at controlling the transport of people. Such operations could harm the access of voters to the polling stations. According to press reports, the strategy was agreed between the PRF and the Bolsonaro campaign, and focused on the Northeast, where votes for the PT candidate were concentrated. That same day, reports stated that the then director-general of the corporation, Silvinei Vasques, appointed to the post a year and a half earlier, used his social networks to appeal for votes for then President Bolsonaro.

Months earlier, Piauí magazine reported that, under Bolsonaro, the PRF budget was significantly increased, and the corporation sought to expand its field of action (including investment in intelligence), had a decisive involvement in a slaughter that killed 26 people that were planning a robbery in Minas Gerais state (a case that led to a Federal Police investigation into 50 policemen linked to the operation), and responded to specific demands from the Bolsonarismo, such as no longer punishing the transport of personal weapons and reducing radar checks on roads.

In 2022, episodes of political interference also took place at the state oil giant Petrobras. In March, dissatisfied with repeated increases in gas prices, then President Bolsonaro fired retired General Joaquim Silva e Luna from the company's Presidency. General Silva e Luna spent less than a year in office. He had replaced Mr. Roberto Castello Branco, an economist, also target of complaints by former President Bolsonaro regarding gas price increases. This time, however, the reshuffle triggered a government crisis.

Petrobras Governance and Compliance Office background checks into Bolsonaro's appointees for chair of the company board (Mr. Rodolfo Landim, a former Petrobras employee and President of Flamengo football club) and Petrobras' CEO (Mr. Adriano Pires, an energy sector consultant) raised alarms of high risk for conflicts of interests. In a matter of days, both appointees announced they would decline, extending a crisis, just months before the October elections, in an institution tainted by corruption scandals.

In April, the Bolsonaro government appointed Mr. José Mauro Ferreira Coelho, then chairman of the Board of Directors of Pré-Sal Petróleo SA (PPSA), as the company's new president. The change only lasted for a short time. The following month, despite repeating he would not interfere in oil prices, Mr. Bolsonaro stepped up criticism of the price policy maintained by the state oil company, dismissed the Minister of Mines and Energy and, a few days later, again, changed the command of Petrobras.

President Bolsonaro's threats to the electoral system and to democracy

In the months leading up to the 2022 elections, trailing in the polls, then President Bolsonaro amplified his attacks against the reliability of the electoral system. This was accompanied by questions also coming directly from the Armed Forces, an intense disinformation campaign and episodes of violence. The intensity of the attacks spread the suspicion among the population, civil society organizations, institutions and the diplomatic corps in Brazil about a possible coup against the peaceful and democratic transition of power in the case of the election of former President Luiz Inácio Lula da Silva -- who was, in fact, elected in October.

One of the most deplorable episodes of this undemocratic campaign took place in July, when Mr. Bolsonaro summoned the international community based in Brasilia to spread fake news intended to undermine Brazil's electronic voting system and attack electoral authorities and institutions. The president's attacks followed weeks of escalating tension. In June, the then Defense Minister, General Paulo Nogueira, had requested the Superior Electoral Court (TSE) to convene a meeting between technical teams of both institutions to "settle eventual technical differences" involving the electoral system.

The Folha de S.Paulo newspaper pointed out that, for 25 years, the Armed Forces issued neither complaint nor suggestion to modify the electronic vote in Brazil. However, under the Bolsonaro administration, the institution questioned the TSE and repeatedly suggested changing the system before October 2022's election.

Mr. Bolsonaro and his supporters stirred doubt about the security of electronic voting machines, repeatedly trying to undermine a reliable system. Then President Bolsonaro alleged that the TSE had a "secret room", with "half a dozen technicians" responsible for the election results. The president also suggested installation of a parallel cable so that voting data could be sent to an Armed Forces' computer: "One of the suggestions is that with this same duct that feeds the computers in the 'secret room', a modification should be made a little bit to the right so we have a computer from the Armed Forces on our side to sum votes in Brazil". The TSE denied the existence of a "secret room" for adding up votes.

Electronic voting machines were first implemented in Brazil in 1996, with the intention of minimizing flaws and external fraud that existed in the previously used manual voting system. Since then, the TSE has frequently improved electronic voting technology, conducting public security tests, including invasion and integrity tests. In some of these tests, hackers, programmers and technicians are invited to try to break into the system and identify vulnerabilities for the TSE information security team to later carry out adjustments and updates. To date, no evidence of invasion or fraud in the voting system during election periods has been found – including the 2022 general election.

Before the 2022 election first round, on October 2, it was announced that the military would carry out an independent audit of the voting process. After official counting of the votes, however, the military made no statement on the subject. Facing a big win for right and far-right candidates in National Congress (see more in the Legislative section), then President Bolsonaro did not question the electronic voting machines. He directed attacks against electoral poll institutes, which had predicted a larger first round advantage for former President Lula.

On October 18th, Justice Alexandre de Moraes, president of the TSE, gave the Ministry of Defense 48 hours to handle the alleged audit and inform how the military's parallel audit had been financed. The Defense replied it would only present the report after the runoff election.

After the second round, the then Minister of Defense, Paulo Sérgio Nogueira, sent a report to the TSE which did not point to electoral fraud and confirmed that the results of the ballot papers inspected by the military coincided with the official results. However, the same document stated that there was a possibility of "malicious code" interfering with the voting process. The Ministry of Defense reinforced that "it does not exclude the possibility of fraud or inconsistency in the ballot boxes" and that "the functionality tests of the ballot boxes (Integrity Test and Pilot Project

with Biometrics), in the way they were carried out, were not enough to rule out the possibility of the influence of a possible malicious code". The press interpreted the ambiguous nature of the report as a way for the Armed Forces not to displease the Bolsonaro supporting wing, which questioned the safety and reliability of electronic ballot boxes and the smoothness of the electoral process, at the same time it did not explicitly point to the existence of fraud in the electoral process (see more in section Judiciary).

Also in November, the TSE received a request to challenge the election results, this time by the PL (Liberal Party), former President Bolsonaro's party. In the request to the TSE, the PL asked the court to invalidate the votes of more than half of the electronic ballot boxes used in the second round of elections, alleging a "bug" involving the log files of 2009, 2010, 2011, 2013 and 2015 model ballot boxes. Experts consulted by the press stressed that any possible flaws in the ballot box identification number did not prevent the cross-checking of data to verify and validate the official results. The TSE, in turn, reacted by questioning whether the party would contest the result of the first round of elections, since the same ballot boxes were used in both rounds. It was noteworthy that in the first round the Liberal Party had elected 99 congressmen, the largest number of seats in Congress. Any annulment of the first-round result would be unfavorable to the party and to the many representatives elected.

In the same month, TSE President Alexandre de Moraes denied the PL's request regarding the ballot boxes and fined the For the Good of Brazil coalition, composed of the PL and other parties, about R$23 million (US$ 4,4 million), in addition to blocking access to electoral fund resources. Justice Moraes claimed that the coalition acted out of "bad faith litigiousness" (more in section Judiciary).

Alongside the institutional challenge to the elections, in November, radical Bolsonaro supporters held demonstrations calling for federal intervention and military intervention to prevent Lula's inauguration as president. The protesters expressed indignation with the TSE and the Judiciary in general. Federal highways were paralyzed in various regions of the country, followed by camps and occupations in front of military barracks, battalions and commands. A missive entitled "Letter from the Active Duty Senior Officers to the Commander of the Brazilian Army" began circulating on WhatsApp groups on November 28, receiving around 600 signatures on the same day. Passages from the letter were interpreted as messages against the Judiciary and in favor of coup supporting acts in front of barracks. The letter was also seen as a criticism of the lack of action by the generals of the Army High Command. Some generals mentioned that most of the signatures were from reserve officers, and that any active-duty officers who signed the document could be subject to administrative prosecution.

Amid this scenario, then President Bolsonaro retired to the Alvorada Palace and, for two months, kept minimal official commitments until he left the country in the last days of the year, bound for the United States, without handing the presidential sash to his legitimately elected successor Luiz Inácio Lula da Silva. Moments before leaving, in his last live broadcast as president of Brazil, Mr. Bolsonaro sought to explain to his base why he did not act against the election results (for lack of support from politicians and institutions, he claimed) and criticized the new government. According to the press, Bolsonaro consulted lawyers about the possibility of being arrested soon after the end of the mandate, due to investigations against him, with the loss of his privileged forum -- a scenario that would have scared the then president.

Corruption investigations targeting the government

Over the course of the year, the press revealed suspicions of corruption and Brazilian authorities investigated them, undermining President Bolsonaro's long-held claim that his government was free of corruption.

In March, the newspaper O Estado de S.Paulo revealed a scheme involving two pastors from Assembleia de Deus, a popular Pentecostal denomination in Brazil. Reportedly, the pastors gained facilitated access to the Ministry of Education. Here they allegedly interfered with provision of resources to friendly municipalities, liasing between local public administrators and Minister Milton Ribeiro. According to the newspaper, a mayor accused one pastor of

charging R$ 15.000 (US$ 3.100) for presenting a request to the Ministry of Education and soliciting a further 1 kg of gold after resources had been authorized by the federal government. The municipality in question is situated in a mining area. In testimony before the Senate Education Committee, two other mayors confirmed bribery requests by the pastors.

President Bolsonaro was directly implicated in the so-called education ministry "parallel cabinet" scandal. In a recording released by the newspaper Folha de S. Paulo, the then Minister Ribeiro discusses budget and financial constraints for the Ministry. Mr. Ribeiro says explicitly that his "priority is, firstly, to serve those municipalities that need it the most, and, secondly, to serve all those who are friends of Pastor Gilmar [Silva dos Santos]". In the sequence, he says that President Bolsonaro requested the "Gilmar issue".

Following the scandal, Minister Ribeiro stepped down from President Bolsonaro's cabinet. In June, he was arrested by Federal Police alongside the two Pentecostal pastors.

The press reported that Mr. Ribeiro was caught in a telephone tap by the police saying that President Bolsonaro had called him to tell he had a "premonition" that Mr. Ribeiro could be target of a search warrant. The episode raised suspicions of further interference, by the president, with the Federal Police (see more above).

After Mr. Ribeiro's arrest, the federal police officer responsible for the investigation complained of interference in the investigation's proceedings and lack of autonomy, as Mr. Ribeiro was kept in Sao Paulo rather than being displaced to Brasilia as determined by the courts.

The two pastors targeted mayors from the Centrão, an informal block of political parties that traditionally sides with the incumbent government in exchange for political perks. The Centrão gained momentum with the election of one of its leaders, representative Arthur Lira, to the Presidency of the Chamber of Deputies, and became a crucial point of support for President Bolsonaro. Not by coincidence, the Centrão controlled the FNDE (National Fund for Education Development), a federal autarchy responsible for transferring federal resources and offering technical assistance for municipalities and states regarding school transport and food, among other duties. FNDE was a major source of resources mobilized by the two pastors.

Following O Estado de S. Paulo revelations of the pastors' scheme, in April, Folha de S.Paulo published a story revealing that the Ministry of Education spent R$ 26 million (US$ 5,5 million) on robot kits for small municipalities in the state of Alagoas, for schools that lack basic infrastructure. Some have no internet connection. According to the newspaper, the municipalities concerned all have contracts with one company, which belongs to political allies of the President of the Chamber of Deputies. By that time, Lira influenced the destination of billions of Reais through new amendments to the federal budget — the so-called "secret budget" scandal (see more in the Legislative section). The robot kits were purchased with resources from the "secret budget".

Another hotspot for corruption suspicions in the previous year was Codevasf (Companhia de Desenvolvimento dos Vales do São Francisco e do Parnaíba), a state-owned company responsible for infrastructure projects in Brazil, linked to the Ministry of Regional Development. Codevasf was created in 1974 to promote regional development and integration of the Northeast of the country, but, over the years, its operation has undergone significant expansion, especially during the Bolsonaro government and since billions started to flow through the "secret budget". It now operates in 15 states, covering 36% of national territory. Codevasf thus became the main vehicle for allocation of money from the "secret budget" to fund MPs, government electoral goals and corruption schemes.

At the end of May, the Federal Court of Accounts (TCU) ordered the suspension of several Codevasf projects due to political decisions and lack of technical criteria in biddings.

Through the sanctioned arrangement, public bidding is opened for road projects in a specific region or state, with a cost estimate. Construction and engineering services are then hired through "umbrella" contracts called a Price Registration System. Several services are contracted through the same bidding process, even though they have dif-

ferent standards. There is no need to define specific locations in advance, or to submit basic and executive projects, creating vast opportunities for corruption, overpricing and low quality of services delivered.

This is said to guarantee speedy allocation for billions of Reais that, especially since 2021, have been channeled to municipalities and states through a new type of parliamentary amendment to the federal budget — "the secret budget" (see more in Legislative section).

The company has strong ties with politicians linked to the Centrão. The Centrão also held crucial influence over the distribution, by government, of amendments to the federal budget. From 2020 to 2021, Codevasf received R$ 3 billion (US$ 625,5 million) through parliamentary budget amendments.

In May, the Federal Court of Accounts (TCU) suspended execution of Codevasf paving works funded through this mechanism, projects worth up to R$ 622,15 million (US$ 131,7 million). According to the court's technical department, congressmen and local politicians even decided which roads would be paved and the type of paving that should be deployed, rather than this being a technical decision that respected previous planning.

In April, reports pointed towards evidence of low quality and overpricing in roadworks contracted by Codevasf in the states of Tocantins and Alagoas.

Later on, an audit by the TCU identified evidence of fraud in several bids conducted by the company. The alleged scheme principally benefited the Engefort company. It surpassed R$ 1 billion (US$ 188,1 million) during the Bolsonaro government.

The audit revealed collusion in bids at the company headquarters in Brasilia, and in regional offices in the states of Minas Gerais, Pernambuco and Bahia. In view of these indications, the Court's technical team recommended the adoption of precautionary measures in Codevasf tenders. The case's rapporteur, Justice Jorge Oliveira, however, went against technical advice and did not suspend the beginning of new works connected to procurement under investigation.

In October, Federal Police carried out the second phase of an operation into fraud in public procurement and embezzlement of funds involving the state-owned company in the state of Maranhão. One Codevasf manager in the region was removed from his position, suspected of receiving R$ 250.000 (US$ 47.000) from companies allegedly involved in embezzlement of public resources, Construservice being the main company involved.

The press also reported suspicions that Codevasf was used, in the electoral context, to favor political allies by distributing machinery and equipment. According to the Folha de S.Paulo newspaper, in the state of Rio Grande do Norte, Codevasf made 60% of equipment deliveries to local municipalities in September – that is, less than one month before the elections. Among mayors who received donations are strong allies of President Bolsonaro and Senator Rogério Marinho, coordinator of Mr. Bolsonaro's campaign in Rio Grande do Norte. In clear noncompliance with electoral law and attempt to buy votes, in Bahia state, Codevasf donated and installed cisterns in houses carrying campaign stickers for a federal representative running for reelection. According to the newspaper's findings, residents reported that a councilman from the region approached them asking for votes and then told them that installation of the cisterns was related to parliamentary amendments released by the congressman's candidacy.

Following TCU suspension of Codevasf projects, in June, the National Congress Joint Budget Committee (CMO) approved a recommendation to reduce the Court's role in suspending construction works, services and acts in which irregularities or illegalities have been identified before prior consultation with Congress.

The Brazilian Constitution determines that external government oversight, the responsibility of National Congress, must be exercised with TCU assistance. The TCU can apply sanctions in cases of identified illegal spending or irregular accounts, and suspend acts and practices when necessary measures are not implemented to curtail detected illegalities.

Although the recommendation signed by the CMO has no legal value, the action clearly indicates an attempt by Congress to retaliate against TCU action that affected political interests of the Centrão.

President Bolsonaro and family members were also the subject of new corruption allegations in 2022. In August, an investigation by media portal UOL journalists Juliana Dal Piva and Thiago Herdy into the president's family's assets revealed that 51 out of the family's 107 properties acquired between 1990 and 2020 were bought in cash, which suggests strong evidence of money laundering. The case involves the president himself, his three older sons, five brothers and sisters, his mother, and two ex-wives. At least 25 properties were acquired by the president's sons and his ex-wives, and were the object of investigations by the Rio de Janeiro and the Federal District Prosecutor's Offices, as possibly linked to the so-called rachadinha scheme (an alleged illegal operation to collect shares of public employees' salaries, some of them ghost employees, politically appointed by the Bolsonaro family).

In September, the president's oldest son, Senator Flávio Bolsonaro, was granted a preliminary decision that ordered the removal of the investigation from UOL's website. The short-lived censorship, was however, reversed by Supreme Court Justice André Mendonça.

The "rachadinha" scheme saw further developments in 2022. In May, the Court of Justice of Rio de Janeiro (TJ-RJ) filed the Fluminense Public Ministry's complaint in the process in which senator Flávio Bolsonaro had been denounced for allegedly heading a criminal organisation responsible for the alleged scheme during his term as state deputy. The request to reject the criminal charges, made by the Attorney General of Justice of Rio, Luciano Mattos, was based on the annulment of evidence previously established by the Superior Court of Justice (STJ) and the Federal Supreme Court (STF). In 2021, the STJ annulled the disclosure of bank and tax records, and the STF annulled COAF reports (Financial Activities Control Council) on the case by ruling that the agency cannot produce intelligence reports against a suspect not formally included in an investigative process. The STJ, in November 2021, also accepted Senator Flávio Bolsonaro's appeal arguing that he would have " crossed immunity" (or "crossed mandate"), because he ceased to be a congressman and became a senator for Rio de Janeiro, which would prevent trial in first instance by the judge who had been conducting the case.

In July 2022, the MP-RJ filed an appeal for a declaration of invalidity with the TJ-RJ to facilitate a possible resumption of the investigation. So far, the case has been stopped due to the invalidity of the evidence used. A new investigation should only happen through the use of independent evidence of that considered contaminated or null. Also in July, the Federal Revenue Service decreed 100-year secrecy on the proceedings reporting the agency's actions to help the senator's defense prove that reports produced by COAF and that provided the basis for the "rachadinhas" process had been produced illegally, and thus seek the annulment of the case in court.

Bolsonaro and his supporters attack the Supreme Court

In addition to the Bolsonaro government attacks against the electoral system and its institutions (see more above), other episodes further disturbed the balance between the federal Executive and the Judiciary, involving especially the Superior Electoral Court (TSE) and the Supreme Court (STF). The first was the STF decision to sentence congressman Daniel Silveira — a vocal supporter of President Jair Bolsonaro — to the loss of his mandate, suspension of his political rights and detention for 8 years and 9 months for threats and encouraging attacks against the court's judges. The following day, President Bolsonaro issued a decree granting the congressman a benefit called "institutional grace" - a pardon. The president's act was interpreted as a gesture to confront the Court. It also generated numerous debates about its legal effects — whether the decree impacts only the criminal conviction or could also affects the congressman's eligibility.

Later on, following the first round of the elections, in October, when President Bolsonaro's base in the Federal Se-

nate grew significantly (see more in the Legislative section), the president and authorities who support him renewed threats against the STF, indicating that they could promote a constitutional amendment to increase the number of judges at the STF from the current 11 to 15 seats.

The proposal to expand the number Supreme Court judges is not new. Mr. Bolsonaro announced this intention in 2018, during his first presidential election campaign. Since taking office, he encountered institutional resistance from the STF to his authoritarian advances. For this reason, he has harshly attacked the Court and some of its judges.

Before Mr. Bolsonaro's defeat in the second round, the possibility that the new Senate, leaning right and towards 'Bolsonarism', could try to impeach a Supreme Court judge. This is a very important institutional prerogative in relation to the STF: not only does it vote for approval or rejection of appointees for vacant seats at the Supreme Court, but the Senate can also remove STF judges through impeachment proceedings, without participation by the Chamber of Deputies or other institution.

The dismantling of socioenvironmental governance

The last year of the Bolsonaro government saw, like the previous ones, a dismantling of the legal frameworks for socio-environmental protection, weakening of sanctions against related crimes and a disregard for the issue. The dismantling of socio-environmental governance, especially that linked to indigenous lands, became evident to the whole country and the world with the assassination of indigenous activist Bruno Pereira and British journalist Dom Phillips in June 2022.

"If I'm elected, I'll attack FUNAI with a sickle, but I'll go for the neck. There's no other way."

In August 2018, then presidential candidate, Mr. Bolsonaro, referred to FUNAI, the Brazilian federal agency for indigenous peoples. This promise, and other similar ones such as the non-demarcation of new indigenous lands were fulfilled during his term.

Whether by action or omission, federal government has undercut indigenous and environmental agencies and policies put in place to protect indigenous lands and populations. The consequences are dramatic. In the last three years, there has been a 150% increase in deforestation in indigenous lands when compared to the previous three-year period. In just two years, some indigenous land has seen a 350% increase in illegal mining. The advance of environmental crime is accompanied by violence against indigenous leaders and others who denounce illegal loggers, land grabbers, hunters, prospectors and fishermen.

In September 2019, Mr. Pereirá, then FUNAI general coordinator for isolated indigenous communities, headed Operation Korubo against illegal mining in Vale do Javari indigenous land, in the far west of Amazonas state. The operation also involved the agents from the Brazilian Institute of Environment and Renewable Natural Resources (IBAMA) and the Federal Police (PF). It destroyed sixty ferries operating illegally in the region. The reaction to this and other investigative operations was harsh, leading to Mr. Pereira's dismissal as coordinator at FUNAI. Mr. Ricardo Lopes Dias, a missionary who had worked for organizations involved in evangelization of indigenous peoples in the Amazon, was appointed to replace him.

The appointment to key FUNAI positions of people with no previous knowledge or experience in indigenous issues became the rule, not the exception. By the time of Mr. Pereira and Mr. Phillips assassination, of FUNAI's 39 regional coordinators, only two were career civil servants from the agency. Military officers, policemen and professionals with no ties to public administration predominated. The lack of training was illustrated by an episode in which FUNAI's

coordinator in Vale do Javari, a retired army lieutenant, encouraged indigenous people to shoot at isolated groups, due to interethnic conflicts taking place in the Indigenous Land.

There was a similar situation at IBAMA, the main federal environmental agency. Appointments of people with no experience in the environmental field, weakening of environmental regulations, persecution of civil servants and reduction of the agency's budget resulted in the lowest number of environmental fines issued by IBAMA in the last 20 years , while environmental crimes surged.

In August, the Federal Court of Accounts (TCU), published the conclusions of its audit on environmental administrative sanctioning processes carried out by IBAMA, including the execution and collection of fines. Environmental fines are an instrument of accountability for damage caused to the environment, and a source of revenue that can be used for the protection of the environment. However, a large number of fines are not effectively collected. According to a study published in August, about 90.000 environmental fines were waiting to be processed. In 2021, the Climate Policy Initiative and WWF-Brazil found out that 98% of the administrative sanctions for deforestation issued under Bolsonaro's government were paralyzed.

The TCU audit exposed deficiencies in IBAMA management. These have contributed to the ineffectiveness of environmental administrative sanction processes, such as the "lack of adequate structuring of the mechanisms for converting fines into the provision of preservation services, excessive time taken to conclude the administrative process, and slowness of the notification system employed by the environmental agency".

In 2018, IBAMA's base in Tabatinga, a municipality that borders Peru and Colombia located near the Vale do Javari indigenous territory, was closed. In 2019, courts determined the Federal Government should reinforce security at its FUNAI's base in the region, after successive attacks by actors involved in illegal hunting and fishing.

FUNAI and IBAMA's total ineffectiveness in the region and persecution led Mr. Pereira taking leave from FUNAI and accepting a role as advisor to Univaja (Vale do Javari Union of Indigenous Peoples). He assisted indigenous peoples in monitoring and protecting their territory, a fundamental mission when the State is not enforcing laws and regulations. However, this also increases the risk of violence against indigenous peoples and environmental defenders when public authorities do not offer protection and support.

Land and environmental defenders and whistle-blowers protection

The assassination of indigenous expert Bruno Pereira and British journalist Dom Phillips, in June, highlighted the urgent need for Brazil to implement broad national mechanisms to protect environmental and human rights defenders, victims and whistleblowers. It is true that, in past years, some programs have been implemented at federal level. Despite being important in their respective domains, however, they are quite narrow and do not offer significant protection.

Among instruments currently in place is Law No. 9.807/1999, which established a service for protection of victims and witnesses, under the Ministry of Justice's supervision; and Decree No. 6.044/2007, which created the National Program for the Protection of Human Rights Defenders.

Recently, Law No. 13.964/2019, which amended a previous 2018 law, introduced protection mechanisms for whistleblowers, among which the following aspects were included:

» Confidentiality: The identity of whistleblowers is to remain secret and can only be disclosed in case of "relevant public interest or concrete interest for elucidation of facts" (Article 4-B), after prior agreement by the whistleblower;

» Immunity: Unless the whistleblower knowingly provides false information to authorities, they he/she is released from civil or criminal liability;

» Protection against retaliation: The law includes a few provisions aimed at protecting whistleblowers from retaliation, including (i) threat of sanctions, including dismissal, for officials that are victims of retaliatory measures; and (ii) award of doubled damages for any losses accruing from retaliatory actions.

Finally, the 2019 law also introduces the possibility of a financial reward of up to 5% of the value of assets recovered as a result of reporting criminal activities. The law was supplemented by Decree No. 10.153/2019, which included further provisions on how reports of wrongdoing are to be handled within the federal administration.

Despite the importance of such legislative measures, many obstacles continue to hinder the effective protection of whistleblowers. First, many of the provisions have excessively vague language. Exceptions to the confidentiality of whistleblowers' identity, for example, are described very broadly, and no detail is provided as to what might constitute "relevant public interest". Although the 2019 decree creates some additional measures to protect the identity of whistleblowers, the rule is only valid within the Federal branch of the executive. There is no indication of how financial rewards should be implemented, a topic the decree has also failed to expand.

Rules seem to be designed only with public administration in mind. It is unclear whether and how such rules may be applied in the private sector. Although prohibition of retaliation could also be extended to private organizations, a more comprehensive set of private sector rules is of crucial importance. Many reports of wrongdoings originate from people employed at private firms.

Most importantly, however, current measures create negative duties for the administration, that is, duties to refrain from engaging in certain actions – such as disclosing the identity of whistleblowers. However, many situations require action to ensure protection of whistleblowers' physical and mental integrity.

Environmental and land activists in Brazil constantly face threats for reporting environmental and land abuses, frequently coupled with corruption and asset laundering practices. Consequently, Brazil was ranked the deadliest country for land and environmental defenders over the past decade.

Beyond safe and confidential channels to report wrongdoings, environmental and land defenders need effective access to justice. Even though the Brazilian system offers institutional arrangements to formally guarantee this access, experience shows that the Judiciary struggles to deliver a timely resolution to conflicts and to protect land and environmental defenders.

The protection of activists also depends on integrity and anti-corruption measures within law enforcement bodies. Various cases show that police officers can be corrupted by criminal organizations involved in the plunder of natural resources, and directly contribute to violence and acts of intimidation against land and environmental defenders. Corruption fuels impunity for those acts of violence. In fact, a 2019 assessment of Human Rights Watch showed that less than 5% of the murders of land and environmental defenders led to an effective trial to hold perpetrators to account.

In September 2018, Brazil signed the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, which, among other things, creates protections for environmental activists and reinforce access to justice in environmental matters. The Escazú Agreement, as it is known, came into force in April 2021, but Brazil is yet to ratify it, since President Bolsonaro did not submit the agreement for approval by Congress.

In the last year, mining policies also had some relevant developments (see more in section Legislative). In February, the Federal Government adopted Decree no 10.966/2022, establishing the Program for Supporting the Development of Artisanal and Small-scale Mining. The measure is a non-response to the illegal gold mining crisis that affects the Amazon Region and, in particular, Conservation Units and Indigenous Territories.

For the first time, the government qualifies garimpo (wildcat mining) as "artisanal and small-scale mining" activities. Although the concepts are common in international and technical forums, this reframing caused public outcry. It was perceived to be an attempt to whitewash environmental crimes. Politically well-connected criminal networks have long shielded themselves behind the historical image of informal miners. Such criminal networks are complex organizations that invest millions in equipment and logistics. Unfortunately, current legislation does not establish clear criteria to exclude such activities from the scope of the program. The only criteria to define "artisanal and small-scale mining" is whether the mined material belongs to a pre-established list, saying little about the scale of activity or techniques used.

Beyond this reframing and without much detail, the decree establishes general objectives and an inter-ministerial commission to strengthen and integrate social environmental and economic policies on artisanal and small-scale mining. It is worth noting that the government makes formalization of the sector an objective. While formalization is important to clearly discriminate between legitimate small-scale mining and environmental crimes, and to foster good labor and socio-environmental practices, it is also a double-edged sword, which can provide legitimacy to organized crime linked to illegal mining. Beyond broad measures, the decree does not set concrete guidelines, instruments or indicators to drive the policy.

In August, the Office of the Comptroller General (CGU) published an audit report focused on the National Mining Agency (ANM), which highlighted deficiencies in the issuance of permits for small-scale and artisanal mining (ASM) and the absence of safeguards against illegal mining. ASM permits have been used to launder illicit gold, and illegal mining has surged in the country causing havoc in indigenous land, environmental degradation, and public health issues resulting from mercury pollution. The CGU report shows that the permit process often does not explicitly check various legal criteria such as prohibition of mining activities in indigenous lands, the maximum area for a single permit, and the limit of one permit per individual, which could lead to irregular permits or abuses from ANM officers. The audit revealed that ANM agents did not check the legality of environmental licenses necessary to obtain a permit, despite widespread irregularities.

The CGU also concluded that the ANM did not make significant progress to inspect ASM activities on national territory, ignoring 2020 recommendations from the Federal Court of Accounts (TCU). The ANM general director even reverted a decision by the agency's board of directors to sign a cooperation agreement with a university to develop remote sensing tools to detect ASM activity, without having the legal power to do so, nor giving any justification. Finally, despite the existence of a public integrity plan, measures to prevent and mitigate risks of conflicts of interest and regulatory capture were deemed insufficient by CGU. Among other failures, the audit identifies three officers with blatant conflicts of interest as they, or close relatives, hold leadership positions in mining companies regulated by the agency.

Another setback in the environmental governance was the issuance, by the Brazilian federal environmental agency (IBAMA), of an environmental prior license for repaving the middle stretch of the BR-319 highway, which connects Manaus (capital of the Amazonas State) to Porto Velho (Rondônia) through one of the most preserved areas of the Amazon rainforest.

The procedure led to serious violations of the rights of indigenous peoples and traditional communities. Important stages of the licensing process were bypassed, such as the right of free, prior and informed consenting established by the International Labor Organization (ILO) Convention 169, ratified by Brazil. Timing of the decision also raises a red flag for political capture, as it occurred during the electoral period and served the interests of the federal government's political base.

The 877 km-long BR-319 highway, inaugurated in 1976, was a flagship project of the military dictatorship to stimulate occupation of "frontier" regions of the country. It crosses 11 municipalities in the States of Amazonas and Rondônia, an area of 39.592.590 ha, 88% of which is native forest. However, around 1988, the highway was neglected and became practically impassable. It returned to the government's agenda in the early 2000s, when federal funds were destined for its reconstruction. Since then, works on the BR-319 have resumed. Part of project awaits environmental licensing to proceed.

In August 2022, a massive fire swept through 1.900 hectares of rainforest in the BR-319 region as a prelude to potential environmental disasters to come in the area. Two months prior to the fire, a surge in deforestation rates and fires had already been reported by NGOs to state environmental agencies. The Federal Prosecutor Service (MPF), and Amazonas Prosecutor's Office of Accounts (MPC/AM), urged the responsible state environmental agencies to take action. A recent University of Minas Gerais (UFMG) study suggested that the BR-319 could cause a fourfold increase in deforestation, reaching 170 thousand km², considering accumulated deforestation in Amazonas from 2017 to 2050, while CO^2 emissions could reach 8 billion tons, deviating strongly from Brazil's greenhouse gas emissions commitments under the Paris Agreement.

Concern regarding repaving of the BR-319 highway was aggravated by the Bolsonaro administration's weakening of federal and state environmental agencies, which should have guaranteed adequate management of the highway's socio-environmental impact, as well as the combat of environmental crimes in its surroundings.

ENCCLA's efforts to tackle environmental crimes

The National Strategy against Corruption and Money Laundering (ENCCLA), Brazil's main forum gathering public institutions to tackle corruption and money laundering, has increased its focus on environmental crimes and related corruption. In November, the Working Group on environmental crimes (Ação 10/2022) concluded its activities by issuing sensible recommendations endorsed by ENCCLA's plenary. ENCCLA incentivized: (1) Internal control bodies to strengthen integrity and transparency for environmental governance; (2) providing COAF (Brazilian Financial Intelligence Unit) with direct access to data from the federal environmental agency to bolster the production of financial intelligence related to environmental crimes; (3) including environmental crimes in the National Capacity and Training Program for the fight Against Corruption and Money Laundering; (4) the integration of tax and timber control systems so that timber origin must be checked when an invoice is issued for timber products; and (5) the development of anti-fraud measures in logging control and traceability systems.

Although the recommendations still need to be implemented, ENCCLA enjoys strong legitimacy due to its broad composition, which includes bodies targeted by its recommendations. ENCCLA has also established a promising Working Group to look at leveraging digital transformation of the land administration system, in order to tackle corrupt practices that facilitate land grabbing. It will look at the digitalization, integration and transparency of land records and cadasters to facilitate the inspection by public authorities and civil society.

Bolsonaro boasts fictitious Brazil in pursue of OECD accession

Amid deterioration of legal and institutional frameworks to prevent and prosecute corruption (including transnational corruption), to protect the environment and human rights and a general worsening of democratic governance under President Jair Bolsonaro, in January 2022, Brazil received a formal invitation from the OECD (Organization for Economic Co-operation and Development) to begin accession to the so-called "rich nation's club".

As denounced by Transparency International Brazil, the country's capacity to hold corrupt agents accountable has been seriously compromised by political interference in crucial institutions, such as the Federal Police, the Federal Revenue Service and the Public Prosecutor's Office. During the Bolsonaro administration, the country suffered attacks against transparency mechanisms, such as the "secret budget" and refusals to comply with the Access to Information Law. President Bolsonaro, an enthusiast for Brazil's accession to the OECD, constantly lashed out at the electoral system and attacked the press, undermining important pillars of Brazilian democracy. It was telling that, in February 2022, Mr. Bolsonaro held meetings with the Russian President, Vladimir Putin, and the extreme-right Prime Minister of Hungary, Viktor Orbán, whom Mr. Bolsonaro called "a brother".

In September, the Brazilian government handed the OECD its Initial Memorandum (IM) for accession to the group. Civil society organizations, among them TI Brazil, however, have pointed out that President Bolsonaro's administration has lied and distorted information in order to attest compliance with norms and practices required to join the organization.

In the anticorruption and transparency domains, for example, the IM attested that Brazil is "fully aligned" with the OECD Anti-Bribery Convention, the organizations' main instrument to combat transnational bribery. Just prior to the disclosure of the Brazilian IM by the press – it was kept secret by the Bolsonaro government –, TI Brazil released a new edition of its "Exporting Corruption" report downgrading Brazil from "moderate" to "limited" in enforcement effectiveness of the OECD Anti-Bribery Convention.

In the IM, the Bolsonaro government also declared that "regarding transparency, governance of the Brazilian budget process stands out". This statement disregards a major scandal of President Bolsonaro's administration: the "secret budget" scheme, by which billions of Reais have been channeled to his supporters in the National Congress, through parliamentary amendments to the federal budget, bypassing technical criteria and accountability mechanisms (see more in the Legislative section).

As reported, the IM misleads regarding Brazilian environmental compliance to OECD standards, concealing how the country failed to achieve greenhouse gas emission reductions, and to curtail illegal deforestation, among other setbacks.

In June, the OECD published an evaluation of Brazilian open government public policies and practices and classified Brazil as a restricted environment for the free exercise of citizens' fundamental rights. It recommended the establishment of an open government national strategy, including measures for transparency, participation, accountability and integrity. The report also advised the protection of civic space, the strengthening of participatory processes and institutions within the federal government, and improvement and expansion of public data supply.

The accession will involve long adjustment of Brazilian practices and regulation. It is essential for the accession process to allow participation by independent non-state actors in assessment of Brazil's compliance with the OECD standards, so that regulatory limitations and enforcement issues are thoroughly considered, thus seizing this opportunity for effective improvement of public policies towards sustainable and inclusive development.

Public Prosecutor's Office

Highlights

Positives

- Public civil action filed by the Federal Prosecution Service to suspend the sharing of surveillance software by the federal government with state authorities, used in exchange for receiving state data and bringing them together on a national platform;
- Repeated protests by deputy prosecutor-generals and former prosecutor-generals against the omissions by current Prosecutor-General Augusto Aras in relation to former President Bolsonaro's attacks on the Supreme Court (STF), the Superior Electoral Court (TSE) and the electoral system and in relation to the criminal management of the COVID-19 pandemic.

Negatives

- Serious and persistent omissions on the part of the Public Prosecutor's Office (PGR) regarding criminal conduct investigated by the parliamentary inquiry into the Pandemic, the dismantling of environmental governance and of protection of indigenous rights, growing coup movements and attacks on democratic institutions by former President Jair Bolsonaro and his allies, in addition to the dismantling of the institutional capacity of the Federal Prosecution Service to tackle macro-corruption;
- Dissolution of the advisory commission on leniency agreements;
- Judgments by the Federal Court of Accounts (TCU) and the National Council of the Public Prosecutor's Office (CNMP) condemning former members of Operation Carwash, contrary to technical opinions for their acquittal and creating serious legal insecurity for public officials acting in cases of corruption by powerful individuals.

Public Prosecutor's Office

Systematic PGR ommission and alignment with the Bolsonaro government

In 2022, systematic omission by the Attorney General's Office (PGR) in taking action to address illegalities committed by the government of Jair Bolsonaro and his allies, and its repeated alignment to the Presidential Palace (a trend observed since the current attorney general, Augusto Aras, took office in September 2019), reached its peak, with rejection of almost all the allegations investigated by the Covid-19 Parliamentary Inquiry Commission (CPI) and omission in the face of attacks by then-President Bolsonaro and his supporters against the electoral system and democracy (see more in the Federal Government and Judiciary sections).

In July, the PGR asked the Supreme Court to close seven out of ten preliminary investigations into President Bolsonaro and cabinet ministers following the Senate Covid-19 CPI into mismanagement of the pandemic by the federal government.

Deputy Prosecutor-General, Ms. Lindôra Araújo, argued that there were insufficient elements to open a criminal investigation or lawsuit. Ms. Araújo dismissed accusations of charlatanism attributed to then President Bolsonaro due to his insistent promotion of Covid-19 treatments with no scientific backing. She said "the simple fact that the agent holds a package of chloroquine does not constitute evidence of a criminal act" and that Mr. Bolsonaro "sincerely believed" in the drug's efficacy. Ms. Araújo also discarded accusations of prevarication in the negotiation of vaccines, and of misuse of public resources in the purchase of drugs with no scientific evidence of efficacy.

The Prosecutor General's Office had already requested closure of an investigation into a suspected crime of administrative advocacy for purchase of a Covid-19 vaccine involving the leader of President Bolsonaro's government in the Chamber of Deputies, representative Ricardo Barros.

By November, the PGR had requested the closure of nine out of ten preliminary investigations.

The PGR's requests reinforced general frustration with developments from the Covid-19 committee. Hope existed that evidence collected by the Senate would instigate robust investigations. Unlike some parliamentary committees that do not produce evidence or bring visibility to suspicious situations, the Covid-19 CPI identified serious facts previously unknown to the public.

PGR omission in this case reinforces repeated accusations of politicization and alignment with Mr. Bolsonaro to the detriment of its constitutional obligations to investigate suspected corruption involving the president and his ministers. The disinterested stance regarding the CPI – and other suspicions about then President Bolsonaro and his allies – has been harshly and frequently criticized.

A study released last July shows, concretely, how far functional inertia of the Prosecutor's General Office, under the mandate of Mr. Aras, has gone. Signed by FGV (Getúlio Vargas Foundation) Professor Eloísa Machado de Almeida, coordinator of the project Supremo em Pauta, and Luiza Pavan Ferraro, researcher at the institution, the study reveals that, between 2019 and 2021, the PGR was the author of only five out of 290 lawsuits presented before the Supreme Court against acts of the Executive branch – the equivalent of 2% of the total. This is the lowest level of activity by the PGR since 1988, when the Federal Constitution was enacted.

The time lapse considered by the researchers encompasses previous Prosecutors-General – nine months of Ms. Raquel Dodge's mandate, eight days of Mr. Alcides Martins (interim) and 21 months of Mr. Aras, the current Prosecutor-General, appointed twice by Mr. Bolsonaro. In the ranking of lawsuit proponents over the past two years, the PGR lost to political parties (responsible for 63% of the cases brought to the Supreme Court), trade union con-

federations and class entities (29%) and the Federal Council of the Brazilian Bar Association (6%), tying in fourth place with the Attorney General Offices in the states and the Federal District (2% each). Only the PGR, however, has competence to propose criminal investigations and prosecutions against the President of Brazil, cabinet ministers and other authorities with forum prerogative before the Supreme Court.

The research stresses that PGR inertia occurs in a period of increased litigation against federal government acts, especially those issued by Mr. Bolsonaro without National Congress participation, such as decrees, provisional measures, and ordinances.

In the few cases where the PGR has engaged with issues brought before the Court, it has aligned itself with the Attorney General's Office (AGU), which, until the end of December, defended the Bolsonaro administration, up to 94% of the time.

According to the study, the picture is one of "inaction in the face of the president and ministers' acts", even in criminal accountability episodes. The authors conclude that the PGR did not act as an instance of control over the acts of the Bolsonaro administration. Its omission contributed to normalization of what the study names as "authoritarian infralegalism and parainstitutionality before the justice system".

Both Mr. Aras and Ms. Araújo, who head the Prosecutor General's Office, are understood to be strategically close to former President Bolsonaro, and to have further political aspirations. Repeated reports state that Mr. Aras was interested in a vacancy in the Supreme Court should President Bolsonaro win re-election. In July, reports suggested that Mr. Bolsonaro held secret meetings with Ms. Araújo and had promised her Mr. Aras' position in an eventual second mandate of his.

Instead of guiding her professional conduct in an institutional manner, curbing and investigating illegal acts committed by the then president, the Deputy Attorney General behaved like a close Bolsonaro ally. In December, weeks after asking the Supreme Court to dismiss an investigation based on the CPI report on the pandemic, whose targets were the president himself, his children and allies, for allegedly inciting the population against Covid-19 control measures, she received the Oswaldo Cruz Medal of Merit.

The requests to shelve CPI investigations, detailed above, earned him the nickname "Aras's front man", given by some of the senators who made up the CPI. According to them, in addition to the PGR having been omissive in the investigations, the Deputy Attorney General was acting in order to hinder the investigations proposed by the CPI, shielding the former head of the Executive.

In September, Lindôra Araújo stood against indictment of then-president Bolsonaro and the completion of steps required by the Federal Police in the investigation in which the former president is investigated for his speech relating the vaccine against Covid-19 to AIDS. At the end of last year, she also rejected a request by the Mato Grosso Public Prosecutor's Office for the imposition of a fine and seizure of assets of protesters calling for military intervention.

The Deputy Attorney General also advocated for archiving the request for lifting confidentiality on conversations between Bolsonaro businessmen and the Attorney General of the Republic, Augusto Aras, in a WhatsApp group, where there was defense of a coup d'état in case then-President Bolsonaro lost the elections. In his view, the evidence had been captured in an illicit manner and in usurpation of the competence of the investigative authorities.

Finally, in December 2022, during the Supreme Court trial declaring the unconstitutionality of the "secret budget" (see more in the Legislative and Judiciary sections), the Deputy Attorney General defended the autonomy of the National Congress, criticizing the press for its negative reaction to the allocation of resources through the billionaire scheme. When the trial resumed, when all votes had already been declared, Aras asked for the floor and declared that the PGR was changing its position and now opposed the rapporteur's amendments.

Criticism of systematic omission by the Attorney General's Office has not been taken lightly. In June, the Deputy

Attorney General called on the Federal Police to investigate a group of Brazilians who approached Aras, on holiday, in the streets of Paris, to ask him to take a position on the illegalities of the then government. In December, the Federal Public Ministry denounced three people to Justice for libel and slander.

Extinction of the commission to advise on leniency agreements

In October 2016, at the height of Operation Lava Jato, the 5th Coordination and Review Chamber of the Federal Public Prosecutor's Office established the Working Group on Leniency and Collaboration with the purpose of conducting studies, preparing roadmaps, manuals and other activities related to the matter. The positive results obtained led the same Chamber, in August 2017, to convert the WG into a Permanent Commission to advise the Anti-Corruption Chamber. The Commission functioned for five years until its dissolution in August 2022.

Among the reasons given for its dissolution are bureaucratic factors, such as the release of its members from their duties and a better division of tasks through the voluntary contribution of other MPF members scattered throughout the country. At no time does the ruling argue that the services provided are irrelevant or that a change in the country's situation would make its operation inadvisable.

The importance of the Advisory Committee on Leniency and Tender Agreements lies in the fact that both leniency agreements and rewarded cooperation are a valuable instrument in which the State receives relevant information on violations that would hardly be detected without the cooperation of one of the violators, and the violator has at its disposal a defense strategy.

Its dissolution, therefore, was another blow to the structure for investigating crimes of corruption, highlighting the stance adopted by the Federal Public Prosecutor's Office under Augusto Aras, namely, tolerance and non-investigation of acts of fraud and corruption against the state.

Despite a technical assessment to the contrary, TCU condemns Janot, Deltan and a third prosecutor to return per diems

On August 9th, former Prosecutor-General Rodrigo Janot and former Operation Carwash coordinator Deltan Dallagnol were found guilty of misuse of public resources by the Second Chamber of the Federal Court of Accounts (TCU), despite technical advice to the contrary.

Alongside Mr. João Vicente Romão, former chief prosecutor of the Prosecutor's Office in Paraná state, they may have to pay US$ 580.000 to the state. The rapporteur of the case, Councilor Bruno Dantas argued that the three men breached the principles of economy and impersonality in public administration through exorbitant spending on per diems and airline tickets used by the Carwash taskforce.

This is a further setback to corruption fighting in Brazil, which includes an offensive against oversight and control institutions' independence and attacks against their members. The TCU decision may provoke insecurity among public agents fighting macro-corruption and the so-called "chilling effect" on law enforcement officers. Such sanctions, contrary to repeated technical and legal opinions, weaken not only the fight against corruption, but the rule of law itself.

According to the rapporteur, Mr. Dallagnol chose prosecutors for the taskforce and even rewarded with per diems those resident in the city where the taskforce operated. Mr. Dallagnol's defense argued that his position as Carwash coordinator had no administrative competence or authority to define the model of prosecutors' allocation. Thus, as his lawyers explained, he did not participate in the budget's preparation nor distribution of its resources. Mr. Janot claimed that all decisions on this issue were endorsed by the Superior Council of the Federal Prosecutor's Office, the organ's highest collegiate body.

Mr. Romão was accused of requesting establishment of the taskforce without due analysis of costs, and without proposing limits to expenses. In his defense, he claimed that, in 2014, it was impossible to predict how long the investigation would last and that there would be practical difficulties in finding alternatives.

The National Association of Prosecutors (ANPR) issued a statement criticizing the TCU decision, affirming "there was no administrative offence or damage to the treasury. The court's decision contradicts opinions of TCU technical experts and of the Public Prosecutor's Office at the TCU, which considered the expenses regular and requested dismissal of the case. The prevailing understanding did not consider technical manifestations and used adjectival language to attack the institutional functions of the Prosecutor's Office. The ANPR expresses its concern with the line adopted and hopes that the TCU, in a technical and unbiased judgment, will review the decision".

Legislative Highlights

Positives

- Approval, by the Chamber of Deputies, of a project to regulate lobbying, even if below expectations with gaps, problematic points and a clause that could harm the financial investigation of family members of politically exposed persons;

Negatives

- Massive election of candidates from parties of the so-called “Centrão” bloc, favored by the unequal and illegal distribution of billionaire resources of the “Secret Budget” and approval of exceptional expenses, such as the “Kamikaze PEC”, distorting the electoral dispute in favor of ruling candidates;
- Reduction of the environmental caucus in National Congress and non re-election of key figures who sought to unite anti-corruption efforts with environmental agendas in the Legislative;
- Approval of the new statute of the legal profession significantly increases the risks of corruption and money laundering associated with the legal profession, distancing Brazil from international best practices and exposing the country to sanctions;
- Lightning approval by the Chamber of Deputies of a reform that weakens the State Companies Law, opening the way for the political subdivision of public companies, as a substitute for the extinct “Secret Budget”, in the purchase of support from the National Congress;
- Liberation of gambling by the Chamber of Deputies, in a project that awaits analysis by the Senate.

Legislative

The ‘secret budget’ scheme’

One matter that became prominent, in 2022, was the “secret budget”, through which the government of Jair Bolsonaro sought to guarantee support and neutralise political risk from the National Congress, in the largest institutionalised corruption scheme in recent Brazilian history.

The scheme has gained traction since the end of 2020, based on Bolsonaro’s alliance with the Centrão of Arthur Lira, president of the Chamber of Deputies, and the distribution of billions of Reais from the federal budget through parliamentary amendments with weak transparency and accountability mechanisms. This scheme undermined the funding of public policy priorities, possibly caused electoral distortions, favoured corruption schemes (see more in the Federal Government section) and ensured that more than 140 applications for impeachment against President Bolsonaro were stuck in the drawer of the president of the Chamber of Deputies, a linchpin of the scheme and one of its main beneficiaries.

The “secret budget” permitted allocation of most federal non-discretionary funds, i.e. those without a defined destination, to buy parliamentary support in an institutionalized way. The scheme used federal resources previously allocated by the technical areas of government for health, education and infrastructure projects, now allocated to municipalities through parliamentary budget amendments¡, meaning that certain parliamentarians can decide where and how the federal resource will be used. Unlike other parliamentary amendments, however, these are called “secret” because they do not indicate which parliamentarian designated the funds for municipal authorities, allowing for deviations, exchange of favors, and corruption. The volume of available resources grew significantly after the scheme started, which means more money is being spent bypassing technical criteria and favoring political allies.

The amounts allocated via rapporteur’s amendments (the official name of the “secret budget” amendments) have grown over the years, rising from R$16.8 billion in 2021 to R$19.4 billion approved for 2023. In 2022, a year marked by general elections, in which senators, federal and state representatives, state governors and the president himself would run for reelection or seek the election of political allies — and, thus, depend on local politicians to amass political support and votes — the Bolsonaro government authorized the highest amount of public spending, during his mandate, with parliamentary amendments to the federal budget. A presidential decree in February enabled the use of R$ 25 billion (US$ 4,97 billion), until September, channeled through the “secret budget”. Added to other available parliamentary amendments, it is possible to state that Congress have had greater control and power over the budget than the Executive.

Evidence indicates that among those who gained the most from this distorted mechanism were allies of President Bolsonaro and the Chamber of Deputies’ head, representative Arthur Lira. Mayors from Progressistas party, that of Mr. Lira and President Bolsonaro’s chief of staff, Mr. Ciro Nogueira, benefited in larger numbers than opposition mayors.

A video released in February showed just how parliamentary amendments serve distorted interests. In the recording, pastor José Wellington Bezerra da Costa, an influential leader of Assembleia de Deus, a very popular evangelical congregation, describes how evangelical pastors should foster relationships with local politicians and liaise between local mayors and state or federal representatives that belong to the same church denomination in order to facilitate parliamentary amendments. “Paulo and Marta [sons of the pastor, elected representatives], in the countryside, they are politicians, they need votes. Of course, the pastor of the Church arrives, fosters friendship with the mayor. ‘You see, pastor, the City Hall, the municipality needs resources.’ [...] OK, but the resource only goes to the mayor channeled at the request of the Assembleia de Deus pastor. You, the pastor is the intermediary. He is the one who approaches Paulo, then Paulo goes, the mayor with him. Why? So that the mayor respects not only the pastor, but his Church”, said the pastor in the video released by O Estado de São

Paulo newspaper.

The scheme gained such force that, during the electoral campaign, not even then-candidate Luiz Inácio Lula da Silva, who had already classified the secret budget as "the greatest excrescence of the country's budgetary policy", committed to putting an end to the mechanism. After the elections, in December, the Federal Supreme Court ruled that the secret budget was unconstitutional (see more in the Judiciary section).

According to Justice Rosa Weber, rapporteur of the case at the STF, in relation to the amendments of the rapporteur (RP9), "it is not known who are the parliamentarians, the amounts and there are no objective criteria for the realization of expenditure, nor do they observe transparency rules. Not even the Congress and the Ministry of Economy could identify in these records, the authorizers of expenses recorded under classifier RP9, or the criteria, or works, services and goods or objectives linked to budget planning achieved on these resources.

Indisputable proof of the use of the public budget to buy congressional support came at the end of November. As soon as the PT, the party of the newly elected President of the Republic, announced that it would support the re-election of Lira to the presidency of the Chamber of Deputies in 2023, then-President Bolsonaro ordered the payment of parliamentary amendments to be suspended.

Repeated use of the state apparatus in an election year

The use of state machinery by the then Jair Bolsonaro government, with a focus on the president's re-election, went beyond the "secret budget" scheme. In the final months of his government, Bolsonaro approved measures to expand public spending, especially with social spending, which exceeded R$68 billion. Brazilian law prohibits the expansion of social benefits in an election year precisely to avoid the abuse of economic power and maintain a balanced contest.

To circumvent the law, Bolsonaro, together with his loyal legislative base, equipped with resources from the "secret budget" (see above), articulated approval of a state of emergency in the country, justified by the "high inflation and fuel prices due to the war in Ukraine". Analysts criticized the use of this artifice arguing that the state of emergency decree should only be used in very specific situations of social chaos, such as the pandemic, and that its use had a clear electoral purpose.The text, besides declaring a state of emergency, provided for the creation of a monthly benefit for self-employed truck drivers worth R$ 1,000, increased the amount paid by the income distribution programme, Auxílio Brasil (now Bolsa Família), from R$ 400 to R$ 600, and for gas vouchers by 30%, and established a subsidy for free public transport for the elderly. Such benefits would only be valid for the election year, which strengthened opposition criticism.

Besides disrespecting electoral legislation, the measure was criticized for the tax hole left for 2023, since the benefits would be paid outside the fiscal rule known as "spending cap", which prevents federal government from spending more than its revenue, seeking to reduce state indebtedness. Because of its fiscal impact, the measure was nicknamed " PEC Kamikaze".

This was not the first time that the former president was accused of circumventing the "spending cap" for electoral purposes. In late 2021, the government approved the so-called "The Precatory PEC", in order to make room to maintain the value of aid, at that time called emergency aid, distributed by the government to low-income families at the beginning of the pandemic. The PEC brought two measures: it changed the calculation of the spending cap and authorized delay in the payment of precatórios (debts of the Union with people and companies already recognized by the Justice). The "Precatory PEC" alone had an impact of R$ 75 billion on the allocation

of public resources.

The reduction of gasoline taxes (also valid only until the end of the election year) was also pointed out as another episode of use of the public machine in the election year.

Technical teams from the transition of the new federal administration have consensually pointed out that the budget delivered by the former president left gaps in almost all strategic areas. The budget for the fight against natural disasters in 2023 is almost six times smaller than that of 2021. On the other hand, the amount for the distribution of parliamentary amendments reached 64% of the Union's non-discretionary budget (in 2018, it was 19%).

Amid other legal battles - including pandemic management, incitement of a coup d'état, interference in oversight institutions, corruption in the Ministry of Education, challenging ballot boxes without evidence - Bolsonaro will face an investigation by the Electoral Justice over alleged abuse of economic power, from a lawsuit filed by the Democratic Labor Party (PDT). If it recognises the complaint, the Superior Electoral Court may declare the far-right leader ineligible.

The Right grows in the new Congress, and environmentalists suffer a setback

Despite Mr. Jair Bolsonaro's defeat in the October elections, the National Congress came out from the polls more conservative, consolidating a Bolsonarist ideology that goes beyond the figure of the former president. rowing conservatism is partly due to the strengthening of the so-called Centrão, a group of right-wing parties that exchange parliamentary support for political appointments and public funds. This group won 69% of the seats in the Chamber of Deputies and 81% of the disputed seats in the Federal Senate. Such a concentration of power will make it difficult to pass agendas related to the increase of transparency, oversight and the fight against corruption. It will also be harder to block proposals to further restrict abortion and LGBT rights in the country, and to promote age reduction for criminal responsibility, gun ownership and the agribusiness lobby.

In the Chamber of Deputies, the distribution of seats points to a decrease in the political center (center-right, center and center-left) and an increase in polarization between right and left, with power leaning right: the left got only 94 seats against 259 seats for right-wing politicians.

Mr. Bolsonaro's PL party jumped from 76 to 99 representatives, while Mr. Luiz Inácio Lula da Silva's PT went from 68 to 80. In addition to a greater number of representatives elected, 46% of the 28 most voted representatives come from Mr. Bolsonaro's direct circle of influence, against five from Mr. Lula's.

Former President Bolsonaro's direct vote transfer was also significant in the Federal Senate, surprising analysts and the polls. Of 27 disputed seats, 14 were taken by politicians directly appointed by Mr. Bolsonaro, seven were Mr. Lula's nominations and six were independents. This changes the Senate's ideological configuration, from having majority centre and centre-right members, to a more conservative right-wing profile, changing National Congress as a whole.

For the last three years, a period in which then President Bolsonaro managed to form a large majority in the Chamber of Deputies through alliance with the Centrão, the Senate had a gatekeeping role in controversial agendas and setbacks to transparency and the environmental area. As head of the revising House, the Senate's president, Mr. Rodrigo Pacheco, more independent from Mr. Bolsonaro than his counterpart in the Chamber, in dialogue with civil society, managed to prevent some voting and slow down proceedings in such bills.

Most polls underestimated Mr. Bolsonaro, both in the presidential race and in Congress. In the Senate, staunch Bolsonarists or occasional supporters were elected by wide margins. This phenomenon was strongly perceived in Paraná state, with former Carwash judge and former Justice Minister Sergio Moro, in São Paulo, with former Science and Technology Minister Marcos Pontes, and in the Federal District, with former Family Minister Damares Alves.

The most voted federal representative in the 2022 election, Mr. Nikolas Ferreira, a young councillor in Minas Gerais state, YouTuber and digital far-right influencer, who received over 1.2 million votes, symbolizes a Bolsonarism already bigger than former President Bolsonaro himself. With a violent and conservative rhetoric, based on social media jokes and an evangelical discourse, he has a strong adherence in all segments of the population, especially the growing neo-Pentecostal evangelical population, the fastest-growing religious group in Brazil.
In this scenario, it is possible to predict that Brazilian politics will be marked by dispute and polarization. A more conservative right-wing is likely to attempt to obstruct conciliatory discourse.

Much stronger than the Bolsonarism itself, the Centrão is the major winner of October elections. This amorphous group of catch-all parties with little or no defined ideology amassed 70% of disputed seats in Congress and expanded its capillarity due to vast control over the federal budget, which included capture of public funds for health, education and infrastructure – the "secret budget" scheme (see more above).

The strength of the new Legislative and of the Centrão more specifically is, contradictorily, the result of former President Bolsonaro's political fragility. After a year in office, with no solid legislative base and threatened by dozens of impeachment requests for the most varied reasons, the president sought the Centrão. To consolidate its political support, he distributed government positions and the largest volume of funds to Congress in recent history, mostly under the responsibility of his ally and President of the Chamber of Deputies, Mr. Arthur Lira.

The strategy was a success for both sides, and a huge blow against transparency, the fight against corruption and Brazilian democracy as a whole. Throughout his presidency, Mr. Lira prevented over 145 impeachment requests against Mr. Bolsonaro from being processed. He manipulated procedural rules in an imperial manner, determining not only the agenda of Congress but also the model of legislative proceedings. This prevented social control and restricted the opposition and the minorities' ability to filibuster. Mr. Lira became a "generous" leader for parliamentarians, facilitating distribution of "secret budget" funds, strengthening allies and weakening corruption control and oversight mechanisms.

This period also marks the consolidation of the political use of impeachment as a bargaining mechanism between the Legislative and Executive branches of government. During the impeachment of former President Dilma Rousseff, the loss of the legislative base led to her deposition by Congress. In the two following presidencies, Mr. Michel Temer, and Mr. Bolsonaro were spared by Congress because they made agreements with the Centrão.
In this context, it will be difficult for transparency and integrity to have priority in Congress. In 2018, segments of the country still felt optimism regarding Operation Carwash. The discourse of fighting corruption was very integrated with candidates who sold themselves as "new politics". The current conjuncture is quite distinct. Events such as the silent and traumatic end of Operation Carwash, the COVID-19 pandemic, and the strengthening of the "Centrão" have led to the weakening of the heralded "new politics" in favor of traditional politicians.

Former symbols of the fight against corruption, such as former Carwash judge Sérgio Moro and former prosecutor Deltan Dallagnol, sought to rely on Bolsonarism and an anti-PT sentiment, in addition to the anti-corruption agenda, to increase their votes. Electorally, the strategy was a success and both, along with Mr. Moro's wife, Rosângela Moro, were elected.

On the other hand, less prominent leaders, mainly from municipal assemblies, with a profile of oversight over public accounts, were also elected and could provide some kind of resistance to the setbacks pulled by the Centrão. They could also provide a less ideological anti-corruption narrative. An example of this profile is federal representative Amom Mandel, a young politician aged 21 years old, the most voted representative in Amazonas. Mr.

Mandel was a fiscal councilor who played an important role in monitoring public accounts during the pandemic. Environmentalists are not expected to have an easy job ahead. Although the agribusiness caucus remained more or less with the same size, spanning half of elected parliamentarians, the environmentalist caucus had a slight drop, including the loss of important leaders such as Mr. Alessandro Molon, Mr. Rodrigo Agostinho and Mrs. Joênia Wapichana.

An analysis by Farol Verde, a civil society initiative that assessed proposals from candidates on environmental issues, showed an increase of federal representatives opposed to the environmental and climate agenda, with 42,6% of the new Chamber of Deputies' members now falling in this category.

Disconcertingly, former Environment Minister Ricardo Salles, who promoted the dismantling of environmental governance and who resigned amidst corruption probes related to illegal logging, was the fourth best voted federal representative for São Paulo state, amassing over 640.000 votes. In contrast, Ms. Marina Silva, the newly appointed Minister of Environment, internationally praised for a dramatic decrease in deforestation when she was already holding this office in the past, was elected with almost a third of his votes.

Key figures willing to connect anti-corruption to the environmental agenda in legislative endeavors, like representative Rodrigo Agostinho, former president of the Chamber of Deputies' Commission of the Environment, were not re-elected. Other failed election bids include Mr. Alexandre Saraiva's, a former federal police officer who gained national attention after blowing the whistle on former Minister Salles' involvement in influence peddling related to illegal timber trafficking, as well as Mr. Ricardo Galvão, former president of the Institute for Spatial Research (INPE), sacked after defending INPE deforestation data which Mr. Bolsonaro tried to discredit. Despite this, environmentalists may find comfort in the political victories of two new indigenous leaders – Ms. Sonia Guajajara (recently appointed to be Mr. Lula's Minister of Indigenous Peoples) and Ms. Célia Xakriabá.

As the Senate has shifted decisively to the right, it is less likely to restrain excesses by the Chamber of Deputies against the environment. During former President Bolsonaro's first term, while federal representatives often acted in line with the government's anti-environmental agenda, the Senate acted as a moderating force and withheld the most worrying bills against the environment.

This foreshadows tough fights pending for environmentalists, such as discussion about land regularization bills (PL 2.633/2020 and PL 510/2021), that could legalize recent land grabs and have been, until now, blocked in the Senate. Other crucial bills currently paralyzed in the Senate that could advance in the next Legislature include legislation that dismantles the environmental licensing process (PL 2.159/2021) and facilitates the use of pesticides (PL 1459/2022). A bill on legalizing mining and other economic activities in indigenous lands (PL 191/2020) could also make progress in both Houses.

Election outcomes in the Amazon region are also worrying for environmentalists: according to Farol Verde, results in the Amazonian constituencies for the Chamber of Deputies were even worse than the average: only 11% of elected federal representatives are considered to be supportive of the socioenvironmental agenda. Prominent environmental leaders willing to defend preservation of the Amazon rainforest were not elected in constituencies within the Amazon Region, but rather in Brazil's southeastern states. The majority of municipalities located in the Amazon's Arc of Deforestation voted strongly in favor of Mr. Bolsonaro. The same phenomenon can be observed in the state of Roraima, where illegal mining has surged in the last few years.

Even though more research is needed to understand region electoral dynamics, areas with local economies dominated by environmental crime (illegal logging and mining, land grabbing, etc.) tend to support candidates willing to facilitate these illegal activities. Experts suggest the "economy" of environmental crimes was bolstered under Mr. Bolsonaro's government and that its entrepreneurs were able to increase their political articulation and fund the campaigns of their allies. This highlights the need to find economic and political strategies to break the grip of environmental crimes in those regions. In contrast, Amazonian regions where indigenous peoples and traditional communities represent a greater share of the population tend to support Mr. Lula.

Various of Mr. Bolsonaro's allies in favor of the legalization of environmental crimes were re-elected at state level. The governor of Acre state, Mr. Gladson Cameli, who has weakened environmental state agencies and encouraged environmental offenders not to pay fines, won a second term in a state that, paradoxically, gave birth to world-famous environmental defenders Chico Mendes and Marina Silva. In Roraima, governor Antonio Denarium was also re-elected after outlawing the destruction of equipment used for illegal mining and making commitments to legalize those illicit activities. Environmentalists will likely face obstacles to find political allies and cooperate with public authorities at state level in order to make progress on the environmental agenda and revert setbacks from the past few years.

Diversity still an obstacle in the National Congress

The 2022 proportional election results point to a timid increase in diversity in the National Congress. Women, black and indigenous people are still underrepresented in these spaces of power. In the Chamber of Deputies, there was an increase of 18% of women and 8% of black people elected. This means that out of a total of 513 federal deputies, there will be only 91 women and 135 black or mixed race people occupying positions. The Brazilian population also elected five indigenous federal deputies and, for the first time, two trans women.

In the Senate, six self-declared black senators and four women were elected from a total of 27 seats available in the 2022 elections.

Despite the election for the House of Representatives signalling more diversity among federal deputies, the new make-up of National Congress is far from reflecting the diversity of Brazilian society and points to weaknesses in the quota and self-declaration systems for candidates.

Quotas for the election of women to the legislature, set out in the Electoral Law (Law No. 9.504/1997), require parties to nominate 30% of female candidates for legislative posts. Even so, a small and unrepresentative number of women were elected.On the other hand, since 2020, parties have been obliged to allocate, proportionally, funds from the party and electoral funds to black candidates.

However, in addition to the modest increase in the number of black parliamentarians elected, cases of fraud in candidates' self-declaration of race have drawn attention.

This scenario indicates that, besides traditional barriers encountered by women, indigenous and black candidates in their political careers up to the moment of the elections, the misappropriation of resources by political groups that remain in power is yet another obstacle to inclusive political renewal and the increase of diversity in decision-making spaces.

Lobby, bingos, mining and state law: projects approved in the anti-corruption field

At the end of February, the Chamber of Deputies passed Bill 442/1991, which legalizes the practice and ex-

ploitation of gambling in Brazil. Repeating a pattern of previous contradictory votes, its approval did not follow proper procedure. Maneuvers and shortcuts were used to accelerate its proceedings and to prevent necessary oversight and public debate.

The version approved by the Chamber of Deputies, now awaiting Senate analysis, legalizes a wide range of gambling: casinos, bingos, video bingos, online gambling, horse race betting and the jogo do bicho (an informal lottery based on choosing an animal, with strong ties to organized crime).

After previous attempts to pass a similar bill encountered strong resistance from technical experts, worried about money laundering risks, provisions dedicated to preventing money laundering and the finance of terrorism were added to the bill, which could help amass support for the initiative. The text also attributes responsibility to the Ministry of Economy, for formulating future public policies regarding gambling regulation, monitoring and inspection.

The tactic used by the president of the Chamber of Deputies, congressman Arthur Lira, was to establish, at the end of 2021, a working group to discuss the issue. Unlike ordinary committees, a working group acts informally. Its sessions have no transparency and no obligation for public hearings. Members were appointed by Mr. Lira himself with no compliance with rules regarding proportionality of political parties. Therefore, its dynamics are arbitrary and do not respect principles of democratic representation.

The same strategy was used, in previous months, to advance agendas such as electoral reform, the anti-crime package, and procedural reform of the Legislative.

Three months into the working group, Mr. Lira applied another shortcut. When first presented, a bill goes through a long approval path, being subject to discussions in thematic committees that can last several months (or even years) until approved or sent to the plenary for final discussion and voting. To avoid a thorough discussion of the issue, however, the gambling proposal was linked to an already existing bill, from 1991, a proposition meant to regulate the jogo do bicho that had been through prior debate.

The bill had been last discussed in 2014, but President Lira used an urgency request, submitted in 2016, to take the matter straight to plenary. Supported by speeches in favor of employment, expansion of tourism and increase in revenue, the proposal was approved by the Chamber of Deputies with a relatively tight vote of 246 votes in favor, 202 against and 3 abstentions.

The jogo do bicho has been banned in Brazil since 1941, and cassinos since 1946. The definite ban on bingos, however, came much later, in the years 2000, after a scandal engulfed the newly elected first government of President Luiz Inácio Lula da Silva. In 2004, a video recording was released showing Mr. Waldomiro Diniz, then aide to President Lula's chief of staff, Minister José Dirceu, extorting a gambling operator for bribery and campaign financing.

Back then, President Lula responded to the crisis by dismissing the adviser and issuing a provisional measure that banned gambling activities nationwide, a decision ratified by Congress after a Parliamentary Commission of Inquiry (CPI) investigated the relationship of gambling houses with organized crime, money laundering and political corruption. This emblematic case raises red flags regarding the possible risks of legalizing gambling in Brazil.

Gambling legalization has always been a topic of interest, either for licit reasons, such as job creation and tourism promotion, or illicit, as a means for money laundering and illegal campaign fundraising. Until now, however, propositions have been blocked by strong opposition from the Public Prosecutor's Office, high rejection from civil society (especially among religious strata) and fears of corruption. The political scenario was very different in the beginning of 2022, with the political alignment of the Prosecutor's Office and the rise of the Centrão. The number of proposals presented with the intention of gambling legalization increased fourfold in comparison with

the entire previous legislature.

In addition to the change in national politics, in recent years, dozens of national and international online sports betting sites and platforms have proliferated, exploiting loopholes in legislation and foreign servers. Underground betting shops, often supported by bribes paid to public authorities and police forces, are increasingly popular in urban centers, ranging from giant casinos to slot machines in bars. It is estimated that, despite the prohibition, the gambling market moved, in 2020, R$ 12,5 billion(U$S 2,6 billion) without any supervision or regulation.

Despite strong economic and political interests, it is not yet possible to say if the proposal will advance in the Senate. One of the most powerful political forces in the National Congress, the evangelical caucus, as well as other Christian political forces, are lobbying hard against the bill, highlighting the risks of gambling addiction.

A solution could be to legalize casinos only, allowing for investment in resorts by international conglomerates. The bill was designed to facilitate such negotiations: each type of gambling (cassinos, bingos, jogo do bicho, etc.) is described and regulated in a separate chapter, which could be easily excluded without posing a risk to gambling regulation as a whole.

In early March, the Chamber of Deputies fast-tracked former President Bolsonaro's bill to legalize mining in indigenous lands (PL 191/2020). While various indigenous territories already suffer from widespread illegal mining activities exploited by well-structured and politically connected criminal organizations, adoption of the bill could mean de facto legalization of such environmental crimes.

Fast-tracking the bill through emergency legislative procedure was yet another example of how the Chamber of Deputies' leadership acted to undermine democratic legislative procedures and avoid public scrutiny and debate on contentious issues. While article 231 of the Constitution establishes that water and mineral resources located in indigenous lands can only be exploited with explicit authorization of Congress and consultation of affected peoples, there has been no such authorization or law implementing this constitutional disposition since the adoption of the Constitution, in 1988. Therefore, in addition to serious concerns about the bill's constitutionality, rushing its analysis could undermine necessary public debate on this long-standing issue and put indigenous peoples' rights at risk, in particular the right of free, prior and informed consent, as guaranteed by the International Labour Organization (ILO)'s Convention 169.

One of the great beneficiaries of the approval of the PL would be gold mining. Mining of this metal represents 43% of the total number of mining permits requests registered in indigenous lands. As shown by Transparency International Brazil in its "Climate and Corruption Atlas", representatives of the gold mining sector have had ample access to the federal government with indigenous peoples and environmentalists virtually excluded, leading to blatant imbalances of interest. Those lobbying meetings also often lacked the necessary transparency to prevent attempts of undue influence and other abuses. In addition, the legitimacy of interests represented could be challenged, as some of the lobbyists involved have been indicted for money laundering, fraud and illegal mining in the Amazon Region – and one of them was responsible for violent invasions of Yanomami indigenous land back in the 1980s.

Lobbying activity was target of another bill, approved at the end of November by the Chamber of Deputies. Despite its approval being an important advance, following decades of political discussion with no legislation in sight, the bill fell short of expectations. It frustrated specialists, NGOs – among them, Transparency International Brazil – and activists who expected robust legislation and had managed to articulate with party leaders and the bill's rapporteur, representative Augusto Coutinho, amendments touching transparency, integrity, and democratization of access. Suggestions included the transparency of documents exchanged between lobbyists and authorities, a national lobby transparency website, and rules to ensure that contradictory opinions would be heard in public policy-making.

The text presented by Mr. Coutinho, however, strongly displeased famous lobbyists and the political class. Inno-

vations were removed from the bill by (yet another) regimental maneuver coordinated by president of the Chamber of Deputies, Mr. Arthur Lira: a request for urgency was hurriedly voted, without justification, in order for the bill to bypass technical commissions and be directly approved by the plenary. This increased the influence of Mr. Lira's political group in negotiations and culminated in the unusual change of the bill's rapporteur.

Professional lobbying associations became main players in the negotiations, having a much closer relationship with the new rapporteur. This led to a more modest bill, which sought more to regulate the activity in its current shape than to improve transparency and integrity standards.

The bill's backbone turned out being the accreditation of lobbyists with federal agencies and the obligation to publish information online about hearings between lobbyists and authorities (such as names, dates and motivation). It also establishes gradual sanctions, ranging from warnings to suspension of activities, which will be decided by a committee of public officials.

Experts and civil society organizations criticized the proposal for several gaps and problematic points. The original bill established daily publication of authorities' agendas, a stipulation replaced by only requiring transparency for hearings. This limitation excluded contacts made by other means, such as email and messaging apps, contraray to recommendations from the Organization for Economic Co-Operation and Development (OECD). Documents exchanged will also be kept confidential, as is the case today.

Hospitality such as tickets, lodging, meals, and other amenities for attending events are authorized under the bill. Finally, a section that could undermine financial investigation of family members of politically exposed people was included in an unnoticed way.

Even if flawed, the bill's approval helps the country to move forward in one of its biggest regulatory gaps in the fight against corruption and improves the scenario for its candidacy to join the OECD.

In late November, the House of Representatives presented a bill (PL 2896/2022) to relax the State Law (Law No. 13.313/2016), proposing to change some of the controls it establishes. In a record period of 15 days, maintaining the new pattern of approval of legislative proposals instituted in the House by the Lira administration, far from the thematic committees and out of reach of civil society's discussion, the bill was approved with a large majority of 314 votes and sent to the Senate the following month.

Among alterations approved by the Chamber of Deputies is reduction of the quarantine period to which parliamentarians and party leaders must submit, from three years to 30 days, before they can assume the direction of state companies or regulatory agencies. Surveys carried out and reported by the press estimated that the changes made to the law, if confirmed by the Federal Senate, would enable the appointment of almost 600 high-ranking positions, with high salaries, in federal public companies.

The text also increases, from 0.5% to 2% of gross operating revenue from the previous year, the limit that public companies and semi-public companies can spend, each year, on advertising and sponsorship without the need for specific authorisation.

The Law of State-Owned Companies was a response to the abuses at Petrobras discovered by Operation Lava Jato. The law constitutes a regulatory framework for the activities of state-owned companies in general, in order to reduce political interference in their administration, ensure greater transparency and prevent new cases of corruption. It was the coming into force of this regulatory framework that ensured Petrobras' economic recovery. The relaxation of the State Law, supported by a broad political spectrum, goes against standards recommended by the Organisation for Economic Co-operation and Development (OECD) and leaves aside the debate on possible advances in the legislation, such as extending the requirement for a quarantine period to assume the Board of Directors or the management of state companies to all positions of an eminently political nature, such as former Ministers of State or members of the Legislature.

Judiciary

Destaques

Positives

- Plenary decision of the Federal Court that judged the "Secret Budget" unconstitutional, following the vote of the Court's President Rosa Weber and putting an end to the largest scheme of institutionalized corruption on record in Brazil;
- Conduct by the Electoral Justice of elections with integrity and transparency, even under serious and constant attacks by former President Jair Bolsonaro and his allies;
- Maintenance of the ineligibility periods established under the Clean Record Act (Lei da Ficha Limpa) by the Supreme Court;
- Supreme Court decisions on the so-called "green agenda", which set fundamental precedents for holding the government accountable for the dismantling of environmental governance, besides recognizing that international agreements on climate are comparable to human rights treaties, hierarchically superior to ordinary laws in Brazil.

Negatives

- Continued decisions by the Judiciary overturning sentences upheld by courts or transferring jurisdiction to try corruption cases in a widespread manner, causing legal insecurity, prescription of crimes and impunity for cases of macro-corruption, with serious consequences for human rights;
- Unorthodox judicial decisions in confronting serious anti-democratic threats, which circumvent procedural guarantees and individual rights, no longer occasionally, but continuous, weakening the authority of the Judiciary.

Judiciary

Responses to attacks on the electoral system

Faced with attacks against the reliability of the electoral system by then-President Jair Bolsonaro, his allies and supporters, the Superior Electoral Court (TSE) has adopted a series of measures to increase transparency of the process and to defend electronic ballot boxes and democracy. In April, for example, the Electoral Transparency Commission of the TSE presented ten measures, based on suggestions received, to increase both the transparency and reliability of the election, such as publishing the source codes of electoral software. Created in 2021, the commission included parliamentarians, specialists, members of the Federal Audit Court, the Electoral Prosecutor's Office, the Brazilian Bar Association, civil society organisations and the Armed Forces.

In August, "Bolsonarist" businessmen who advocated a coup if Lula was elected, in discussions in a WhatsApp group, were targeted by search and seizure warrants issued by Minister Alexandre de Moraes, rapporteur of the digital militias enquiry at the Supreme Court (STF).

In October, specifically between the first and second rounds of the presidential elections, the TSE approved a controversial resolution that allowed the Court, ex officio (i.e. without being instigated), to suppress alleged false content about the elections that was reproduced from content previously banned by a TSE collegiate judgment. In case of non-compliance, the resolution provided for fines and suspension of channels that repeatedly published fake news. The resolution was criticized for making impact changes with only ten days to go before the second round of voting, and for allowing an ex officio action. Sections of the rule were even classified as unconstitutional by the Attorney General, Augusto Aras, who asked for the suspension of the resolution -- a request denied by Minister Edson Fachin, of the Supreme Court (STF).

A specific chapter of challenges and responses to the reliability of the electoral system involves the Armed Forces, who, since the end of 2021, have repeatedly questioned the system's fairness and demanded changes. According to the press, between October 2021 and May 2022, the military sent 88 questions to the Court about supposed risks and weaknesses that they would have identified in this election, despite decades of silence about any possible problem with the Brazilian electoral system (see more in the Federal Government section). In response, in May, the court rejected part of the suggestions made by the military, informed that another part was already practice in the electoral system, and defended the smoothness of the electronic ballot boxes.

After the first round of the elections, the conflict with the military grew again, this time over an alleged audit report that would have been produced by the Ministry of Defence on the first round. Questioned about the results of the first round on 2 October, then-President Bolsonaro said he would wait to receive the "opinion of the Armed Forces". According to press reports, the Ministry of Defence informed Mr Bolsonaro that the report did not identify any fraud in the first round, but he contested this conclusion and decided that the report should also assess the second round before being released to the public. Before the second round, Minister Moraes, president of the TSE, ordered the Defense Ministry to deliver the report within 48 hours and to indicate the source of funding used in the preparation of the report.

In response, the Ministry of Defence said it was not for the body to audit, but to supervise, according to the TSE's own resolution. Bolsonaro himself changed the tone and called the news about the audit by the military "fake news". As published by the press however, the military discussed internally and concluded that they would specifically make an audit.

After the second round in November, the Ministry of Defense sent the TSE an inspection report stating that no fraud had been identified. The document, however, mentions that it was not possible to fully inspect the system and that electronic ballot boxes were not free from "possible malicious code that could alter their operation".

At the end of November, faced with a PL lawsuit that sought to annul votes from the second round and give Bolsonaro

victory, the TSE president quickly rejected the request and fined Bolsonaro's party R$22.9 million for litigating in bad faith, as well as blocking use of the party fund until the fine was paid.

Supreme Court reafirms Clean Record Act

In March, the Supreme Court (STF) voted to maintain the current method for measuring the ineligibility period established by the Clean Record Act (Lei da Ficha Limpa), a law that came into force in 2010 to bar those convicted by courts from running for office. Since the law came into effect, politicians convicted by a final or collegiate decision have been barred from running for office for eight years after serving their sentence.

By 6 votes to 4, the Court decided to reject a suit presented by a political party, without discussing its merits. This mechanism of the Clean Record Act was suspended, in December 2020, by a preliminary decision by Justice Nunes Marques, who joined the Court just four months before. According to the now overturned argument, the law should have provided for a form of detraction of the penalty, as the period of ineligibility should not exceed 8 years.

The prevailing argument, on the other hand, holds that since the law had already been evaluated by the STF in 2012 and there was no new fact to be evaluated, there could be no new trial on the issue.

Reversals in high profile corruption cases

Last February, the 5th Panel of the Superior Court of Justice (STJ) annulled former Senator Gim Argello's 11-year conviction for corruption, money laundering and obstruction of justice. Following a 2019 Supreme Court interpretation, Mr. Argello's case was set to resume under the Electoral Justice jurisdiction. The former senator was imprisoned from 2016 to 2019 following Operation Carwash.

The Federal Police investigation targeted alleged illegal activity during the National Congress Joint Parliamentary Commission of Inquiry (CPMI) that, in 2014, investigated corruption in Petrobras, the state oil company. Mr. Argello, vice-president of the CPMI, was accused of receiving R$ 7,3 million (US$ 1,4 million) in illegal campaign financing to refrain from subpoenaing executives from construction companies, protecting them from the inquiry.

The STJ's 5th Panel ruled that Mr. Argello's charges referred to electoral crimes and, thus, should be transferred to electoral courts, rather than remain in ordinary federal courts. As mentioned above, this is a consequence of the 2019 Supreme Court ruling, which established that common crimes, such as corruption and money laundering, should be heard by electoral courts in cases in which they were associated to electoral crimes, such as campaign slush funds.

Since 2021, a considerable number of grand corruption sentences for high profile politicians have been nullified or reverted based on this interpretation of electoral courts' competence. Such decisions significantly impact anti-corruption efforts, hinder integrity efforts, and increase impunity, as the retrial often surpasses the statute of limitation. More importantly, electoral courts lacks the structure and expertise to analyze criminal cases, particularly the highly complex financial and political corruption cases, which would be more adequately tried before the Federal or State ordinary Justice.

In another high-profile corruption case, in March 2022, then representative Aécio Neves was absolved by Federal Justice from bribery charges involving Mr. Joesley Batista, partner of the J&F holding, controller of JBS, the world largest meatpacker.

Former Senator Neves was taped requesting R$ 2 million (US$ 400.000). This evidence became part of Mr. Batista's plea agreement signed, in 2017, with the Public Prosecutor's Office. Investigations included on-site recordings, statements from J&F representatives and text messages confirming the payment. Mr. Neves indicated his cousin, then aide to congressman Zeze Perrela, to receive the money. The delivery of three installments of R$ 500.000 (US$ 105.2000) in cash was monitored, in real time, by the Federal Police, with audio and video recordings.

Despite abundant proof of bribery involving Mr. Neves and Mr. Batista, the judge decided that the prosecutorial evidence did not characterize a felony.

Mr. Neves' defense team argued that the money was a legal loan between private individuals, and would be used to pay for his lawyers in a Carwash lawsuit. The prosecution claimed that no document or contract registered a loan between the two men, and that Mr. Neves would act on behalf of JBS in National Congress.
The case exposes how easily powerful defendants can get away with illegal activities in Brazil. In 2017, Supreme Court Justice Luis Roberto Barroso stressed a central aspect of allegations involving Mr. Neves: most Brazilians are arrested with significantly less proof than that presented in his case. While the country has one of the world's highest incarcerated populations and rising numbers of preventive detentions for suspects with no criminal record, corruption and money laundering charges are easily dropped without consequence.

The Supreme Court decides in favour of climate policies and against weapons

As with the "secret budget" scheme (read more above and in the Legislative section), in 2022, the Supreme Court (STF) was responsible for landmark decisions in the fields of climate and guns control, two areas of public policy that have suffered repeated setbacks during the administration of former president Jair Bolsonaro.

In a long-awaited decision in a lawsuit regarding the Brazilian National Fund for Climate Change (ADPF 708), in November, the Supreme Court ruled that the government had a constitutional obligation to tackle the climate crisis. According to the Court's decision, the government must allocate financial resources from the fund for climate projects, particularly as deforestation rates are surging and the climate crisis is worsening. Consequently, the Court recognized the intentional omission of the federal government through the dismantling of the fund's governing bodies and, more broadly, of the environmental and climate governance. Thereby, the Court concluded that the government failed to uphold the "right to an ecologically balanced environment" (Federal Constitution art. 225) as well as to deliver on its international obligations to fight climate change.

For the first time, the Court also acknowledged that international climate agreements are tantamount to human rights treaties, which are above laws in the Brazilian legal system. The Court also ruled that the government could not leave unallocated funds that are explicitly earmarked by law for specific uses (in this case, the National Policy on Climate Change, Law 12.187/2009).

Finally, Justice Luís Roberto Barroso, the case's rapporteur, argued that the only resources from the fund that had been allocated by the government, under the pressure of the lawsuit, had been assigned to "sub-optimal" projects, considering the fund's legal objective is to tackle climate change mitigation and adaptation. The government prioritized solid waste management and urban environmental management, while greenhouse gas emissions in Brazil are mainly driven by deforestation, forest degradation and agriculture. The Supreme Court, therefore, acted as a powerful check on the federal Executive not only to hold it accountable for its omissions but also to control the sensibility and the efficiency of its spending on environmental and climate matters.

Corruption is often perceived as actions that lead to abuses of entrusted power for private gain. However, the govern-

ment of President Jair Bolsonaro showed, through its management of socioenvironmental issues, how inactions and, therefore, omissions can be more subtle forms of abuse of power with impacts on the environment and vulnerable communities that are at least as damaging and far-reaching. In particular, in human rights, environmental and climate issues, omissions can have devastating effects as the fulfilment of the state's obligations depends on a proactive stance. Therefore, this decision from Brazil's highest court sets a crucial precedent to fight future deliberated omissions and mismanagement in socioenvironmental and climate policies, and serve as a blueprint to hold the government to account in those situations.

This result is also a victory for civil society, whose participation in the governing bodies of the fund had been removed by Mr. Bolsonaro's government. A wide coalition of NGOs, including Transparency International Brazil, participated in a public hearing to provide expertise and inform the Court about climate law, policy, governance and related abuses of the Bolsonaro's administration. The Court's decision showcases the positive impacts of successful strategic litigation especially when the political context is extremely unfavorable for advocacy.

ADPF 708 is part of a larger "green agenda" debated by the Supreme Court in 2022, that also included various lawsuits regarding the dismantling of the climate and environmental governance by Mr. Bolsonaro's government. Among the different lawsuits, it is worth mentioning ADO 59 and ADPF 651, in which the Supreme Court issued similar rulings and declared unconstitutional the exclusion of civil society and the paralyzation of the Amazon Fund, Brazil's largest climate and environmental fund, as well as of the National Fund for the Environment. In all those lawsuits, only Justice Nunes Marques, out of the 11 Supreme Court judges, dissented from the Court's decision.

ADPF 760 and ADO 54 also led the Court to debate the omission of the government to fight deforestation in the Amazon rainforest and to protect the rights of indigenous peoples and other communities living in protected areas – the lawsuits are still pending a final decision after being suspended at the request of Justice André Mendonça.

In September, the STF decided another case of great impact on national public policy. In early September, Minister Edson Fachin granted preliminary injunctions restricting parts of decrees and orders of then-President Bolsonaro that relaxed access to weapons and ammunition, on the grounds that there was urgency in the analysis of the case due to the "risk of political violence" by the elections. The trial had been initiated in 2021, but suspended by a request for examination by Minister Nunes Marques, Bolsonaro's first nominee for the STF. When the trial resumed, also in September, only ministers Nunes Marques and Mendonça, also nominated to the Court by Bolsonaro, were against restrictions on access to weapons and ammunition. The final score of the trial was nine in favor of the restrictions and two against them.

Several studies revealed the growth of access to weapons during the Bolsonaro administration. According to a report by G1, based on data obtained by the Access to Information Law (LAI), the number of people authorized to own firearms (the CACs, hunters, shooters and collectors) rose from 117,000 in 2018 to 813,000 in 2022, a six-fold increase.

STF judge suspends operation against FGV

In November, the Federal Police (PF) carried out an operation at the premises of the Getúlio Vargas Foundation (FGV) in Rio de Janeiro and São Paulo against an alleged scheme of corruption, bid rigging, currency evasion and money laundering. Operation Sofisma conducted searches and seizures and issued sequestration and restraining orders. Since 2019, the PF had been investigating information that the foundation was being used to issue false advice, masking the misuse of purpose of contracts for the payment of bribes, in addition to overpricing contracts made by waiver of tender and defraud bidding processes. According to reports, the investigation touched contracts with public entities for privatizations, infrastructure works and construction of public buildings, in adittion to financial movements attributed to directors of the foundation and their family members that added up to R$ 487 million (US$ 94,6 million).

In November, Federal Court (STF) Justice Gilmar Mendes suspended Operation Sofisma, questioning the competence

of the Federal Justice of Rio to carry it out. The minister argued that magistrates and prosecutors in Rio have been disregarding STF precedents by continuing to conduct such investigations, and ordered the return of seized assets. According to press reports, the FGV made use of a procedural shortcut that allowed a lawyer close to the minister to defend the FGV in the case and sue him in an action unrelated to the investigation. The minister ended up transforming the defense request into a habeas corpus, suspending the operation.

Lawyers for one of the targets of the proceedings claimed that Sofisma "is one of the most nefarious chapters of lava-jatism" and that "the STF has decided that all evidence produced is illicit". The FGV also stated that "all the assumptions based on facts obtained within the scenario of illegality declared by the Supreme Court and that are under secrecy of justice have no support, only serving to further aggravate the damage already caused to Fundação Getúlio Vargas, in serious affront to the democratic rule of law and with violation, including, projects involving military issues of national security developed by this 'relevant institution to finance and encourage research', as the STF itself recognized in its decision".

In a testimony before Justice and in collaboration with the Federal Police, the former governor of Rio de Janeiro Sergio Cabral, convicted in several Carwash cases in Rio de Janeiro, had reported the alleged involvement of FGV in corruption schemes by his government. Cabral's collaboration agreement, however, was annulled by the STF, in 2021, by a majority of 7 to 4, following a request of the Prosecutor-General Augusto Aras. Despite also being mentioned in the former governor's denunciation, Justice Dias Toffoli, of the STF, did not declare himself impeded and voted for the annulment of the agreement.

Civic Space

Highlights

Positives

- Strong mobilization of Brazilian society in defence of democratic governance, uniting the business community, trade unions, NGOs and academia against disinformation and threats of institutional rupture;

Negatives

- Drastic reduction of transparency and access to public information through erasure of government data and illegal use of secrecy, through abusive use of the General Law of Protection of Personal Data and the Law of Access to Information;
- Systematic dissemination of fake news and hate speech through official channels and manifestations of public authorities, and allocation of official publicity funds to disinformation outlets and official media;
- Organization and covert funding of digital militias and systematic attacks, including violent ones, on activists, academics, artists and journalists, particularly women journalists;
- The structuring of a clandestine surveillance apparatus with digital surveillance, and conversion of the Federal Highway Police into a veritable praetorian guard;
- The new Transparency and Public Governance Index, launched by Transparency International - Brazil, identified that the absolute majority of state governments still fail to guarantee adequate access to information on the execution of public works and data on tax incentives.

Civic Space

Distortion of data protection laws and access to information

Protection of personal data is seen, in Brazil and abroad, as a fundamental right, considering that most of us live in data-based and digital societies. In Brazil, the General Data Protection Law (LGPD) is the most important legal instrument to protect this right and to establish proper procedures to treat, manipulate and store personal data, including by public administrations. Since the law came into force, compatibility of the LGPD with the decade long Access to Information Law (LAI), that protects another fundamental right, is under question.

Although both laws are complimentary and compatible, evidence suggests that the LGPD has been wrongly interpreted and applied by public institutions to interfere, intentionally or not, with public transparency. Data has been removed from government websites or concealed from the public without proper justification across different areas of government, including information regarding environmental protection, social policies and sensitive visits to the presidential palace.

For example, in February, INEP (responsible for Brazilian educational statistics) removed datasets regarding students and teachers used by policymakers and researchers to understand and improve education policy in Brazil under the justification of protecting LGPD guarantees, even though neither students nor teachers could be directly identified in the datasets.

INEP's argument went against LGPD principles, according to which personal information should not be concealed where there is public interest. The recommendation for government agencies is to make a technical evaluation, and balance possible uses and benefits of open data with privacy risks.

In August, the Superior Electoral Court (TSE) initially understood, through an administrative act, that it was necessary to restrict part of the information on electoral candidates' assets as a way to comply with the LGPD. The decision was even applied retroactively to candidate data released for previous elections. Two weeks later, however, the majority of the Court decided to authorize the disclosure of more detailed candidate property data. There was a small and reasonable adjustment in the standard of disclosure valid for previous elections, and part of the candidates' addresses (such as the property number) and data that have no public interest (such as personal phone number and e-mail addresses) were suppressed.

Asset information allows for more than just the establishment of a candidate's profile. Asset declarations are important tools in combating corruption and promoting transparency. They are mechanisms to combat two diverse but related phenomena. First, illicit enrichment, as they capture information on assets in order to monitor changes in belongings and to provide early indication of irregular behavior, assisting in prevention, detection, investigation and processing of acts of corruption and related acts. And, secondly, conflicts of interest, by highlighting information on sources of income, shares and financial interests, as well as assisting in identifying situations that present a greater risk of apparent or real conflicts of interest.

A booming number of similar cases of undue suppression of information raised serious concern of a general backslide in public transparency, due to poor or opportunistic interpretation of the LGPD.

The Access to Information Law was another instrument repeatedly used in previous years to curtail transparency for sensitive political information and impose secrecy of 100 years on information related to former President Jair Bolsonaro, his family and political allies.

The 31st article of the Access to Information Law allows for secrecy of up to 100 years for personal information

in cases of "intimacy, private life, honor, and image". What we observed during the past four years, however, was an abusive and systematic use of this legal provision, distorting the principle of data privacy protection, even for information of clear public interest, such as information about who the president and his family meet with, visits to the presidential building and disciplinary proceedings related to government officials.

According to a TI Brazil analysis 80% of 100 year undue secrecies established by the federal government from 2015 to 2022 were imposed during the Bolsonaro administration, with peaks in 2019 (140 cases of undue establishment of 100 years of secrecy) and 2020 (135).

In a long interview to a popular podcast, Flow, then President Bolsonaro mocked this strategy.

"Maybe a beautiful woman comes to my home, with a colleague of hers, and I greet her. My wife is not aware. But, by chance, the woman is beautiful. 'Wow, he received that babe at his home, to discuss which matter? Was the first lady also there or wasn't she?' It would start to make my life hell. So it's secrecy because of that. My privacy", he declared.

2022, in fact, marked the 10º anniversary of the Access to Information Law, seen as a crucial milestone for guaranteeing the right to access public information in Brazil. Although the Brazilian Federal Constitution established this guarantee in 1988, only 23 years later the National Congress passed a law to regulate it — with a further six months period until it came into force.

The law establishes deadlines and procedures to be observed and implemented by all branches of government, at all levels, to secure access to public information. It determines that publicity must be observed as a general principle and secrecy as an exception. It also specifies procedures for registry of requests for access to information. Combined with an obligation of proactive disclosure of information of public interest, these are important tools for the exercise of citizen oversight and government accountability.

According to the Office of the Comptroller General (Controladoria-Geral da União, CGU), in the past ten years, more than one million requests were made to Brazilian federal agencies. For those requests, the average response time was of 15 days, and 68% were granted information.

The main connection between the anti-corruption agenda and the LAI is promotion of transparency, fundamental for contemporary democracy. Available public data and information allows for identification and investigation of corruption, misuse of public resources, and fraud. The more government information is exposed to public scrutiny, the greater the chances of eventual corruption coming to light and, therefore, the greater the risks for public agents engaged in such corruption schemes.

Public transparency is essential to strengthen and encourage social participation in oversight and monitoring of public decisions, reducing space for corrupt acts and ensuring greater accountability. The LAI also empowers civil society, journalists and activists. Despite being relatively recent legislation, these actors already use it to protect their rights, for advocacy tool, and a source for journalistic investigations.

Since the LAI has come into effect, several stories based on access to information requests have shed light on corruption cases, conflicts of interest, public resources misuse and fraud, leading to investigations by oversight bodies. Good examples are the so-called "secret budget" scheme, an investigation by Breno Pires, then a reporter at O Estado de S.Paulo, into the distribution, by the Bolsonaro government, of resources channeled through amendments to the federal budget to allied congressmen in exchange for political support in National Congress (see more in section the Legislative); and the revelation by journalists from O Globo, of evidence that the Bolsonaro clan had employed, over the years, in different offices they served, over 100 people with family ties among them, professions that did not necessarily match the positions they had been appointed to, and some of them even possibly being 'ghost' employees.

Despite clear advances brought by the LAI, challenges to its implementation are visible, impacting the legisla-

tion's full potential to fight corruption and protect rights, as shown by the case of the 100 years of secrecy. Some difficulties are structural to the legislation itself, such as how to define personal information, and the criteria to balance public interest and violation of personal data protection. And absence of clear criteria for the classification of information as confidential can set dangerous precedents. A major challenge is inequality of implementation and full compliance with the LAI in different federative levels (federal, state and municipal), and different branches of government (executive, legislative and judiciary).

The last four years have seen attacks and setbacks to the right to access information in Brazil. In 2019, the Bolsonaro government tried to expand the list of people authorized to classify public information as secret and top secret, through Decree Nº 9.690/2019, but the measure was reversed. The following year, in the context of the Covid-19 pandemic, the federal government issued the Provisional Measure Nº 928/2020 to suspended deadlines for requests made through the LAI due to public servants working remotely, another measure quickly suspended. In 2021, it was revealed, through a mistake committed in a response to an information access request made by a journalist, that a member of the federal government recommended assessing the "political risk" of answering the request.

Progress promoted by the LAI in the past ten years is undeniable. The law is an important step towards construction of transparent public policies open to public oversight. However, even supported by good legislation, transparency is still vulnerable to political will.

Increased use of surveillance systems is challenged

In February, Transparency International – Brazil, alongside civil society organizations Conectas Direitos Humanos, Data Privacy Brazil and Article 19 Brazil petitioned the Federal Prosecution Service (MPF) requesting an investigation into the use of the Cortex surveillance system by the Ministry of Justice and Public Security. Four months later, the MPF accepted the NGO's request.

The system, also known as the Integrated Platform for Public Security Operations and Monitoring, is capable of combining data from 160 public databases. Used to survey and monitor specific targets, the data is retainable for up to 10 years. This process presents a considerable risk to the right to intimacy, freedom of expression, legal due process and other basic human rights. According to reports, Cortex had been widely deployed, despite insufficient regulation and weak oversight.

In March, The Intercept published a long investigation into the sharing of surveillance software from Cellebrite, by the federal government, with state authorities in exchange for receiving and collecting their data in a national platform (the so-called Excel Project).

In December, the MPF presented a public civil action to suspend the sharing and storage of data, by the government, from police investigations obtained through the Excel Project.

While the use of surveillance systems by the Bolsonaro administration was under scrutiny, in September last year, the National Council of Public Prosecutors' Office (CNMP), the MPF and the Ministry of Justice signed a technical cooperation agreement to access the Cortex system, promoted as an instrument to fight criminality and to promote the public interest.

States still fail in transparency about amendments and agendas

A new index, launched in July by Transparency International - Brazil, identified that no state published complete information on the use of parliamentary amendments, and that the absolute majority of state governments still failed to ensure adequate access to information on the execution of public works and data on tax incentives. The Transparency and Public Governance Index (ITGP) also showed that only one out of three governors daily divulged their agendas, allowing the monitoring of meetings and events involving interest groups. All of these are crucial mechanisms to prevent and combat

The ITGP was designed to evaluate public administration at federal, state and municipal levels, in all three government branches (the Executive, the Legislative and the Judiciary). The ranking's first module evaluated the 27 Brazilian state Executives according to 84 criteria divided into eight dimensions: Legal Frameworks, Platforms, Administration and Governance, Financial and Budget Transparency, Digital Transformation, Communication, Participation and Open Data.

The criteria identify the existence and compliance of crucial mechanisms for preventing and fighting corruption, such as availability of information for construction works, the granting of tax incentives, the execution of state parliamentary amendments to the budget and daily disclosure of government activities.

Overall, five states ranked "excellent", the highest in the ITGP; 13 were classified as "good"; five as "regular"; and another four as "bad". No state scored "very bad" in the 2022 index.

At the same time TI Brazil assessed the 27 state Executives, eight partner organizations launched assessments of over 180 municipalities in seven Brazilian states (Bahia, Espírito Santo, Pará, Paraná, Piauí, Rio Grande do Sul and São Paulo). The municipal branch of the ITGP was produced independently by partner entities with methodology and technical support from TI Brazil.

Civil society mobilises for peaceful elections and defence of democracy

Given the constant threats to the electoral system and the democratic environment by then-President Jair Bolsonaro and his supporters (see more in the Federal Government and Judiciary sections), 2022 was marked by movements to defend the democratic rule of law and its institutions.

Two manifestos to this effect were presented at the end of July: the "Letter to Brazilian men and women in defence of the Democratic State of Law", an initiative by former students of the Faculty of Law of the University of São Paulo (USP), and the manifesto "In defence of democracy and justice", signed by entities such as Fiesp (Federation of Industries of the State of São Paulo), Febraban (Brazilian Federation of Banks), WWF, the Brazilian Bar Association (OAB), the Fernando Henrique Cardoso Foundation and Greenpeace.

Another prominent mobilisation took place during the two rounds of the October election, in a civic vigil that brought together civil society organisations, at the São Paulo bar association's headquarters, to monitor possible violent acts and attacks on the electoral system, and mobilise support for the results of the ballot box.