



# Counterproductivity in Counterterrorism

A Brazilian Case Study

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**Abstract**

This thesis is a qualitative case study of counterterrorism in Brazil. Special focus is put on law 13.260, commonly referred to as “the anti-terror law”, enacted in 2016. Theoretically my focus is on the applicability of the common notion of counterproductivity as used in the theoretical literature on counterterrorism.

Based on data from the Global Terrorism Database I have classified all the confirmed cases of terrorism in Brazil between 1970-2018. Terror attacks from people/organisations with international ties have amounted to 10, and the number of lives claimed in such attacks are 2. In general, the threat of terrorism in Brazil is less acute than in many other countries.

What stands out in law 13.260 is that it does not state that actions must be politically motivated in order to be classified as terrorist acts. This is because of the fear that the law could otherwise be targeted towards social movements. Furthermore, the documentation about the law and its background shows that it was the result of pressure from abroad rather than any need perceived among the Brazilian public, politicians, or military.

I conclude that Brazil’s counterterrorism legislation is not per se counterproductive, however patterns of Military Police actions used in the past can return and cause it to be so. I also conclude that the notion of counterproductivity was useful for systematising the Brazilian experience in the case study.

**Keywords:**

Brazil, counterproductivity, counterterrorism, Law 13.260, Tri-Border region.

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## Introduction

International terrorism kills a few hundred people per year worldwide, which is not much more than the number of Americans that drown in bathtubs in the United States (Mueller, 2006, p 2). On the other hand, 40,000 traffic deaths occur each year, and 33 people are murdered with a gun each day in the United States (Mueller, 2006, p 7; Vargas, 2019). Nevertheless, terrorism has a high place on the agendas of both national and international politics. This is because of the fear it creates. Therefore, terrorism and the measures taken against it are central issues in the study of security and war.

The military has a self-evident role in fighting terrorism, but this is an unusually difficult task since traditional criteria of success may not be valid. Historically, military deterrence strategies have been applied against terrorism, but some scholars argue that this can in some instances be counterproductive. Countries that are plagued with a large amount of terrorist attacks might be able to justify far-reaching measures against potential terrorists. However, when countries that have not been much plagued with terror attacks implement strategies that could in fact provoke the recruitment of new terrorists, then we need to ask: Do they cause the very problems they are trying to protect against? Brazil is an interesting example for studying this problem. Brazil has not experienced much international terrorism. No international terror organisation threatened Brazil between the years 2001-2014 (Zaia, 2018, p 6). In spite of this the country adopted a new, domestically controversial anti-terror law in 2016, with harsh prison sentences but without a precise definition of terrorism. Why did they do this, and is it an example of a counterproductive approach to terrorism?

That is the topic of this case study, which will be performed with the help of current scholarly theories on how counterterrorism strategies can become counterproductive. The issues discussed are relevant not only for Brazil but for counterterrorism in general.

## **Aim and research question**

I aim to contribute to the investigation of counterproductivity in counterterrorism, using Brazil as an example. What makes Brazil interesting in this respect is its recent adoption of a new, domestically controversial anti-terrorist legislation in spite of not being targeted much by international terrorists. I will investigate two research questions:

1. Why has Brazil introduced its recent anti-terrorism legislation?
2. Can this law be an example of a counterproductive measure against terrorism?

My study is longitudinal and investigates terror attacks over a period of 49 years as well as political and military reactions to terrorism and ideas about how it should be combatted.

## **Previous research on counterterrorism in Brazil**

Relatively little has been written on post-dictatorship counterterrorism in Brazil. There are four central sources, France (2017), Furtado (2015), Zuquete (2017) and Lasmar (2019). France reproduces official documents, international and Brazilian academic papers, and over 25 interviews with people involved in the legislative process. The other three authors have interesting discussions with different perspectives. They mostly focus on why Brazil for so long did not have an anti-terrorist law. This provides useful background to this study, which focuses instead on why a new law was introduced.

All three find it remarkable that Brazil had no anti-terror legislation prior to 2016. They all mention memories of the military regime as a reason for political reluctance against any anti-terror legislation, in particular among influential left-wing politicians who themselves were accused of terrorism by the military. Zuquete and Lasmar see this reaction as understandable but regrettable, and in particular Lasmar considers it to be a serious mistake (Lasmar; 2019; Zuquete, 2017, p 288). Furtado has an entirely different perspective on why no anti-terrorist law was enacted before 2016. He sees a conflict between experiences and attitudes in the Global North and the Global South. He claims that the US, among others, tried to impose a perspective from the Global North that does not fit in with the experiences in the Global South (Furtado, 2015, p 77).

Very little is said by these three scholars on the reasons why the new law was introduced. However, all three emphasize the international pressure. Zuquete focuses on international organizations and does not mention the US, whereas Lasmar and in particular Furtado put more focus on the role of the US (Zuquete, 2017, p 287; Furtado, 2015, p 72; Lasmar, 2019). Lasmar, however, is much more positive to the American influence than Furtado. Both Zuquete and Lasmar are positive to the new law. Zuquete describes it as part of a necessary response to international developments (Zuquete, 2017, p 288). Lasmar considers it a big problem that Brazil lacked an anti-terror law. He assumes without argument that terrorism can only be combated with a legislation specifically designed for that purpose. For instance, he sees it as a failure that people associated with terrorism who visited Brazil (without performing any attack) “had to be prosecuted for crimes and offenses other than terrorism” (Lasmar, 2019). This is a remarkable standpoint, since these were the crimes they were shown to have committed. He does not specify what specific crimes were missing in the legislation.

The three authors differ widely in their estimates of the terrorist threat to Brazil. Lasmar concedes that Brazil has been nearly free from terrorist attacks, but sees it as a misperception that Brazil is not threatened by terrorists (Lasmar, 2019). He emphasizes that there are “terror-related activities” in Brazil and that terrorists have visited Brazil. This for him is reason enough to give high priority to terrorism in the legislation. Zuquete is less alarmist than Lasmar. He acknowledges that Brazil is not among the countries most at risk of a substantial increase in terrorism, but says that there is a “potential” of an “upward trend of terrorist activity in the country” (Zuquete 2017, p 281). In contrast to both Lasmar and Zuquete, Furtado tones down the threat, strongly emphasizing that the death toll of (non-state) terrorism is small compared to other forms of violence. He critically discusses the social construction of terrorism as a category, emphasizing the potential counterproductive effects of employing this concept in the Brazilian context (Furtado, 2015, p 75).

In his analysis, Furtado focuses on state terrorism, which he argues has largely been absent in mainstream discussions of terrorism. He argues that this omission has been a large problem in the “war on terror”, which he exemplifies with the killing of civilians in Afghanistan, violating human rights of detainees and curbing civil liberties (ibid, p 74). Furtado claims that ignoring state terrorism and its illegitimate violence in the Global South and more specifically in Brazil is counterproductive by making it easier to justify “repression and arbitrariness” in the name of national security (ibid, p 76). He also claims that scholars who exclude state terrorism from their discussions contribute to legitimizing it (Furtado, 2015, p 73). It should be noted in this context that identified state-sponsored terror attacks in the 1980s were shown to be eight times more lethal than attacks carried out by groups without state support or assistance (Hoffman, 2017, p 273). However, the issue of including state terrorism may in part be a matter of terminology. Hoffman writes “ violence and intimidation by those already in power against their own citizenry are generally termed terror to distinguish that phenomenon from terrorism which is traditionally understood to be violence committed by non-state entities” (Hoffman, 2017, p 16).

In sharp contrast to Furtado, Lasmar mentions potential counterproductivity of counterterrorism only to dismiss it. He refers to Brazilian politicians who say that counterterrorist laws can be counterproductive, but shows no understanding of their worries, and does not recognize that this is a common theme in the scholarly debate. He finds it “astonishing” that they made such claims (Lasmar, 2019). This discussion should be understood in connection with the more general international scholarly discourse on

terrorism, in which the risk of counterproductivity is almost always seen as a serious problem. It is generally recognized that repressive counterterrorist measures can facilitate recruitment to terrorism. Some argue that recruitment can also be increased by messages emphasizing the importance of combating terrorism, since this suggests that terrorists “have the slightest potential for success” (Mueller, 2006, p 47). Experts increasingly agree that there is no military solution to terrorism. No matter how many are killed or jailed, the problem will not disappear (Kruglanski et al., 2017, p 217; Mueller, 2006, p 193; Mueller & Stewart, 2012, p 96; Neumann & Smith, 2008, p 102). A key policy element should therefore be to avoid the overreaction “that terrorism so routinely inspires and that generally constitutes its most damaging effect” (Mueller, 2006, p 48). Studies show that visible security measures introduced to protect against terrorists make people more fearful, which is exactly what terrorists want (Mueller, 2006, p 159). According to one Israeli security officer, such strategies work against their purpose. “Fences project fear that the Arabs can sense. When they can sense our fear they will attack... Fences are definitely not working as a security measure” (Weizman, 2017, p 133). Thus, Furtado’s warning against counterproductive measures is more in line with the international discussion than Lasmar’s dismissal of the risk of counterproductivity.

A shift towards more emphasis on avoiding counterproductivity can be seen in the transition from the war on terrorism waged by the Bush administration to the strategy implemented by President Obama. In Bush’s meeting with his Emergency Operations Center on the evening of September 11, 2001 he said: “I want you all to understand that we are at war and we will stay at war until this is done. Nothing else matters. Everything is available for the pursuit of this war. Any barriers in your way they are gone”. When Donald Rumsfeld noted that “prevention not retribution” was all that international law permits, Bush replied “No, I don’t care what the international lawyers say, we are going to kick some ass” (Zulaika, 2009, p 214). This led to the emergence of the so-called “Cheney Doctrine”, which one observer argued in practical terms meant “even if there’s just a one percent chance of the unimaginable coming due, act as if it’s a certainty” (Hoffman, 2017, p 287). In contrast, the Obama administration shifted focus towards addressing “the underlying grievances and conflicts that feed extremism, including measures such as building community awareness to identify the drivers of radicalisation and indicators of terrorist recruitment; the countering of extremist narratives through grassroots-directed and implemented efforts; and community-led interventions designed to disrupt and prevent terrorist radicalisation” (Hoffman, 2017, p 138).



The US Army & Marine Corps Counterinsurgency Field Manual reflects this view. It presents five paradoxes of counterinsurgency operations. It is recognized that counterterrorism and counterinsurgency have a strong parallel (McCauley & Moskalenko, 2017, p 214).

1. Sometimes, the More you Protect Your Force, the Less Secure You May Be.
2. Sometimes, the More Force Is Used, the Less Effective It Is.
3. The More Successful the Counterinsurgency Is, the Less Force Can be Used and The More Risk Must Be Accepted.
4. Sometimes Doing Nothing Is the Best Reaction.
5. Some of the Best Weapons for Counterinsurgents Do Not Shoot.

In conclusion, counterproductivity needs to be considered in all discussions on counterterrorism, although it has, with the exception of Furtado, not been much recognized in the scholarly literature on post-dictatorship counterterrorism in Brazil.

## Theoretical background

In this section I will discuss how counterterrorism can be counterproductive, emphasizing the difficulties that democracies face when confronted with terrorism.

### Deterring or provoking violence?

Rationalistic ideas have long dominated academic war studies, “states act *rationally*, in order to maximise their gains or in order to minimise their losses” (Ringmar, 1996, p 1). However, recently scholars, most notable Erik Ringmar, argue that “we act, not in defence of our interests, but in defence of our identity” (Ringmar, 1996, p 4).

Contemporary deterrence theory assumes that opponents are rational thinkers and refrain from action if the benefit is outweighed by the costs (Bobbit, 2002, p 11; Lafree et al., 2009, p 19; Mearsheimer, 1983, p 23). Deterrence-based thinking has dominated counterterrorism in most countries since the late 1960s (Lafree et al., 2009, p 18). Deterring anti-terrorism strategies deploy forces in a threatening manner (Smith, 2005, p 321). Harsh legal punishments also have a deterring purpose.

However, punishment does not always have the intended consequences. Criminological research has for decades shown that “the certainty of punishment is likely to be more effective than the severity of punishment in terms of deterring potential misbehaviour” (Lafree et al., 2009, p 37). As pointed out above in the section on previous research, punishment and other harsh measures against terrorists can be counterproductive. We can trace this insight back to Clausewitz, whose “remarkable trinity” includes the state, the army, and the people. All three are equally important for a war to succeed (Smith, 2005, p 58). Counterproductivity in anti-terrorism is all about losing the third of them, the people. In this respect, counterterrorism is similar to anti-guerrilla warfare. For example, in the Vietnam War the US fought against an enemy with considerable popular support, whereas it lost its own people’s support (Smith, 2005, p 195). Che Guevara argues that “guerrilla warfare is used by the side which is supported by the majority but which possesses a much smaller number of arms for use in defence against oppression”, it is a “war of the masses, a war of the people” (Guevara, 1961, p 3).

A study has provided strong evidence that attacks conducted in retaliation against US interventions overseas could be significantly fewer with a policy of military restraint (Eland, 1998, p 5). In other words, military action can be counterproductive and result in counter attacks. Another popular term is “jujitsu politics”. It refers to how counterterrorist strategies

may cause more damage than terrorism itself (Lafree et al., 2009, p 21). If the government fails to target the exact right perpetrators, passive sympathisers affected by government-imposed humiliations can be mobilized as active participants in terrorism (McCauley, 2017, p 263). According to McCauley, cultures that value honour require aggression in response to disrespect. Muslim and Arab cultures have been described as cultures of honour (ibid, p 262).

In Bin Laden's "Letter to America" he says that the reason for attacking America is that America attacks them, as well as the occupation of land in Muslim countries. All Americans are targeted as they "fund the attacks", "elect candidates" and serve in the armed forces (Bin Laden, 2002). This is an example of honour thinking. Deterrence might not be useful against a religious terrorist who wants to become a martyr and "desires death more than you desire life" (ibid).

Summarizing the literature on deterrence and backlash models, Lafree and co-workers conclude that "the threat and/or imposition of punishment does not always deter future acts of violence and may increase violence in some cases" (Lafree et al., 2009, pp 18-19). They investigated six high-profile British counterterrorist interventions against Irish republican violence between 1969 and 1992, using 2603 data points from the Global Terrorism Database. The general result was that British interventions did not decrease the risk of future attacks (ibid, pp 18-19). Another study found it to be inadequate to just define deterrence outcomes as "successful" and "failures". Instead a wider range of failures should be identified and distinguished (George & Bennet, 2005, p 85).

Not all forms of counterterrorism are counterproductive. Proactive non-military means and non-violent military measures such as intelligence and a careful analysis of the actual threat are key to success (Neumann & Smith, 2008, p 98). This includes pre-emptive educational programs to counter grassroot alienation and stop the spread of hate and intolerance (Hoffman, 2017, p 137). Religious terrorism can never be eradicated completely (ibid, p 138). However, steps can be taken to mitigate its impact and spread. Counterterrorism laws have to be adjusted to the national context, as there is no one size fits all solution (Welsh, 2013, p 346).

Critics claim that counterterrorism has often missed the cultural factors, "counterterrorism's ignorance of the languages, cultures, and histories of the people it purports to monitor is proverbial" (Zulaika, 2009, p 2). Robert Hutchings in his capacity as the National Intelligence Council Chairman concluded:

The only way to know the mind of the enemy is to talk to him, and that is the job of spies. If we cannot speak the language, we cannot understand the people and the political forces we seek to contain and control (Weiner, 2008, p 601).

### **Self-fulfilling prophecies**

Robert K Merton, one of the most influential sociologists in the 20th century, defined the term “self-fulfilling prophecy” in 1948. He argued:

The self-fulfilling prophecy is, in the beginning, a false definition of the situation evoking a new behaviour which makes the original false conception come true. This specious validity of the self-fulfilling prophecy perpetuates a reign of error. For the prophet will cite the actual course of events as proof that he was right from the very beginning... Such are the perversities of social logic (Merton, quoted in Zulaika, 2009, p 4)

Self-fulfilling prophecies are a major mechanism behind counterproductive actions, actions that have the opposite effect of what was intended. An example of this is that a belief that a militant group will commit terrorist attacks can lead to harsh anti-terrorist measures that motivate the group to perform terrorist attacks.

The term self-fulfilling prophecy has been used in the discussions about “failed repression of the moderates”. This refers to a government that extends an anti-terrorist campaign to target non-violent opposition, for instance by banning political parties, disbanding critical newspapers or at worst “arresting, interning, torturing and killing” members of the opposition. If such an action is not extremely total and ruthless there is a high risk that the targeted moderates will become more extreme and thus “the government helps turn this scenario into a self-fulfilling prophecy by making the moderates believe that they have nothing to gain from seeking an accommodation with the regime” (Neumann & Smith, 2008, p 43).

### **A special problem for democracies**

The view that democracies have a tougher time dealing with terrorism even though “no democracy has ever been overthrown by any such group” has been agreed on for decades. It was first formulated by Nicholas O. Berry (Neumann & Smith, 2008, p 36; Berry, 1987). In democracies, counterterrorist activities have a larger tendency to be counterproductive. This is because repressive acts that threaten liberties are contrary to the goals and purposes of a

democratic state, but they are not contrary to the goals and purposes of a dictatorship. Terrorists aim “to goad the government into operating beyond the legally constituted methods and into using extra-legal action... with the express purpose of triggering responses of a heavy-handed and possibly illegal nature” (Neumann & Smith, 2008, p 40). The main advocate of overreaction as a strategic objective was Carlos Marighella. The intention is to induce responses that are directed at the people in whose name the terrorists claim to act. The terrorists hope that the government will deploy special police and implement emergency measures that infringe on the everyday life of the ordinary citizen, making life more difficult and reinforcing the impression that the government has lost control. Such measures include house searches, curfews, road-blocks, internment, executions, and disappearances to name a few. They create an impression that the state is unjust and incapable of solving the situation, leading citizens to conclude that it is in fact the state that is responsible for the violence and the worsened life conditions (Neumann & Smith, 2008, p 41; Lafree et al., 2009, p 23; Stone, 2012, p 147). Democratic governments depend on the support of the public and are therefore particularly sensitive to such reactions among the public. Excessive measures also undermine the public’s trust, making them raise questions whether the government is using terrorism as a “pretext for tearing down civil liberties” (Neumann & Smith, 2008, p 97). Undermining trust, dividing communities and changing people’s attitudes towards one another is what terrorists hope for (Neumann & Smith, 2008, p 58). In the Brazilian context this is important to remember, not least as the National Congress has been criticised for not representing the diversity of ethnicity and gender accurately (Batista, 2016, p 75).

On the other side of the spectrum, “power deflation” is particularly difficult for a democratic state to deal with. It occurs when the state appears to be incapable of dealing with the problem and loses support. This can happen if the government believes that the terrorist campaign “articulates some legitimate grievance”, and fears that almost any use of force would attract sympathy for the terrorists in parts of the population. The government is so anxious not to overreact that they fail to implement an effective program to deal with the threat (Neumann & Smith, 2008, p 41). The dilemma for a democratic government is how to balance civil liberties and accepted norms against “adequate security measures that deal with a significant threat to their authority” (ibid, p 42). This is often a difficult balance. For instance, in 2005 then Prime Minister Tony Blair suggested criminalising “condoning or glorifying terrorism”. This was criticised as some viewed it as an act on the verge of criminalising speech itself (Heath-Kelly, 2012, p 74).

Unsurprisingly, the more democratic a country is, the more reluctant it is to pass anti-terror laws that infringe on individual rights (Whitaker, 2007, p 1020). In the developing world, anti-terror laws can provide justification for authoritarian regimes to start undemocratic practices (Whitaker, 2007, p 1028). Concerning Brazil, their Freedom House score has decreased from 79 out of 100 in 2017 to 75 in 2020 (Freedom House, 2020).

According to some scholars, “counterterrorism is equally rhetorical [as terrorism] in that a primary concern for officials in their war on terror is how the public perceives their actions” (Zulaika, 2009, p 29). Richard Jackson notes that government officials attempt to convey to the public that the war against terrorism is inherently necessary and winnable (Jackson, 2005, p 179). However, he argues that this stance is wrong, and that in a democracy “resisting the discourse is not an act of disloyalty; it is an act of political self-determination; and it is absolutely necessary if we are to avoid another stupefying period of fear and violence like the cold war” (ibid).

## **Methodology**

In this section I will discuss the general issues of qualitative case studies, explain my use of the Global Terrorism Database, and discuss the limitations of my study and how I deal with them.

### **Case study methodology**

Many methodologists hold case studies in low regard (Gerring, 2004, p 341; Lijphart, 1971, p 693). However, a great advantage of case studies is that a problem can be studied in great depth (Lijphart, 1971, p 691; Gerring, 2004, p 345). George and Bennet argue that it is not advisable to choose a case merely because it is interesting or because enough data are available to study it (George & Bennet, 2005, p 69). The problem should be embedded “in a well-informed assessment that identifies gaps, in the current state of knowledge, acknowledges contradictory theories, and notes inadequacies in the evidence for existing theories” (George & Bennet, 2005, p 74). The study should “make a significant contribution to the field” (ibid). The formulation of the research objective is the most important decision in designing research (George & Bennet, 2005, p 74). It should be expressed as a research problem or puzzle.

This study begins with a puzzle, namely that Brazil adopted a new anti-terrorist legislation in spite of having few attacks by international terrorists in comparison to other countries. Theoretically, this is interesting because of the strong emphasis on the risk of counterproductivity in the literature on counterterrorism.

My study is a case study, which is informed by a theoretical perspective and to which I have added reflections in that perspective. The research-design is process-tracing, more specifically the “simplest form” of process-tracing namely a detailed narrative (George & Bennet, 2005, p 210). This means that I present a “story in the form of a chronicle that purports to throw light on how an event came about” (ibid). Process-tracing has many “advantages for theory development and theory testing” (ibid, p 223). It is considered “a core method of security studies”, and it is widely used in security studies to advance “all kinds of arguments” (Tannenwald, 2015, pp 219-220). Process-tracing also contributes to sharpening “explanatory debates” (ibid, p 223). This makes it useful for this study since I aim to contribute to understanding why Brazil introduced its new antiterrorism legislation in 2016. With this law, Brazil took a route different from many other countries. A preliminary study of the legislation, as well as comments in the scholarly literature, indicate that the law was much

influenced by the long decision process from which it emerged. It does not seem possible to explain without a close study of this decision process. This process has not previously been subject to much focused analysis. This led me to conclude that I need to study the process in detail in order to properly answer my research questions, which concern the nature of the law and the reasons why it was enacted. Therefore, process-tracing is appropriate in this specific case. My main reasons for not performing a case comparison for instance including Argentina and Chile are the need for an in-depth study of the interesting Brazilian Case, time constraints, and my inability to read documents in Spanish.

I argue that the most relevant strategy of data collection for this study is to use already existing written sources. The reason for this is that what I intend to study refers to what happened in the past. I will take into consideration when I choose my sources that I avoid “cherry picking” and am aware of biases in pre-existing sources. I have retained English translations from Portuguese as they appear in the English language literature that I quote. All quotations from Portuguese sources are translated by me.

### **Defining terrorism**

The term terrorism is used in very different ways. Some argue that terrorism is more similar to crime than to war (Mueller, 2006, p 193). From the eyes of military theory, terrorism can be viewed as both strategy and tactics (Angstrom & Widen, 2015, p 29). Some argue that the “war on terror” is not a war because it is impossible to wage a war against an abstract noun (Neumann & Smith, 2008, p 3). Others argue that it is a new kind of war (Angstrom & Widen, 2015, p 30). Some consider terrorism a form of psychological warfare (Neumann & Smith, 2008, p 9). The famous Brazilian guerrilla fighter Carlos Marighella in his *Minimanual of the Urban Guerrilla* defines terrorism as “to force the regime and its officials to live in dread under constant fear of attack” (Marighella, 1972, p 17).

In the period 1984-2004 the US State Department changed its definition of terrorism at least seven times, arguably to make it conform with their shifting priorities (Hoffman, 2017, pp 32-33). Currently, according to the Brazilian Intelligence Agency (Agência Brasileira de Inteligência), commonly known as ABIN, there is no consensual definition of what terrorism is, however ABIN considers the following types of acts to be possible signs of terrorist plots. (ABIN, 2020; Vergueiro, 2008, p 7).

- Counterfeiting of documents such as passports, Individual Taxpayer Registration Number (CPF), Identity Card, Driver’s License, among others.



- Purchase and handling of guns, ammunition, accessories and equipment of restricted use and without proper authorization.
- Non-authorized purchase and handling of biological, chemical, nuclear, and radiological products of controlled use.
- Large scale purchase of products that although legally available may be used for the production of explosives, such as acetone, oxygenated water, sulfuric acid, ammonium nitrate, among others.
- Non-authorized possession of data such as images, videos, blueprints, sketches, maps, position of cameras and security guards of public or private high-traffic facilities.
- Links with terrorist or extremist organizations.
- Money sent/wired to terrorist or extremist organizations.
- Transfer of large sums of money to countries where there are greater terrorist actions or conflict zones.
- Non-authorized attempt to access restricted areas of public or private high-traffic facilities.
- Extremist speeches of hate or incitement to violence, including those found in social networks.
- Dissemination of threats of terrorist attacks, including those found in social networks.

The Brazilian National Congress has not reached an agreement on any definition. This is not surprising, given that the academic community struggles with the definition. The lack of a definition leaves a wide open scope for interpretations by the courts, which may be problematic (Batista, 2016, p 65).

In this study I will use the same definition as the Global Terrorism Database (GTD, 2019, pp 9-10). Their definition is “the threatened or actual use of illegal force and violence by a non-state-actor to attain a political, economic, religious, or social goal through fear, coercion or intimidation”. Furthermore, for an incident to be included as a terrorist attack, three attributes must be present:

1. The incident must be intentional-the result of a conscious calculation on the part of a perpetrator.
2. The incident must entail some level of violence or immediate threat of violence-including property violence, as well as violence against people.

3. The perpetrators of the incident must be sub-national actors. The database does not include acts of state terrorism.

In addition, at least two of the three following criteria must be present:

Criterion 1: The act must be aimed at attaining a political, economic, religious, or social goal.

Criterion 2. There must be evidence of an intention to coerce, intimidate, or convey some other message to a larger audience (or audiences) than the immediate victims.

Criterion 3. The action must be outside the context of legitimate warfare activities.

My reasons for choosing this definition are that it is precise and widely used, and that there is a useful database in which it is applied.

### **Data on terrorist attacks**

I have used the Global Terrorism Database, considered the most comprehensive source on terrorism around the world, with clear coding techniques and high reliability (Argomaniz & Vidal- Diez, 2015 p 166; Hoffman, 2017, p 115; Page Fortna, 2015, p 531). According to the GTD between January 1, 1970 and December 31, 2018, Brazil suffered 250 verified terrorist incidents (GTD, 2020). The data set includes incidents where there is doubt that it was a terrorist attack. I decided to exclude the doubtful cases. If they were included there would be 284 attacks, 212 killed and 168 injured. I have included unsuccessful attacks, otherwise the number of attacks would have been 215. I have divided the groups responsible for the attacks in 6 distinct categories:

Left Wing

Right Wing

Criminal

Tribal

Attacks connected to international groups

Unknown and others

My grouping of the perpetrators is reported in the appendix. See further the section “Terrorism in Brazil”.

## **Limitations**

There is relatively little literature on post-dictatorship terrorism in Brazil. I have made an extensive literature search incorporating both English and Portuguese texts. Professor Luiz Pedone, Universidade Federal Fluminense, who is a prominent expert on Brazilian public security policy, has provided useful advice on important scholarly literature. One problem with official and unclassified documents as source material is that they could have been selectively released (George & Bennet, 2005, p 101). To balance this, I have included sources from different groups in Brazilian Society, also those highly critical of the official policy.

Further limitations are connected with my choice of one single case for the study. This method allows a detailed and in-depth analysis of the study object, but it does not generate sufficient evidence for proving or disproving a generalization (Lijphart, 1971, p 691). However, it can generate information that contributes to the theoretical discourse, and this I have attempted to do. I have been careful to present my theoretical reflections as only tentative proposals, in need of further investigations.

## Terrorism in Brazil

In order to discuss counterterrorism in Brazil we need to know what the terror threat looks like in the country. In this section I will present data on terrorist attacks and discuss threat perception, Islamic terrorism and terror financing in Brazil.

### Data on terrorist attacks

As described in the section Methodology, I have analysed the Brazilian data in the Global Terrorism Database (GTD, 2020), classifying the perpetrators in 6 general types. For details, see Appendix 1. Figure 1 shows the number of terror attacks per year in the last 49 years. Figures 2-4 show the distribution of attacks, killed and injured between the categories of perpetrators. According to the data, 172 attacks were conducted by unknown perpetrators, a substantial number. It is difficult to know if some of these attacks are in fact other types of violence than terrorism. Most terror groups want their activities to be attributed to them, they “would rather have a lot of people watching than a lot of people dead” (Neumann & Smith, 2008, p 81).

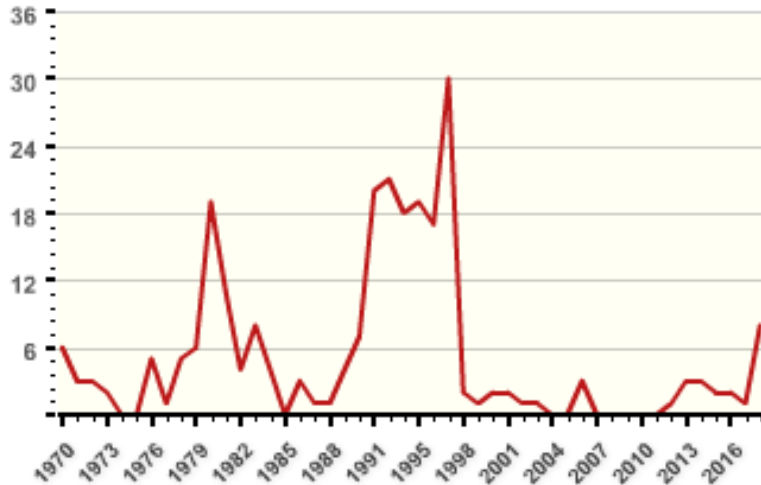


Figure 1. Terror attacks per year in Brazil according to GTD.

The 250 incidents in the database have claimed 167 lives and injured 151 people. Notably those killed in attacks linked to international organisations are only 1%, 2 killed and 4 injured. In Figure 1, an increase in attacks can be seen starting in 2017, however no causal conclusions can be drawn. A comparison between Figures 2 and 3 shows that attacks perpetrated by right-wing and criminal gangs tend to be particularly lethal. However, this should be compared to other types of deadly violence in Brazil. In 2017 Brazil had 63,880 murders, a murder rate of 30,8 per 100,000 people. Mexico had 20 per 100,000, the United States 5,3 and Sweden 1,12 (Darlington, 2018; Lopez, 2018; Brå, 2017, p 14). In 2017, 14 people were killed per day by the police in Brazil (Embury-Dennis, 2018). Only in Rio de Janeiro the police killed 5 per day in 2019 (BBC News, 2020). The vast majority of the homicide victims in Brazil are young, black, poor and male, and live in favelas (Darlington, 2018).

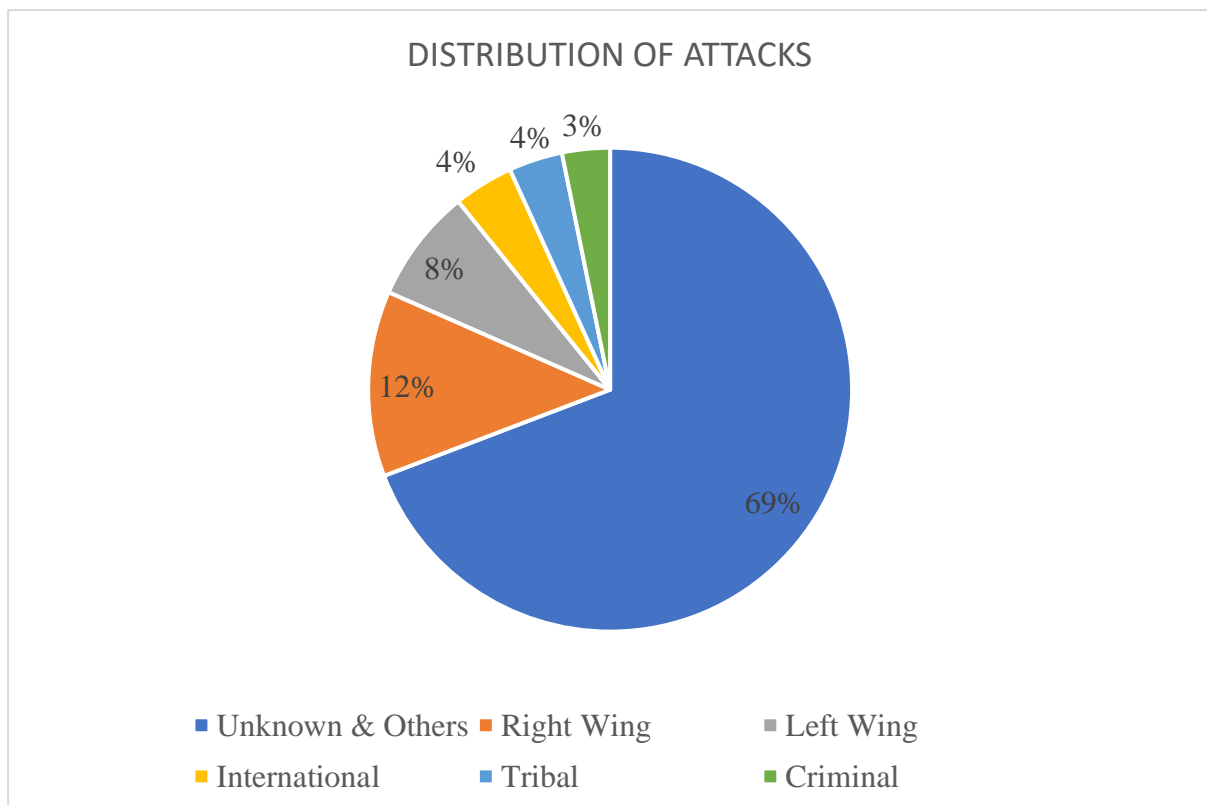


Figure 2. Terrorist attacks divided by perpetrator groups according to my grouping from GTD data.

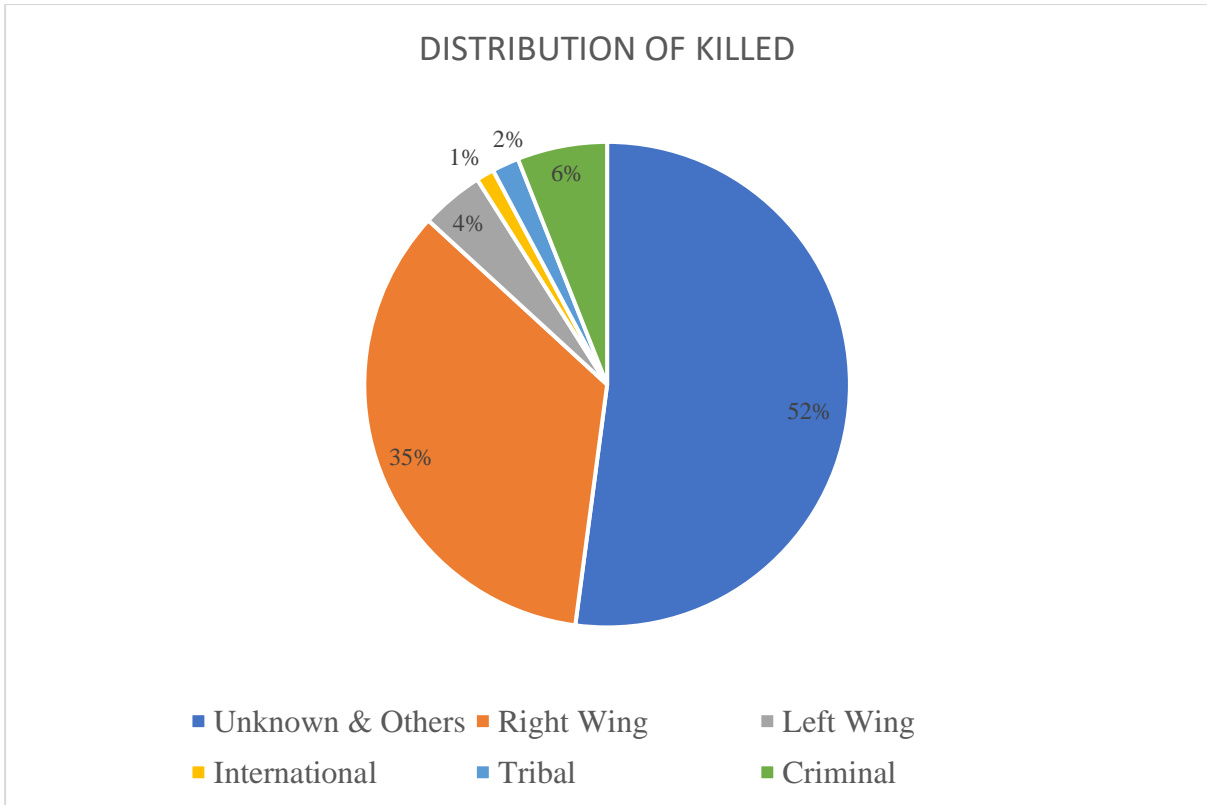


Figure 3. Number of people killed divided by perpetrator group according to my grouping from GTD data.

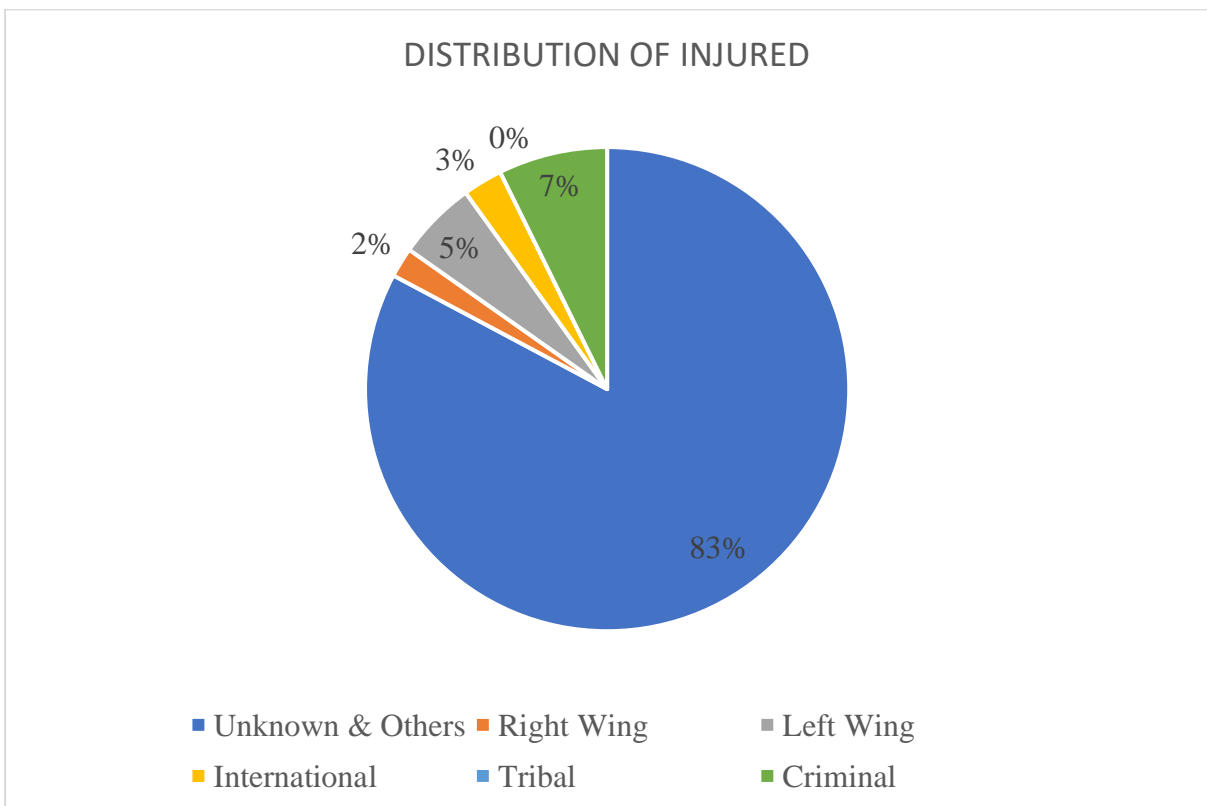


Figure 4. Distribution of people injured divided by perpetrator group according to my grouping from GTD data.

## **Threat perception in Brazil on terrorism**

A common belief in Brazil is that the country has no enemies. This is a sentiment shared by most politicians. In 2002 the Brazilian Minister of Defence Jose Viegas Filho said:

No one can say that they are immune to terrorism. But if you were to draw up a list of countries that are vulnerable to this problem, Brazil would certainly be in one of the lowest rankings. Brazil has no enemies” (Welsh, 2013, p 338)

In 2009 the Minister of the Institutional Security Cabinet said about terrorism that “even if a problem were to appear, we won’t admit that the problem exists” (Zaia, 2018, p 1). In 2005 the Brazilian Intelligence Agency, ABIN, held an “International Seminar on Intelligence and Contemporary Challenges”. No mention of the possible threat of international terrorism was made (Bruneau, 2007 p 6). However, in December 2006 terrorism was for the first time in focus in one of their seminars. They now write on their webpage: “Brazil although not a specific target for the action of terrorist groups, is not free from the occurrence of terrorist attacks.” (ABIN, 2020). To sum up, terror attacks in Brazil appear to be a potential problem, rather than a large acute problem. This also appears to be the opinion of their own intelligence service.

## **Islamic terrorism**

At least since the Beirut bombing of the US embassy 1983 and the 1992 and 1994 Hezbollah attacks in Argentina, Brazilian authorities have focused on Islamic terrorism (Trevisi, 2013, p 19; Brancoli, 2019; Bergman, 2018, p 403). Islamic terrorism was also much discussed when adopting the new terror law in 2016 (France, 2017, p 240). However, there are only a few examples of attempts of Islamic terrorism in Brazil. Out of the 250 attacks since 1970, only 4 can be linked to Islamic groups, 2 to Black September, and 2 to pro-Palestinian groups. The number of killed and injured in those attacks has been 0.

In 1984 an Iranian national named Mohammad Tabataei Einak travelled to Brazil to spread radical Islam in the hope of recruiting and converting young Brazilians in São Paulo, Rio de Janeiro and Curitiba. Saudi Arabian and Iranian officials tipped off the Federal Police, which expelled him from Brazil (Batista, 2016, p 29). Jean Charles de Menezes, a Brazilian electrician, was on July 22, 2005 mistaken for Hussein Osman, a failed suicide attacker from the previous day’s attacks in London (Heath-Kelly, 2012, p 80). Upon entering a train at Stockwell Station he was killed by seven shots to the head and one in the shoulder (Siddique, 2016). A couple of days after the shooting, information was issued at the Notting Hill Station

warning commuters who “look a bit foreign and who carry rucksacks not to run on the station for their own safety” (Heath-Kelly, 2012, p 81). In 2015 reports stated that 23 Argentinians and three Brazilians had joined Isis, and fears grew that upon their return they could conduct terror attacks (Chwiej, 2016, p 189).

In 2016 the ABIN reported that they had received threats on twitter from the French Jihadist Maxime Hauchard, saying “Brazil you are our next target” (Batista, 2016, p 31). In July 2016, as the Olympic Games in Rio were about to start, the Police arrested a group of suspected terrorists, accused of plotting to poison the tap water in Rio de Janeiro (Batista, 2016, p 31). Those arrested had tried to make contact with the Islamic State, but failed (BBC News, 2016). According the Federal Police the majority of activities concerning terrorism are in São Paulo, Foz do Iguaçu and Curitiba (Batista, 2016,p 29). In 2003 an estimated 90% of the Muslim and Arab inhabitants in Foz do Iguaçu were of Lebanese decent (Hudson, 2003, p 9). The majority identify as Shi´a (Brancoli, 2019).

Summing up, the number of attacks conducted by Islamic groups are 4 and the number of injured and killed is 0 over a period of 49 years. A possible explanation of this is that a major precondition for domestic recruitment of Islamic terrorists is lacking in Brazil, namely a disadvantaged and embittered Muslim population. Brazil´s Muslim population is not in general disadvantaged. The Muslim presence in Brazil dates back to 1500. It grew with the fall of the Ottoman Empire in the 1920s (Brancoli, 2019). In the years 2001- 2011 there was an increase in people converting to Islam, as well as migrants from Muslim countries (Brancoli, 2019). The early middle East immigrants have assimilated well into Brazilian society and it has led to economic success for many (Spinder, 2020, p 42). Descendants include artists, politicians and businessmen contributing significantly to Brazilian society. The former President Michel Temer is of Lebanese decent (Tsavkko-Garcia, 2017).

### **Terror financing**

Terrorism is highly dependent on financing by various illegal means, which can take place in countries and regions that are not much affected by terror attacks. The importance of finance for terrorism dates back to the 1870s, when Jeremiah O´Donovan Rossa, member of the Clan Na Gael (United Irishmen) said that “a solid financial base is required to sustain an effective terrorism campaign” (Hoffman, 2017, p 9). The financing of terrorism has been called its “life-blood” (Abbott, 2004, p 53).



The United States government, among others, has expressed concern that areas in Brazil and other Latin American countries may be important sources of terror financing. According to a US official, winning the Global War on Terror (GWT) is only possible if “regional partners are ready and willing to take pre-emptive action and not just wait for the United States to act” (Abbott, 2004, p 55). Ambassador J. Cofer Black, coordinator for Counterterrorism in the State Department, said that they should “promote counterterrorism cooperation with friendly nations, enhance the capabilities, of our allies, take the war to the terrorists, and ultimately cut off the resources they depend on to survive” in order to win the GWT (Abbott, 2004, p 55).

The tri-border region of Argentina, Paraguay and Brazil is infamous for contraband, money laundering, drug trafficking and piracy (Trevisi, 2013, p 11). The cities linked to most of the problems are Foz do Iguacu in Brazil, Ciudad Del Este in Paraguay and Puerto Iguazu in Argentina (ibid, pp 6-7). The United States estimated in 2004 that only in Ciudad de Este 6 billion dollars of illegal funds were laundered per year (Abbott, 2004, p 51). In 2005 it was estimated that more than 2 billion USD were sent abroad from the region (Costa & Schulmeister, 2007, p 37). The major focus in the Brazilian anti-terror fight is the threat of money that could be funnelled to organisations that are targets in the GWT. The 2005 US State Department Country Report on Terrorism stated:

The United States remains concerned that Hezbollah and Hamas are raising funds among the sizable Muslim communities in the tri-border region... although there is no corroborated information that these or other Islamic extremist groups have any operational presence in the area (State Department, quoted in De Souza, 2009, p 36).

However, the International Monetary Found (IMF) concluded in 2005 that there was no evidence of any remittance from the area that could be linked to terrorism financing (Trevisi, 2013, p 19). I have not found any more recent reports on confirmed terror financing originating from the Tri-border Region. It should be noted that none of the four Islamic attacks conducted in Brazil in the last 49 years was anywhere close to the Tri-Border-Region.

## **Summary**

Brazil has experienced very little international terrorism, compared to many other countries. There is at present not much potential for domestic recruitment to Islamic terrorism. The large-scale money laundering in the Tri-Border region gives rise to concerns about potential terror financing, but concrete evidence of such activities is not available.

## Counterterrorism in Brazil

In this section, I will first give a historical background to counterterrorism legislations in Brazil, and then describe and analyse the developments that led up to the new law in 2016. This is followed by sections on the law and the criticism towards it.

### **Military regimes (1946-1985)**

Between 1946 and 1964 Brazil had six coups d'état and counter-coups (Dos Santos et al., 2019, p 213). "The most frequent sequel to military coups... is more of the same" (Nordlinger, 1977, p 207). On July 30 1962 the American President John F Kennedy discussed with the American Ambassador to Brazil the option of funnelling millions to subvert the upcoming presidential elections and prepare for a military coup in Brazil. That coup happened less than two years later (Zulaika, 2009, p 141). Between 1964-1985 Brazil was governed by military "bureaucratic-authoritarian" regimes (Skidmore et al., 2014, p 326). Counterinsurgency was a principal justification for this and many other of the military regimes in Latin America in the late 20<sup>th</sup> century, and along with it came repression (Peeler, 2009, p 176).

Political violence and militant actions in Brazil culminated in mid-1968 with industrial strikes that the government strongly repressed. Leftist movements engaged in armed insurgencies which included attacks, kidnappings and assassination attempts, most notably against the President General Arthur da Costa e Silva (France, 2017, p 99). The military regime treated opposition groups as terrorists. The Brazilian revolutionary and Communist party leader Carlos Marighella said that "to be called an aggressor or a terrorist in Brazil is now an honour to any citizen, for it means that he is fighting, with a gun in his hand against the monstrosity of the present dictatorship and the suffering it causes" (Hoffman, 2017, p 21).

During the military dictatorship between 1964-1985 the Serviço Nacional de Informações (SNI) and other security organisations repressed and violently targeted the opposition (Bruneau, 2007, p 2). The SNI was the main force for control and repression. Between 1968-1974 the SNI was a "political police" and it became an "independent security state" (ibid). In the period 1968-1975 a national program was aimed at eliminating the favelas in the southern region of Rio de Janeiro, either by forcefully removing the residents or burning down the houses (Perlman, 2010, p 271). The favelas were viewed as harbouring "communists" and "bandits" (ibid). During this period radical factions within the military responded to insurgent violence by engaging in torture, disappearances and killings often conducted by death squads

from the Military Police (Welsh, 2013, p 337). General Emilio Medici, the President of Brazil in 1969-1974, stated in 2004 that it “was a war, after which it was possible to restore peace in Brazil. I put an end to terrorism in this country. If we had not accepted war, if we had not acted drastically, we would still have terrorism today” (Zuquete, 2017, p 278).

Two other intelligence agencies that collaborated with the SNI during the military dictatorship were mostly responsible for the torture, disappearance and murder of political dissidents: the Departamento de Operações de Informações (DOI) and the Centro de Operações de Defesa Interna (CODI). They were both under the supervision of the army (France, 2017, p 101). The head of the DOI-CODI was in the years 1970-1974 a man called Carlos Alberto Brilhante Ustra. He is the only member of the military found guilty of torture by a court (Paiva, 2018; Barrucho, 2016). All this means that during the military dictatorship, the state was heavily involved in acts that a large part of the population perceived as terrorism.

International terrorism was a subject of interest for the Federal Police already in the early 1980s because of the attack on the US embassy in Beirut in 1983 (Batista, 2016, p 29). It was then feared that hijackers and suicide bombers might come to Brazil. This led to the creation of a Counterterrorism force, “Comando de Operações Táticas” (COT) in the late 1980s. It is still active today (ibid). In Figure 1, we see that in 1974 and 1975 Brazil did not suffer a single terrorism attack. However, instead they suffered from repressive tactics from the police. The lack of terrorism in these years can probably be connected with the offensive strategies by the military in the years before. This is in line with what Gil Merom writes, “indiscriminate annihilation requires relatively little investment and military skills, and produces long-lasting results” (Merom, 2003, p 45). If such an action is not extremely total and ruthless there is a high risk that the targeted moderates will become more extreme (Neumann & Smith, 2008, p 43). Walter Laquer famously said that “terrorism succeeds only against non-terrorists, namely groups or governments which refrain from responding to indiscriminate murder with equally indiscriminate repression” (Neumann & Smith, 2008, p 84).

Experience from the military regime has shown that counterterrorism does not always mean greater public security or less radicalisation. In this period, it was more associated with increased risk of violent repression (Welsh, 2013, p 343). It is in the light of this historical

background that one needs to understand the reforms that have taken place since democratisation.

### **After the military regime (1985-2002)**

After the end of military rule in 1985, Brazil was considered the least promising country in Latin America in terms of successful civilianization (Silva, 2001, p 74). Given the history of repression against what the military called terrorists, there was not much trust in the police, military and intelligence forces as instruments for targeting terrorists. A lot of efforts were directed at regaining trust and civilian control over these institutions (Welsh, 2013, 344). In 1985-1990 the Governor of Rio de Janeiro forbade the Military Police from entering the favelas (Perlmann, 2010, p 175). In the new era of democratization politicians tried to distance themselves from the military regime's accusations of terrorism as a justification of repression (Brancoli, 2019). This was a reason for reluctance to introduce a counterterrorism law (Welsh, 2013, p 345). In 1991, Deputy Helio Bicudo pushed for an anti-terror legislation and then President Fernando Henrique Cardoso also did so in 2002, but both attempts failed in the National Congress (France, 2017, p 287). However, the 1992 and 1994 attacks in Argentina made the Brazilian Federal Police increase their engagement in counterterrorism issues (Trevisi, 2013, p 19). During his presidency (1995-2003) Fernando Henrique Cardoso created the Ministry of Defence and the successor organization to the SNI, the Brazilian Intelligence Agency, ABIN.

In 1990 the Financial Action Task Force had developed 40 recommendations to countries to combat money laundering, Brazil became a member in 2000 (France, 2017, p 156). This was one of the most vocal international organisations in the push for a Brazilian terror-legislation (France, 2017, p 19). The FATF is the global terrorist financing and money laundering watchdog, they have FATF Standards that more than 200 countries are committed to implement. On a continuous basis they review government responses to organised crime, corruption and terrorism (FATF, 2020). A couple of weeks after the 9/11 attacks the UN Security Council unanimously adopted resolution 1373 requiring states to under international law "deny financing, support and safe harbour for terrorists" (Abbott, 2004, p 53).

### **Lula da Silva (2003-2011) and Dilma Rousseff (2011-2016)**

During Lula's tenure as president (2003-2011), "denialism" was the official position on any possible terrorist threats in Brazil (Zaia, 2018, p 6). Foreign policy can also contribute to explaining why Brazil resisted US and international pressure to enact stronger terrorism-laws under Lula da Silva's presidency (Welsh, 2013, p 345). Tensions with the US began already during the 2002 Conference of Ministers of Defence of the Americas as the US delegation presented its new security policies for the region, especially those regarding terrorism (Zaia, 2018, p 12). Reports from US authorities about individuals linked to terrorism were often met by condemnation and described as unfounded accusations that had a negative impact on local Muslim communities and tourism at large (Zaia, 2018, p 7). Lula criticised the pressure that he received from the US regarding his response to the GWT, as he opposed repressive measures when dealing with terrorism (Zaia, 2018, p 10). Lula thought that "weakening US presence in Brazil was key to an autonomy driven foreign policy" (Zaia, 2018, p 12).

In the early years of the 2000s discussions about international terrorism intensified in Brazil and demands for a new domestic legislation arose (France, 2017, p 150). This did not originate from any domestic pressure but rather from the acceleration of international norms on the subject (France, 2017, p 18). In 2003 US president Bush requested Lula to send troops to Iraq and to take control of the Tri-Border region. Lula's response was "Brazil's war is against hunger" (Brancoli, 2019). These differences in opinion complicated Brazil's strivings in the United Nations. Brazil has long sought a permanent seat in the United Nations Security Council, and under their charter, a permanent member needs to have a "very proactive role in the fight against terrorism, which is ultimately and practically a threat to international peace and security" (De Souza, 2009, 35).

In 2009 the Itamaraty (Brazilian Ministry of Foreign Affairs) acknowledged that terrorists might become interested in Brazil because of the upcoming FIFA World Cup and the Olympic Games (Zaia, 2018, p 8). The UN also pressured Brazil, warning that it would be included on a list of countries with a high risk of financial instability if it did not combat terrorism harder (Zaia, 2018, p 8). In June 2010 the FATF reported that Brazil had not criminalised terror financing in a way that is consistent with the recommendations set by the FATF. Brazilian authorities replied that it was already forbidden in the Brazilian Constitution, which should be enough (France, 2017, p 162). During Lula's tenure as president commerce with the Middle East grew substantially. It was believed that any attempts to securitize the Tri-Border region might jeopardize trade relations (Brancoli, 2019).

Lula's successor, Dilma Rousseff, continued his policies. She opposed any use of force against the Islamic State, saying that it does not eliminate the causes of conflicts (Chwiej, 2016, p 191). However, terror attacks in Europe and the Middle East in 2015 together with pressure from the FATF, UN, Olympic Committee and the National Congress made Dilma Rousseff change her mind and decide that a new legislation was necessary (France, 2017, p 178). The former Minister of Defence and Minister of Public Security Raul Jungmann said in defence of creating the new anti-terror law that Argentina had previously not had any terrorist attacks but then Argentina:

...faced two attacks that killed and injured 300 people. Therefore the argument that we don't have a history of internal or external enemies is not valid today, in times of globalization and in times when Brazil wants to have a bigger international role and a seat in the UN Security Council (Jungman, quoted in France, 2017, p 240)

During the discussion about a new anti-terror law in 2015 many legislators claimed that Brazil already had all the legislation needed to combat terrorism (France, 2017, p 163). The Brazilian constitution from 1988 says that "repudiation of terrorism and racism" is one of the governing principles of international relations (Welsh, 2013, p 340). Terrorism financing was also already criminalised, but it fell under money laundering offences. Seven anti-laundering laws were in place with sentences ranging between 3-10 years imprisonment and a fine. The sentence can be increased if the offense has been done repeatedly or via a criminal organisation (Roysen & Vianna, 2020).

Brazil had long held the position that it did not need a specific terror-law as terrorism was already covered under criminal law. References were made to law 7170/83 which was enacted during the former military regime. It defined crimes against national security, political and social order including "acting with extreme violence against people or property with the aim of acquiring funds for the purpose of maintaining clandestine or subversive political organisations", furthermore, any "constructing, instituting or maintaining a military-like illegal organisation, of any kind with a fighting objective". Under this law several acts that may be viewed as terrorism are punishable, but terrorism is not explicitly defined (Welsh, 2013, p 340). However, this law was not incorporated in the 1988 Federal Constitution, so it has not been accepted by the new constitution (De Sousa, 2014, p 8). The Financial Action Task Force expressed doubts that this law would ever be used in practice and that it could at all be called an anti-terrorism law (De Sousa, 2014, p 8). After discussions

with various stakeholders and a tedious back and forth joust with the National Congress and then the senate, the law was finally approved. The law was passed through the Chamber of Deputies with urgency because of international pressure (France, 2017, p 18). This pressure prevented it from having to pass through 3 commissions that are usually mandatory for a new law to be passed (Batista, 2016, p 62).

The very popular former president, Lula da Silva was openly against the new anti-terror law, finding it to give the government “powers that are unnecessary and dangerous and subject to abuse” (Greenwald, 2016). In a 2016 interview Dilma Rousseff defended the action of approving the anti-terror legislation. She had vetoed all the items that according to her would make it possible to abuse the law to target social movements or political protests (Greenwald, 2016). She also stated that the law was “all about the Olympic Games” (Greenwald, 2016). 41 amendments had to be made until the law was finally approved in the National Congress and by the President (Batista, 2016, p 63; Greenwald, 2016). The majority of amendments came from the left, they wanted to lower the minimum sentencing and tighten the scope of the law (France, 2017, p 236). According to Joaquim Levy, the former Finance Minister, Brazil had to implement the anti-terrorist law of 2016 because of the Financial Task Force’s demands (Tales, 2016).

The importance for both Dilma and Lula of safeguarding the rights of social movements stems from their shared history as left-wing leaders during the military regime. Both had been members of the opposition that was targeted by the military dictatorship, and they were viewed and treated as terrorists. Dilma herself had been arrested and accused of terrorism in the 1970s and was tortured for 22 days and detained for almost three years (Lemos & Maciel, 2020). Her political activism started in the 1960s when she joined a left-wing group which organised armed resistance against the military dictatorship (Fellet, 2012). She first became a member of the organisation Workers Politics (Polop) and as she was an advocate of armed struggle against the dictatorship, she later joined the National Liberation Commando (Colina). The organisation merged with the People’s Revolutionary Vanguard (VPR). Dilma became a leader in the new organisation Armed Revolutionary Vanguard Palmares (Lemos & Maciel, 2020). As shown in appendix 1, VPR was responsible for 5 attacks that led to 2 fatalities and 1 injury.

### **The anti-terror law**

The law 13.260 defines terrorism as “the practice by one or more individuals of certain enumerated acts for xenophobia; discrimination; or prejudice in regard to race, color, ethnicity, or religion, when committed for the purpose of causing social or generalized terror and exposing persons, property, public space, or public safety to danger” (Soares, 2016).

Interestingly it does not require the act to be political. Something that scholars agree on as a key characteristic of terrorist attacks is that they are means to political ends (Hoffman, 2017, p 2; Neumann & Smith, 2008, p 6). Both the American and British governments allude to political purpose in their definitions of terrorism (Department of Justice, 2020).

The law introduced harsh punishments for terrorists’ activities, the minimum sentence when convicted of terrorism offences is 12 years in prison, with a maximum of 30. This also applies to terrorism financing offences (Soares, 2016). In the Brazilian Penal Code the minimum sentence for murder is 6 years (Batista, 2016, p 65).

Officials from the intelligence community were unanimous that this law would not change anything in regard to intelligence activities (France, 2017, p 179). The law does not extend the mandate of the (military) authorities responsible for counterterrorism (France, 2017, p 280). It just gives longer sentences and shows a commitment to deal with these issues (France, 2017, p 280). The former vice-president of ABIN has been critical towards the law as it does not include political motivation as a driving force for an act to be a terrorist act (France, 2017, p 278). The law explicitly states in article 2 that:

“O disposto neste artigo nao se aplica a conduta individual ou coletiva de pessoas em manifestacoes polticias, movimentos sociais...” (Batista, 2016, p 64).

“The provisions of this article do not apply to an individual or a collective in political manifestations, social movements...” (my translation).

Thus, the law forbids targeting political demonstrations and social movements. ABIN and other intelligence agencies are only allowed to conduct physical surveillance, human intelligence and other activities that do not encroach on privacy (Condeixa, 2015, p 713; De Souza, 2009, p 32). However, within a year after the law was passed several proposals for changing it were put forward, one of which was to allow targeting of social movements (France, 2017, p 281).



### **Criticism of the anti-terror law**

As we have already seen, the new anti-terror law was controversial and even divisive. After the law was adopted criticism has continued. This criticism has to be seen against two important background factors, namely the legacy of the military regime, and the distrust of the US especially under President Lula. The words “terrorist” and “terrorism” are overly sensitive as during the military dictatorship they were used to justify suspension of human rights and torture (Welsh, 2013, p 346). In the heated debate over the anti-terror law, fears were raised that it would target social movements and dissident thinkers, and infringe social liberties rather than protect them (Council On Hemispheric Affairs, 2014).

This connects with present practices of especially the Military Police. According to the Brazilian Constitution it is the Brazilian Military Police that oversee and maintain public order i.e. patrol and arrest. Amendment 3897 to the Brazilian Constitution in 2001 says that “the Armed Forces are deployed to guarantee law and order... it will fall on them, whenever necessary, to develop actions of ostensive policing... of preventive or repressive nature which is included in the constitutional and legal competence of the Military Police” (Decreto no 3897 2001, art 3 quoted in Samset, 2014, p 7). The Civil Police oversees investigations of crimes. The Military Police is an “ancillary force and reserve of the army” (Samset, 2014, p 5). Brazil’s Military Police are waging a war on drugs, where excessive use of lethal force is prevalent. The legal term “resistance followed by death” is in many cases used to describe killings by the police. These repressive tactics are commonly used in marginalised communities in Brazil (Amnesty International, 2015, p 6). The conduct of the Military Police has been highly questioned over the years, and some say that the police culture is extremely violent. Police have been discovered to plant weapons on innocent bystanders, force disappearances and commit torture (Garcia-Navarro, 2015). Extra judicial killings and police cover-ups are also common, and chronic police impunity is norm according to Human Rights Watch (Human Rights Watch, 2009). Furthermore, the level of corruption is high. The low confidence in the police has made residents hesitant to call the police in case of emergency, “the last person I would call if my house got broken into would be the police” (Alves & Evanson, 2011, p 121). Transparency International conducted a poll which found that 70% of the respondents felt that the police is either corrupt or extremely corrupt (Trevisi, 2013, p 54).

There are widespread fears that the new law will be directed at legitimate political and social movements (France, 2017, p 236). During the debate in the National Congress, Deputy Jandira Feghali from the Brazilian Communist Party said that “Brazil does not have any similar characteristics to any other country in the world, we do not have any terror organizations or terrorist acts. The criminal code already covers the majority of crimes... and we are here passing an anti-terrorism law, without having terrorism in Brazil, with open terms. that could criminalize political acts in Brazil” (France, 2017, p 239). Deputy Ivan Valente from the Socialism and Liberty Party said that “what will happen is that we will standardize sentences of 20 to 30 years for people that take part in any type of movement” (Ibid). Deputies from the Right also voiced their concerns that the law might be too broad, but they did not mention social movements or human rights organizations (France, 2017, p 245).

The Landless Workers’ Movement or the Movimento dos Trabalhadores Rurais sem Terra (MST) is the considered the largest and most dynamic of Latin America’s peasant movements (Petras & Veltmeyer, 2011, p 76). They are estimated to have a support base of 1,5 million people including around 100,000 “professional militants” that advocate a Marxist communist revolution (Welsh, 2013, p 339). Their mission is to fight for land reform and against injustice and social inequality in rural areas (MST, 2020). They invade private land, which often leads to violent clashes with landowners (Welsh, 2013, p 339). On April 17<sup>th</sup> 1996 the Military Police killed 19 MST members, so a violent history is evident (Domínguez, 2001, p. 100). On the fourth of August 2016 news broke out that 4 members of the MST had been jailed because of allegations of breaking the anti-terror law. This upset a lot of people who said that their fears had been realised, namely that the new terror law could be targeted against social movements (France, 2017, p 16). The MST has close ties to the Workers Party of Brazil, and actively worked to elect former President Lula da Silva (MST, 2010).

Anti-American sentiment has been quite strong in Brazil since the US backed the old military dictatorship with training, money, and intelligence (Weiner, 2008, p 323). In the 1990s the Brazilian National Congress blocked a Brazilian-US agreement on opening US satellite bases in Brazil, as they feared that Brazil would “lose sovereignty” to the United States (France 24, 2019). Anti-US demonstrations broke out in both Rio De Janeiro and São Paulo when the US invaded Iraq in 2003 (Skidmore et al., 2014, p 467). Some Brazilian officials have viewed the American involvement and interest in the Tri-Border region as a step to simply safeguard strategic and economic interests (Treveisi, 2013, p 49).

Such counter-reactions to American intervention is not only a Brazilian issue but a general problem for the US. Famed member of the Council of Foreign Relations in America, Richard Betts stated that “American activism to guarantee international stability is, paradoxically, the prime source of American vulnerability” (Eland, 1998, p 3). The pressure on Brazil to enact anti-terror laws is not either unique. In 2003, the US Ambassador to Trinidad and Tobago threatened with a possible reduction in US investment if an anti-terror law was not passed (Whitaker, 2007, p 1021). Some argue that in promoting and exporting anti-terror legislation, the US can stir up resentment where it did not exist previously (Whitaker, 2007, p 1030). Thus, the question of counterproductivity can be raised not only about Brazilian policies but also about American attempts to influence them.

### **Michel Temer (2016-2018) and Jair Bolsonaro (2019- )**

During the period of his interim presidency neither President Michel Temer nor the National Congress took any important actions or initiatives concerning anti-terrorism.

Bolsonaro made statements prior to his election, saying that “red outlaws will be banished from our homeland, either they go overseas or they go to jail. It will be a clean-up the likes of which has never been seen in Brazilian history”. He has also likened the MST to terrorists (Phillips, 2018). Jair Bolsonaro has defended the military regime’s actions and said that it was a mistake to torture people when they should have been killed. He also had a poster on his deputy office door saying that “whoever looks for bones is a dog” a reference to the search for people who disappeared during the military regime (Human Rights Watch, 2019). He reinstated the commemorations of the 1964 military coup, something that Dilma in 2011 ordered the Military to put an end to. He has said that the dictatorships in South America “pacified” the region (Human Rights Watch, 2019). During the impeachment process against Dilma Rousseff, deputy Jair Bolsonaro dedicated his yes vote to “the memory of Colonel Carlos Alberto Brilhante Ustra, the terror of Dilma Rousseff” (Barrucho, 2016).

A recent case involving two separate stances on terrorism concerns Cesare Battisti, an Italian man who was convicted in absentia for four murders in the 1970s. He was part of a terrorist group called “the Armed Proletarians for Communism”. Cesare found his way to Brazil, where Lula da Silva gave him refugee status (BBC News, 2015). Fast forward to October 2017, when Cesare was arrested trying to enter Bolivia with a large amount of undeclared cash, as his refugee status was about to be revoked by the Brazilian President Michel Temer (Reuters, 2017). Exactly one year later Jair Bolsonaro gets elected and he tweets that “Here I

reaffirm my commitment to extradite the terrorist Cesare Battisti, loved by the Brazilian Left... We will show the world our total reputation and commitment to the fight against terrorism. Brazil deserves respect!”. Jair Bolsonaro’s son Eduardo, who is also a politician, tweeted to Italy’s interior minister Matteo Salvini “Brazil is no longer a land of bandits. The ‘little gift’ is coming” (BBC News, 2019). Cesare Battisti is currently serving a life-sentence in a maximum prison on the Island of Sardinia (Ferraz, 2020).

Because of Bolsonaro’s hard stance against what he calls terrorism and others call social movements, the National Congress amended the mandate of the Council for Financial Activities Control so that they are not allowed to monitor terrorist financing. They feared that Bolsonaro’s government would use the counterterrorism law to target social activist’s data without first obtaining a judicial approval (Harris, 2020).

## Discussion

Based on this case study, I will discuss my two research questions.

### Why a new law?

1. Why has Brazil introduced its recent anti-terrorism legislation?

One of the few things that the three scholars on counterterrorism in Brazil, Lasmar, Furtado and Zuquete, agree completely on is that international pressure was the main reason why the new law was introduced (Zuquete, 2017, p 287; Furtado, 2015, p 72; Lasmar, 2019).

However, they provided no detailed evidence. Such evidence has been provided in this study. Essentially, it confirms their conclusion (France, 2017, p 18; Zaia, 2018, p 8; Tales, 2016). My study of the decision process also explains some of the peculiar features of this law. Its lack of a definition of terrorism and the absence of new tools for authorities result from the reluctance of politicians who have had bad experiences of misuse of government anti-terrorism polices during the military regime.

The pressure to have a new law came from abroad, mainly the Olympic Committee, FATF, UN and the United States Congress (France, 2017, p 178). The risk of being put on a list of countries deemed to have a high risk of financial instability was also a reason for starting the process of this legislation (Zaia, 2018, p 8).

There was not much domestic enthusiasm for the law. For the general population, terrorism is not much of an issue. The Left is negative because of fear that the law will target social movements and lead to the return of repressive measures like those that were seen during the military dictatorship (Welsh, 2013, p 337). The Right has tried to stay neutral as they do not want to be associated with the military dictatorship (Brancoli, 2019). The military did not see a need for the new law. In the words of the ABIN chief “the law does not change anything in our work” (France, 2017, p 280).

The relatively uncontroversial answer to the question “why Brazil introduced its new law gives rise to two follow-up questions. First, why was there strong international pressure directed at Brazil? The intentions of international decision-makers who were involved in this are difficult to find out and cannot be inferred from this study. However, two plausible factors should be mentioned. One is that they saw terror-financing as a crucial issue, Brazil’s large financial sector stood out as insufficiently controlled, which was a reason to give it high priority (Trevisi, 2013, p 11). Another factor may be that after 9/11, the US tried to create an

as broad coalition against terrorism as possible (Abbott, 2004, p 55). Due to circumstances in its history, Brazil had a different approach, and due to the country's importance in particular in Latin America this could have been considered as a big problem in Washington (De Souza, 2009, p 36).

The other follow-up question is why Brazil was sensitive to the international pressure. My study of the decision process provides indications of two factors that may have contributed to the sensitivity. One is the considerable financial pressure that was used, to make Brazil change its policy. Economic growth was a high priority, which made this type of pressure effective, especially after the economic downturn in 2013 (Silva, 2017). The other potential factor is Brazil's strivings, under several presidencies, to increase its international status and influence. Strivings to gain a permanent seat in the UN Security Council was one aspect of this; another was the large international sport events that were conceived as major national undertakings (Bruneau, 2007 p 7; Suparmanto, 2015, p 22; Greenwald, 2016). Criticism and pressure that threatened the country's chances to increase its international standing were most unwelcome, and concessions that reduced such conflicts were obvious solutions.

### **A counterproductive counterterrorist strategy?**

#### 2. Can this law be an example of a counterproductive measure against terrorism?

This must be discussed against the background of Brazil's particular history, especially the remaining strong role of the military, which is stronger than in most other democratic societies (Silva, 2001, p 74). In the process of adopting the law 13.260 in 2016, increased attention was directed at potential international terrorism. Increased concern about terrorism among the public can be counterproductive by leading to increased sensation of fear (Mueller, 2006, p 157; Neumann & Smith, 2008, p 9). Currently, this effect is probably not large in Brazil, since the country has not experienced much of international terrorism attacks.

So how big is the risk of counterproductive effects of counterterrorism? As we have seen counterterrorism laws have to be analysed in relation to the national context, as there is no one size fits all solution (Welsh, 2013, p 346). In our case, Brazil's special history is very important. Relatively recently, the country had a military dictatorship, the military still has a strong standing and civilianization is not completed (Silva, 2001, p 74; Harris & Schipani, 2020). The Military Police's highly questionable conduct and heavy-handed tactics together with low confidence is problematic (Alves & Evanson, 2011, p 121).

This combines to make the political left very sensitive to government overreaction. The lack of trust is worsened by political polarization (France, 2017, p 239; BBC News, 2019). The left is still connected with leaders who were part of armed groups that fought against the military regime and were hunted by its security agencies. This background in violent organisations can make the step to violent action smaller than in other countries (Fellet, 2012). The MST is such an organisation, and the recent jailing of 4 of its members could lead to more violent clashes (France, 2017, p 16; Welsh, 2013, p 339). All this adds up to a higher risk in Brazil than in many other countries that counterterrorist measures can be counterproductive. We should remember that during the military dictatorship the communist leader Carlos Marighella said that being called a terrorist was “an honour to any citizen” (Hoffman, 2017, p 21). A recurrence of such attitudes could easily escalate into violent conflicts.

The new law can possibly “divide communities and change people’s attitudes towards each other which terrorists hope to engender and exploit above all others” (Neumann & Smith, 2008, p 58). Public concern and fear can also increase in the future, if terror attacks become more frequent in Brazil. The law introduces a very wide definition of terrorism, which can lead to people being classified as terrorists that would not have been classified in that way without this law. Such classification can contribute to an escalation of violence. Some argue that a lower threshold for state violence will make it more frequent (Weizman, 2017, p 252). This is in line with Furtado’s argumentation (Furtado, 2015). In a country where the police kills 14 people on average per day, some would say that state terrorism is already present (Embury-Dennis, 2018). If that categorization is accepted, one would conclude that state terrorism is a bigger problem than international terrorism, in terms of the number of people killed and perhaps even in terms of fear among the population.

The new law has already been perceived as a threat by domestic groups that are currently not prone to violence, but could be the basis for future recruitment to terrorism. If ongoing attempts to remove the clause that excludes social movements are successful, then that can increase this risk and provoke recruitment to terrorism from some currently non-violent groups (France, 2017, p 281). This law might also counter-act the process of civilianization in Brazil, which has had some backlash through the increased political involvement of the military during the current presidency. More active or reserve members of the military are now in the executive branch than during the military regime (Harris & Schipani, 2020).

All this indicates that the law might increase the risk of a development of terrorism in Brazil, a country that has not yet experienced much international terrorism. Importantly, the Military Police already have a very extensive mandate, or at least behave as if they did (Human Rights Watch, 2009). If the law would lead the Military Police to target new groups, such as Muslims or political groups they have not yet targeted, then that could lead to a very dangerous escalation. However, it should be noted that the law does not extend the formal mandates of the (military) authorities responsible for counterterrorism (France, 2017, p 280). The use of interception devices or infiltration for intelligence gathering purposes is not legal (Lasmar, 2019).

Many Brazilian legislators think that “the social harm that could potentially be caused by anti-terror laws far surpasses any damage that may be caused by a potentially ‘unlikely’ terrorist attack on Brazilian Soil” (Lasmar, 2019). They have many different reasons for this. A popular sentiment in congress and within the Brazilian-Muslim communities is that a counterterrorism policy or legislation will stigmatize the Brazilian-Muslim Community. Some argue that it is likely that anti-terror measures can negatively impact the tourist industry (Zaia, 2018, p 7; Lasmar, 2019). Others go as far as stating that the “mere existence” of an anti-terror law would be seen as a Brazil supporting the United States in the Global War on Terror and that terrorists groups would then target Brazil because of its supposed alignment with the United States (Lasmar, 2019). In the Brazilian context this is line with what Furtado argues (Furtado, 2015). The extensive critical discussion of the new law before it was enacted shows that Brazil was very conscious of the potential of the law becoming counterproductive. The actual formulations in the law, for instance, the clause protecting social movements and the conspicuous absence of new mandates or tools for counterterrorist agencies, are largely the result of attempts by politicians to avoid counterproductive effects of the law.



## Conclusion

In this thesis I have answered two questions

1. Why has Brazil introduced its recent anti-terrorism legislation?
2. Can this law be an example of a counterproductive measure against terrorism?

The reason why Brazil introduced the new anti-terror law, despite not suffering from much international terrorism, was pressure from foreign organizations and countries. Unless Brazil complied with the demands its standing in the world could be weakened. The law was even needed to avoid being blacklisted as a financially unstable country (Zaia, 2018, p 8).

This law does not give the security services any additional legal tools to combat terrorism. Neither does it introduce any infringements on civil liberty that is commonly referred to as being possibly counterproductive (Lasmar, 2019; France, 2017, p 280; Furtado, 2015, p 75; Weizman, 2017, p 133; McCauley, 2017, p 263). It does however give judges the possibility of handing out very long prison sentences (Soares, 2016). The lack of a precise definition of terrorism opens it up for interpretations and possible abuse.

These steps are not drastic or very large, but against the background of Brazil's history they may still have problematic consequences. Several factors connected with the country's recent past, such as the unusually strong role of the military in issues of domestic order and the Left's connections with people who fought in armed resistance groups and were targeted by the former military regime, make the risk of counterproductive effects of counterterrorism particularly troublesome in Brazil. I conclude that Brazil's anti-terrorism legislation is not per se counterproductive, however patterns of military actions used in the past can return and cause it to be so. For instance, it can provoke actions of a type that the Military Police are already using in its fight against drug gangs, which can be counterproductive if applied to other groups that are labelled as "potential terrorists".

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## Appendix 1

Terror attacks in Brazil from 1970-2018 according to data from The Global Terrorism Database. For details, see section “Defining Terrorism” and “Data on terrorist attacks”

<i>Suspected group</i>	<i>Number of attacks</i>	<i>Confirmed killed</i>	<i>Confirmed injured</i>
<b>Left Wing</b>			
Landless Peasants Movement (MST)	5	5	0
Left-wing terrorists (suspected)	1	0	0
Left-wing demonstrators	1	0	2
Popular Revolutionary Vanguard (VPR)	5	2	1
Civil Servants and Unionists	1	0	2
Strikers	3	0	1
Union Members	2	0	2
Brazilian Democratic Mobilization Party (PMDB) (Suspected)	1	0	0
<i>TOTAL</i>	<i>19</i>	<i>7</i>	<i>8</i>
<b>Right Wing</b>			
Neo-Fascist extremists	2	0	2
Neo-Nazi extremists	3	0	0
Skinheads	1	0	0
Death Squad	11	58	0
Death Squad (suspected)	2	0	0
Individuals claimed to be policemen	1	0	0
Right-wing Terrorists	1	0	0
Right-wing extremists	1	0	0
Right-wing extremists (Suspected)	2	0	0
Communists Hunters Command (CCC)	2	0	0
Communists Hunters Command (CCC) (Suspected)	1	0	0
Brazilian Anti-Communists Alliance (AAB)	4	0	1
<i>TOTAL</i>	<i>31</i>	<i>58</i>	<i>3</i>

<b>Connected to International Organisations</b>			
Patria Nueva (New Country)	3	1	3
Commando Delta	2	1	1
Black September	2	0	0
Shining Path	1	0	0
Pro-Palestinian extremists	1	0	0
Palestinian Support Group	1	0	0
<i>TOTAL</i>	<i>10</i>	<i>2</i>	<i>4</i>
<b>Tribal</b>			
Terena Indians	2	0	0
Korubo Tribe	1	1	0
Pataxo Indians	1	0	0
Guaycaipuro Indians	1	0	0
Pareci Indians	1	2	0
Krikapi Indians	1	0	0
Guajajara Tribe	1	0	0
Amazonas Liberation Front	1	0	0
<i>TOTAL</i>	<i>9</i>	<i>3</i>	<i>0</i>
<b>Criminals</b>			
Narco-Terrorists	1	3	0
Narco-Terrorists (Suspected)	1	0	0
Gunmen	2	6	8
Commando Vermelho (Red Command)	1	0	0
Armed Gold Miners	1	0	2
Chinese Mafia (Suspected)	1	1	1
First Capital Command (PCC) (Suspected)	1	0	0
<i>TOTAL</i>	<i>8</i>	<i>10</i>	<i>11</i>
<b>Unknown &amp; Others</b>			
Unknown	172	87	125
Farmers	1	0	0
<i>TOTAL</i>	<i>173</i>	<i>87</i>	<i>125</i>
<i>GRAND TOTAL</i>	<i>250</i>	<i>167</i>	<i>151</i>