

# Brazil

	2016	2017		
<b>Internet Freedom Status</b>	<b>Partly Free</b>	<b>Partly Free</b>	<b>Population:</b>	207.7 million
Obstacles to Access (0-25)	8	8	<b>Internet Penetration 2016 (ITU):</b>	59.7 percent
Limits on Content (0-35)	7	8	<b>Social Media/ICT Apps Blocked:</b>	Yes
Violations of User Rights (0-40)	17	17	<b>Political/Social Content Blocked:</b>	No
<b>TOTAL* (0-100)</b>	<b>32</b>	<b>33</b>	<b>Bloggers/ICT Users Arrested:</b>	Yes
			<b>Press Freedom 2017 Status:</b>	Partly Free

\* 0=most free, 100=least free

## Key Developments: June 2016 – May 2017

- Following orders to block popular messaging service WhatsApp in 2015 and early 2016, a new order temporarily blocked WhatsApp in July 2016 for not turning over encrypted communications sought in a criminal investigation (see “**Blocking and Filtering**”).
- Requests to remove content deemed to be injurious to candidates surged in the lead-up to municipal elections in October 2016. A judge also threatened to temporarily block Facebook if it did not comply with a request to remove a satirical page parodying a mayoral candidate; Facebook removed the page and the block was not implemented (see “**Content Removal**”).
- Police raided the home of a blogger and took him in for questioning in an attempt to uncover the sources of a story in which he revealed that police were going to question former Brazilian President Luiz Inácio Lula da Silva in relation with a corruption probe (see “**Prosecutions and Detentions for Online Activities**”).

## Introduction

Brazil's internet freedom environment declined this year as restrictions imposed on content deemed to be injurious to electoral candidates in the lead-up to municipal elections resulted in a surge of removal requests.

Despite boasting some of the most progressive and comprehensive legislation on digital rights, Brazil's "Internet Constitution" has been used as a key argument for recurring suspensions of WhatsApp. Following three orders to block popular messaging service WhatsApp in 2015 and early 2016, a new blocking order was issued in July 2016 for not turning over requested information sought in a criminal investigation. In response, bills in Congress proposed to restrict the power of judges to order blockings of such a magnitude and public hearings took place in the Brazilian Supreme Court.

Internet freedom in Brazil remains constrained by violence against independent bloggers, criminal defamation laws, restrictions on anonymity, and restrictive limits on content related to elections. Given restrictions imposed by the electoral law, municipal elections in October 2016 saw an expected rise in content removal requests. Most company transparency reports noted a rise in government requests for personal information and for the removal of content deemed defamatory against politicians and candidates. In October, an order also threatened to block Facebook if it did not comply with a request to remove a satirical page parodying a mayoral candidate.

The massive investigation into political kickbacks on contracts called "Operation Car Wash" (Lava Jato) garnered intense reactions on social networks during the report's period of coverage, also resulting in online leaks of confidential conversations. In one case, an online blogger was taken in for compulsory questioning after reporting that police were going to question former Brazilian President Luiz Inácio Lula da Silva in relation with the probe.

## Obstacles to Access

*Internet and mobile penetration rates have increased steadily in Brazil, but significant regional disparities in access persist. In July 2016, millions of users were once again affected by a temporary block of messaging service WhatsApp—the most popular communication app in Brazil.*

### Availability and Ease of Access

Key Access Indicators		
Internet penetration (ITU) <sup>a</sup>	2016	59.7%
	2015	59.1%
	2011	45.7%
Mobile penetration (ITU) <sup>b</sup>	2016	119%
	2015	127%
	2011	119%
Average connection speeds (Akamai) <sup>c</sup>	2017(Q1)	6.8 Mbps
	2016(Q1)	4.5 Mbps

<sup>a</sup> International Telecommunication Union, "Percentage of Individuals Using the Internet, 2000-2016," <http://bit.ly/1cblxxY>

<sup>b</sup> International Telecommunication Union, "Mobile-Cellular Telephone Subscriptions, 2000-2016," <http://bit.ly/1cblxxY>

<sup>c</sup> Akamai, "State of the Internet - Connectivity Report, Q1 2017," <https://goo.gl/TQH7L7>

Despite economic growth in recent years, Brazil's access rates remain below average compared to many North American and European countries. According to the Center of Studies on Information and Communication Technologies (CETIC), some 50 percent of households did not have access to the internet as of June 2016.<sup>1</sup> Various obstacles continue to prevent many households from accessing the internet, such as high prices — a problem that extends to fixed broadband, wireless, and 3G and 4G technologies — and persistent social inequalities. A significant digital divide and disparities in infrastructure are evident between various geographical regions, as well as between urban and rural areas.

Internet is increasingly being used “on the move” on the street, bus or subway, according to the most recent survey published by the Center of Studies on Information and Communication Technologies (CETIC) in 2016. The use of free public access centers has also increased, especially given the greater availability of free Wi-Fi hotspots and public policies promoting free internet access in public spaces such as squares. While national wireless networks are still small compared to other countries, ANATEL registered over one million hotspots in Brazil as of August 2016.<sup>2</sup>

Mobile penetration has grown significantly over the last few years and mobile broadband connections have quickly become a dominant means for Brazilians to access the internet. However, a slight drop in the number of mobile subscriptions over the past two years has been attributed to Brazil's economic crisis and stricter credit policies imposed by operators.<sup>3</sup> The supply of smartphones with 4G services has significantly increased since its introduction in April 2013, but 4G availability still scores poorly compared to the global and South American average.<sup>4</sup> As of December 2016, nearly 115 million users (approximately 48 percent) had 3G services.<sup>5</sup> According to the consultancy company Teleco, Brazil had 60 million active 4G subscriptions by December 2016, representing an increase of approximately 114 percent compared to January 2016.<sup>6</sup> Such advanced internet services, however, are heavily concentrated in wealthy urban centers such as São Paulo.<sup>7</sup>

Brazil's federal government has been implementing a number of internet expansion and improvement programs since 2010, including the National Broadband Plan (Plano Nacional de Banda Larga or PNBL).<sup>8</sup> In 2017, the Ministry of Science, Technology, Innovation and Communications announced that the National Broadband Plan was under review, launching a public consultation for a new “National Connectivity Plan” in the latter part of the year. The new plan aims to expand access to underserved areas and increase fixed and mobile broadband infrastructure in the country.<sup>9</sup> In May 2017, Brazil also launched its first defense and strategic communications

1 Center of Excellence in Information and Communication Technologies (CETIC), “Proporção de domicílios com Internet” [Percentage of Households with Internet Access], November 2015–June 2016, <http://bit.ly/2orrwXU>; CETIC, “No Brasil, 60% das casas ainda não têm internet” [In Brazil, 60 percent of households still do not have internet], July 1, 2013, <http://bit.ly/1jbuXiH>

2 Teleco, “Hot-spots Wi-Fi no Brasil” [Wi-Fi hotspots in Brazil], August 2016, <http://bit.ly/2dLKJAo>

3 “Brazil loses mobile subscribers for sixth month in a row,” *Telecompaper*, January 13, 2016, <http://bit.ly/2c5NqL4>

4 OpenSignal. State of Mobile Networks: Brazil (January 2017). <http://bit.ly/2r2VhDZ>

5 Teleco, “Estatísticas de Celulares no Brasil,” [Statistics on Mobile Phones in Brazil], <http://bit.ly/1w6LlAl>

6 Teleco, “4G: 4ª Geração de Celulares no Brasil” [Fourth Generation of Cellphones in Brazil], December 2016, <http://bit.ly/2ddq2RO>

7 “Cidade de SP é o 5º maior mercado da América do Sul, diz Fecomercio” [São Paulo is the Fifth Largest Market in South America, Says Fecomercio], *O Globo*, January 1, 2014, <http://glo.bo/1JqLYzg>

8 Ministry of Communications, “Programa Nacional de Banda Larga” [National Broadband Plan], News release, May 25, 2015, <http://bit.ly/UJ4JY6>; “Em 2018, 70% dos brasileiros terão acesso à banda larga” [In 2018, 70 percent of Brazilians will have access to broadband], *Portal Brasil*, October 22, 2015, <http://bit.ly/2bPJzpi>

9 Rafael Bucco, “MCTIC Opens Consultation on the National Plans of Connectivity (Portuguese),” *Tele.Sintese*, October 18, 2017, <http://www.telesintese.com.br/mctic-abre-consulta-sobre-o-plano-nacional-de-conectividade/>

satellite, with the aim of providing secure communication channels for defense purposes, while also boosting broadband capacity.<sup>10</sup>

The government estimates that 30 million individuals gained broadband access since the adoption of PNBL in 2010.<sup>11</sup> But some specialists have criticized these figures; after almost four years, only 1.8 million (7.9 percent) of the 23 million fixed broadband subscriptions were contracted through PNBL.<sup>12</sup>

## Restrictions on Connectivity

The government does not place limits on bandwidth, nor does it impose control over telecommunications infrastructure. There have been no reported instances of the government cutting off internet connectivity during protests or social unrest. On July 19, 2016, however, a judge's order briefly suspended messaging service WhatsApp, following two temporary shutdowns in December 2015 and again in May 2016, after WhatsApp's parent company Facebook was unable to comply with information requests as part of criminal investigations (see "Blocking and Filtering").

In February 2016, the National Agency for Telecommunications (ANATEL) issued an administrative act authorizing the Army's cyber defense section to use radio-communication signal blockers (jammers) in the Olympics to maintain law and order. Civil society organizations expressed concerns that such equipment could be used to block internet and cell phone signals during future street manifestations, on the bases of legal institutes like law and order guarantee or the antiterrorism law.<sup>13</sup>

Most of the backbone infrastructure for the internet is privately owned in Brazil. In 1998, the state-owned company Embratel, which was responsible for building the internet backbone, was privatized and acquired by the U.S. company MCI; it was later acquired by the Mexican telecom América Móvil in 2003. Over the past decade, private backbone infrastructure, such as that of Embratel, GVT and Oi, has expanded in Brazil. With the PNBL, Brazil was expected to expand government-owned infrastructure — including underutilized fiber optics — to allow for low-cost connections.<sup>14</sup>

Internationally, undersea cables connect to Brazil from North America and Europe. In April 2017, the Spanish and Brazilian governments confirmed plans to build the first undersea fiber optic cable linking Brazil to Europe to Brazil.<sup>15</sup> Some of the impetus for building these connections is related to a desire to avoid reliance on U.S. infrastructure after revelations of pervasive U.S. spying on Brazilians

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10 "First Satellite Controlled by Brazil Launches Successful (Portuguese)," *Valor*, May 4, 2017, <http://www.valor.com.br/brasil/4958144/primeiro-satelite-controlado-pelo-brasil-e-lancado-com-sucesso>

11 "Em 2018, 70% dos brasileiros terão acesso à banda larga" [In 2018, 70 percent of Brazilians will have access to broadband], *Portal Brasil*, October 22, 2015, <http://bit.ly/2bPjzpi>

12 Luciana Bruno, "Programa de banda larga se aproxima do fim cheio de críticas," [Broadband program nears end with criticism], *Exame*, September 30, 2014, <http://abr.ai/1QyPXdC>

13 João Paulo Vicente, "Como as Olimpíadas ajudaram o Brasil a aumentar seu aparato de vigilância social" [How the Olympics helped Brazil increase its social surveillance apparatus], *Více*, June 27, 2016, <http://bit.ly/2yHBKNd>

14 "Brasil Programa Nacional de Banda Larga" [Brazil's National Broadband Program], *Tech in Brazil*, October 17, 2014, <http://bit.ly/1Vb2cvi>

15 "Spain, Brazil Plan Subsea Fiber Optic Cable by 2019," Reuters, April 24, 2017, <https://www.reuters.com/article/spain-brazil-telecoms/spain-brazil-plan-subsea-fiber-optic-cable-by-2019-idUSL1N1HW1VO>

in 2013,<sup>16</sup> although there are still ongoing projects related to the construction of more cables connecting Brazil to the United States<sup>17</sup>

In 2004, the Brazilian Internet Steering Committee (CGI.br) launched an initiative called PTT Metro to create internet exchange points (IXPs) across Brazil, starting with their first IXP in São Paulo. Currently, Brazil has at least 25 IXPs installed in the country.<sup>18</sup>

## ICT Market

Although there are no significant legal or economic barriers for companies competing in the ISP, mobile, or digital technology sectors, the Brazilian ICT market is highly concentrated. As of April 2017, three large private companies — Oi, Claro and Vivo (Telefônica Brasil) — represented over 82 percent of the country's broadband market.<sup>19</sup> According to the most recent data regarding Brazil's mobile market in April 2017, four large private companies — Vivo, TIM, Claro, and Oi — held 98 percent of the market.<sup>20</sup> Such high market concentration could make it very difficult for other providers such as Algar and Nextel to compete in the mobile sector.<sup>21</sup>

In January 2014, the Brazilian competition authority approved the merger of Oi and Portugal Telecom into CorpCo. This merger was completed in 2015 and ranked CorpCo as the leading telecommunication company in Portuguese-speaking countries worldwide.<sup>22</sup> Also in 2014, the acquisition of Vivendi's GVT by Telefônica Brasil resulted in a merger of two of the country's larger broadband services — GVT and Vivo — further contributing to market concentration.<sup>23</sup> In June 2016, Oi filed for bankruptcy protection and has struggled to maintain the quality of its services.<sup>24</sup>

In March 2017, the Senate approved a bill prohibiting data caps on fixed broadband (PLS 174/2016), and the project then proceeded to the House of Representatives.<sup>25</sup> The bill had not yet been approved by mid-2017. An announcement in March 2016 that ISPs would impose data caps on broadband internet had caused uproar among users, politicians and internet-dependent businesses.<sup>26</sup>

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16 Anna Edgerton and Jordan Robertson, "Brazil-to-Portugal Cable Shapes Up as Anti-NSA Case Study," *Bloomberg Business*, October 30, 2014, <http://bloom.bg/1gOGiDz>.

17 Angelica Mari, "Brazil-US undersea cable suffers delays," *ZDNet*, December, 16, 2016, <http://zd.net/2rC56Yb>; "Seaborn Networks' Seabras-1 subsea cable system between the USA and Brazil is ready for operations," Press Release, September 8, 2017, <http://bit.ly/2zF4w13>

18 Latin America and Caribbean Network Information Center, "Internet Exchange Points en América Latina y Caribe," <http://bit.ly/1V9O79Q>

19 Teleco, "Seção: Banda Larga—Market Share de Banda Larga no Brasil," [Section: Broadband—Market Share of Broadband in Brazil], <http://bit.ly/1ix3MhE>

20 Teleco, "Telefonia Celular—Operadoras de Celular" [Cellular Telephony—Cellular Operators, April 2017], <http://bit.ly/1ix42gx>

21 Teleco, "Operadoras de Celular- April 2017" [Cellular Operators, April 2017], <http://bit.ly/1cfEPkY>

22 "Brazil competition watchdog approves Oi, Portugal Telecom merger," Reuters, January 14, 2014, <http://reut.rs/1Ov29ys>

23 "Anatel aprova compra da GVT pela Vivo (e o que isso muda)" [Anatel approves purchase of GVT by Vivo, and what this changes], *Technoblog*, September 2014, <http://bit.ly/2bQCbVX>

24 Lais Lis, "Sob risco de intervenção, Oi mantém nível de qualidade do serviço, diz Anatel," G1, April 6, 2017, <https://glo.bo/2imNn4X>

25 "Senado aprova projeto que proíbe limitação de dados na internet fixa" [Senate Approves Bill Prohibiting Data Limits for Fixed Broadbands], *Senado Notícias*, March 1, 2017, <http://bit.ly/2n2BQlv>

26 Angelica Mari, "Brazilians protest against fixed broadband data cap," *ZDNet*, April 13, 2016, <http://zd.net/2c4dCGR>

## Regulatory Bodies

Two regulatory agencies oversee Brazilian ICTs: the Brazilian Agency of Telecommunications (ANATEL) and the Administrative Council for Economic Defense (CADE), an antitrust agency that is focused on reviewing mergers and anticompetitive practices in telecommunications markets.<sup>27</sup> The government also created the Brazilian Internet Steering Committee (CGI.br) in 1995, a multi-stakeholder independent organization in charge of coordinating and integrating all internet service initiatives in Brazil, as well as promoting technical quality, innovation, and the dissemination of services. Provisions in Marco Civil mandate that the government consult with CGI.br, and in various instances directly involve the Committee, in policy-making and implementation of Marco Civil processes.<sup>28</sup>

ANATEL is administratively and financially independent, and not hierarchically subordinate to any government agency. Its decisions can only be appealed in courts. From the Ministry of Communications, ANATEL has inherited the powers of granting, regulating, and supervising telecommunications in Brazil, as well as much of its technical expertise and other material assets. In 2016, ANATEL initially backed policies establishing data limits on home broadband internet, but backtracked in the midst of public criticism (see “ICT Market”).

CGI.br is formed by elected members from government, the private sector, academia, and nongovernmental organizations. CGI.br’s contributions include comprehensive and reliable annual reports on internet use in Brazil, funding for internet governance-related research, and the promotion of conferences such as the annual Brazilian Internet Governance Forum, and the international Net Mundial conference, which was organized in Brazil in 2014.<sup>29</sup> In June 2009, CGI.br declared the “Principles for the Governance and Use of the Internet,” which include the goals of online freedom, privacy, human rights, and net neutrality as a base for the Brazilian information society.<sup>30</sup> Many of these principles were adopted into Brazilian law through the Marco Civil in 2014.

In August 2017, outside of the report’s coverage period, the government proposed a public consultation to significantly change CGI.Br’s representation and election model. The public consultation sparked criticism as it was announced without any prior dialogue with the multistakeholder community or even other members of the Steering Committee, and under the suspicion that the ultimate goal was to increase the government’s clout over the CGI and to allow for a revision of the net neutrality rules in the Marco Civil, most likely in favor of telecom companies.<sup>31</sup>

## Limits on Content

*Repeated orders to block WhatsApp, including one in July 2016, resulted in two legal actions now*

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27 Vinicius Marques de Carvalho, “Brazil: CADE,” *The Antitrust Review of the Americas 2014* (London: Global Competition Review, 2014), <http://bit.ly/1LG4xjL>.

28 Marco Civil, Art. 24, II.

29 For the outcomes of Net Mundial 2014, see: CGI, “Cadernos CGI.br | Declaração Multissetorial do NETmundial,” January 28, 2015.

30 CGI.br, “Principles for the Governance and Use of the Internet,” January 28, 2015, <http://bit.ly/2bREEnM>.

31 Coalizão Direitos na Rede. “On the attacks of the Temer government on the Internet Steering Committee in Brazil,” August 8, 2017, <http://bit.ly/2yuN6DC>; Adam Segal, “Brazil’s Internet is under attack, again,” Council on Foreign Relations, August 14, 2017, <http://on.cfr.org/2wbhBO2>.

*pending in the Brazilian Supreme Court. Brazil's electoral law once again impacted online content removals in the lead-up to municipal elections in October 2016.*

## Blocking and Filtering

There are no proven indications that Brazilian authorities are filtering messages or engaging in widespread blocking online. Brazilians freely gather and disseminate information via the internet and mobile phone technologies. They have access to a wide array of national and international news sources, blogs, social networking platforms, and citizen journalism, the latter of which has proliferated over the past years.

Social networks, communication apps, and video-sharing platforms such as Facebook, Twitter, YouTube, Vimeo and Vevo are — for the most part — freely accessible and widely used in Brazil. However, judges have repeatedly asked telecom companies to temporarily block access to WhatsApp for failing to comply with information requests in criminal investigations. In July 2016, a judge from Duque de Caxias ordered the nationwide block of WhatsApp for not complying with a request to monitor encrypted communications. The shutdown, based on Article 12 of the Brazilian Internet Civil Rights Framework, lasted for approximately four hours before the order was overturned by Brazil's Supreme Court.<sup>32</sup>

This was the fourth decision to suspend the application and the third to be implemented, following two temporary shutdowns in December 2015 and May 2016.<sup>33</sup> Another order issued in February 2015 was suspended and the application was not blocked.<sup>34</sup> WhatsApp has argued that “we cannot provide information we do not have.” Especially since expanding end-to-end encryption for all users' communications in April 2016, WhatsApp has insisted that such requests to turn over information are technically impossible.<sup>35</sup>

The WhatsApp blockings resulted in two legal actions currently pending in the Brazilian Supreme Court, which held its first public hearings in June 2017 to collect position papers and statements from governmental bodies, NGOs, academia.<sup>36</sup> Both actions were still pending as of mid-2017:

- On the one hand, a claim of non-compliance with a fundamental precept (Arguição de Descumprimento de Preceito Fundamental) argues that the decisions to block WhatsApp were illegal because they breached the right to communication and disproportionately affected millions of consumers.<sup>37</sup>
- On the other hand, a direct unconstitutionality action (Ação Direta de Inconstitucionalidade)

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32 InternetLab, Bloqueios.info, “WhatsApp Case IV - Noncompliance with judicial requests for user data,” July 19, 2016, <http://bit.ly/2qXDFi>.

33 Rafael Barifouse, Fernando Duarte, Guilherme Barrucho, “Por que o bloqueio do WhatsApp não vingou – e como isso afetará a briga entre empresas de internet e Justiça” [Why the blocking of WhatsApp did not succeed – and how this will affect the fight between internet companies and Justice], *BBC Brasil*, December 17, 2015, <http://bbc.in/1mbcOmp>; “WhatsApp Ordered Blocked Again in Brazil Over Data Dispute,” *Bloomberg*, May 2, 2016, <http://bloom.bg/1rsCA8y>.

34 “Juiz do Piauí determina suspensão do WhatsApp no Brasil,” [Judge in Piauí decides to suspend WhatsApp in Brazil], *Folha de S. Paulo*, February 25, 2015, <http://bit.ly/2bA4a1F>.

35 Jan Koum (CEO and co-founder of WhatsApp), Facebook post, May 2, 2016, <http://bit.ly/2bzZ8zf>. Accessed May 30, 2017.

36 “STF has defined who are the participants for the public hearing about blocking of WhatsApp and the Marco Civil Law,” *STF Notícias*, April 24, 2017, <http://bit.ly/2sTQNfu>.

37 Paula Pecora de Barros, *ADPF 403 in STF: Are WhatsApp Blockings Constitutional?* InternetLab, Bloqueios.info. <http://bit.ly/2ogrBSh>.

argues that provisions invoked by lower court judges as basis for the blockings are illegal under Brazilian constitutional law. Article 12 of the Brazilian Internet Civil Rights Framework notably establishes sanctions for violations of Articles 10 and 11, which require application providers to disclose the content of private communications under court orders. Critics argue that a “temporary suspension” would violate the same right to communication established by the Constitution. Several research institutes, scholars, NGOs and specialists have noted that the Brazilian Internet Civil Rights Framework did not allow for the interpretations made by judges in the blocking cases. They argued, for instance, that remedies provided by Article 12 do not allow for the entire blocking of sites and applications, but only of data collection and treatment activities mentioned in Article 11.<sup>38</sup>

Legal restrictions on certain content deemed to be injurious to electoral candidates in the run-up to elections also resulted in a threat to block Facebook during this period (see “Content Removal”). In October 2016, a judge from Joinville ordered to temporarily suspend Facebook.com for failing to comply with a court order requesting the removal of a satirical page that poked fun of a mayoral candidate. Facebook removed the page and filed an appeal. In October 2016, the Regional Electoral Tribunal ruled that the blocking was an inadequate and disproportionate measure. While it lifted the blocking, it maintained the decision to remove the page and impose a daily fine on the company for its delay in complying with the preliminary injunction.<sup>39</sup>

## Content Removal

While the enactment of Marco Civil has been hailed as a progressive landmark for internet governance, certain legal provisions criminalizing defamation and blasphemy and restricting speech around elections continue to put some constraints on internet freedom online. Brazilian cybercrime legislation also limits certain online content. The “Azeredo Law” of November 2012 establishes the creation of specialized teams and sectors structured by the judicial police to fight against cybercrimes and to take down racist content.<sup>40</sup>

Brazil’s electoral law once again impacted online content removals in the lead-up to municipal elections in October 2016. Brazil’s controversial Electoral Act of 1997 has faced intense scrutiny particularly because its broad terms harbor the potential to constrain freedom of expression both online and offline as it continues to limit certain content deemed to be injurious to candidates during electoral periods. An amendment to the law in 2013 created new and specific restrictions to online content concerning candidates and political parties.<sup>41</sup>

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38 Felipe Mansur, Bloqueios.info - “ADI 5527 and app blocks: a problem in the wording of the law or in its interpretation?” *InternetLab*, <http://bit.ly/2oGuGqZ>

39 Bloqueios.info, Facebook Case II - Non-Compliance with judicial requests for content removal, October 5, 2016, *InternetLab*, <http://bit.ly/2qX6l3Phhttp://bit.ly/2dZZQtb>

40 Law 12.735 of November 30, 2012, <http://bit.ly/1sUwjhz>

41 Restrictions include liability of servers with regard to early online campaigning; unsubscribe mechanisms for electoral advertising; elevation of fine due to violations of online electoral conduct; and the criminalization of hiring people in order to perform online bashing of candidates. See: Law 12.891 of 2013, <http://bit.ly/1my5W1I>



Between July and December 2016, Google received 66 removal requests under the electoral law, along with 189 requests for defamation and 124 requests for privacy and security.<sup>42</sup> Facebook's Transparency Report indicates that 1,708 pieces of content were restricted between July and December 2016, "in compliance with orders from local courts related to civil, criminal, and electoral proceedings."<sup>43</sup> The number of removal requests issued to Twitter also increased to levels similar to those seen during presidential elections in late 2014, although just 15 tweets were reportedly withheld for content which was either defamatory or violated electoral law.<sup>44</sup>

The Brazilian Association for Investigative Journalism (ABRAJI) documented 606 requests by politicians, political parties or the public prosecutor's office to censor content on websites, newspapers, radio or TV during the election campaign period in 2016, setting record highs compared to previous elections.<sup>45</sup> This included 44 blogs and 22 news websites. While these figures may not encompass all cases, ABRAJI registered 237 removal requests directed at Facebook, and 40 at Google.<sup>46</sup> Judges ruled in favor of content takedown in 56 percent of the 606 requests.<sup>47</sup>

Other attempts to remove online content also sparked controversy during the coverage period of this report. In February 2017, a judge in Brasília asked prominent newspapers *Folha de S.Paulo* and *O Globo* to remove articles from their websites about a hacker convicted of attempting to extort Brazil's first lady, claiming violation of privacy. Both newspapers complied with the request, a decision which received criticism from media rights associations.<sup>48</sup> A couple of days later, an appeals court overturned the decision against *Folha de S.Paulo* based on freedom of expression considerations, and the content was republished on the site.<sup>49</sup> In May 2017, *O Globo* reported that the first lady had dropped the suit against both papers.<sup>50</sup>

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42 Brazil, "Government Requests to Remove Content," Google, 2017, <https://transparencyreport.google.com/government-removals/by-country/BR>

43 Brazil, "Government Requests Reports," Facebook, 2016, <https://govtrequests.facebook.com/country/Brazil/2016-H2/>

44 Twitter, "Removal requests" *Transparency Report*, July - December 2016. <http://bit.ly/2nkHVwh>. Accessed May 30, 2017.

45 The Brazilian Association for Investigative Journalism (ABRAJI), "Ctrl + X" Project, 2016, <http://www.ctrlx.org.br/noticia/eleicoes-de-2016-batem-recorde-de-acoas-para-esconder-informacoes>

46 "Almost 350 Vehicles were Processed to Remove Information From Air (Portuguese)," August 12, 2016, <http://www.ctrlx.org.br/noticia/quase-350-veiculos-foram-processados-para-retirar-informacoes-do-a>

47 "Judges have Complied More than Half of the Requests of Politicians to Hide Information (Portuguese)," Abraji, December 6, 2016, <http://www.ctrlx.org.br/noticia/juizes-acataram-mais-da-metade-dos-pedidos-de-politicos-para-esconder-informacoes>

48 Committee to Protect Journalists, "O Globo and Folha de S. Paulo ordered to remove reports about Brazil's First Lady," February 2017, <http://bit.ly/2nQkpeH>

49 Renata Mariz, "Justiça derruba censura contra jornal no caso Marcela Temer," *O Globo*, February 15, 2017, <https://globo/2rZa2EO>

50 "Marcela Temer desiste de ação contra jornais," [Marcela Temer Resigns From Action Against Newspaper] *O Globo*, May 4, 2017, <https://globo/2qCD8Jn>

Intermediary liability issues have been settled by a case law established by the Brazilian High Court of Justice (STJ) and by statutory provisions enacted by Marco Civil in 2014, which establishes that internet providers shall not be held liable for civil damages resulting from content created by third parties, and that application providers will only be held liable for civil damages resulting from content generated by third parties should they refuse to follow a court order requesting specific removal of said content.<sup>51</sup> In recent years, case law was slowly built around a similar understanding, with the Brazilian STJ ruling towards a judicial notice-and-takedown model.<sup>52</sup> Exceptions were made for copyright infringement and “revenge porn,” such as dissemination of sexually explicit photos or videos without the consent of the individual appearing in them. In cases pertaining to revenge porn the user’s notification alone is enough to make the intermediary liable should it refuse to make the content unavailable in a short time.<sup>53</sup>

In November 2016, the STJ unanimously ruled that the “right to be forgotten” cannot be imposed on search engines such as Google.<sup>54</sup> Although two bills to create a so-called “right to be forgotten” were proposed in Brazil’s Congress, by which search engines would be required to remove links to personal data upon requests by users, legislative proposals had yet to be brought up for debate.<sup>55</sup> A public hearing was marked by conflicting points of view between the different groups: those against (mainly associations related to media and journalism), those in favor (mainly composed by criminal lawyers) and those speaking for a compromise (civil lawyers’ associations).<sup>56</sup> Due to an ongoing political crisis, there has been little progress on the matter.

## Media, Diversity, and Content Manipulation

Blogs and social networking platforms have become important instruments for citizen journalists and others to access information, defend civil rights, and express political points of views in Brazil. Brazilians can read news from national and international sources, without government restriction. Within such a diverse media landscape, some content providers are neutral and others show bias towards or against the government.

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51 See Law 12.965 (Marco Civil da Internet), Art. 18: The provider of connection to internet shall not be liable for civil damages resulting from content generated by third parties. Art. 19: In order to ensure freedom of expression and prevent censorship, the provider of internet applications can only be subject to civil liability for damages resulting from content generated by third parties if, after a specific court order, it does not take any steps to, within the framework of their service and within time stated in the order, make unavailable the content that was identified as being unlawful, unless otherwise provided by law.

52 The case law evolved to a notice and takedown model, which means internet providers and content providers were requested to remove the alleged infringing or offensive material within 24 hours upon judicial order. See for instance STJ, *Educacional/Yahoo*, REsp 1.338.214/MT, decision as of November 13, 2013; STJ, *Sasaki/Google*, Resp 1.338.214/MT, decision as of December 12, 2012.

53 Pereira de Souza, Carlos Affonso, “Responsabilidade civil dos provedores de acesso e de aplicações de Internet: Evolução jurisprudencial e os impactos da Lei Nº 12.965,” IN: Lemos, Leite, Marco Civil da Internet, Atlas, 2014.

54 “Brazil Superior Court Rules in Google’s Favor Against ‘Right to be Forgotten,’” *Global Voices*, November 21, 2016, <http://bit.ly/2gbZ63L>

55 Senado Federal, “Conselho de Comunicação Social defende sigilo da fonte jornalística,” News release, September 14, 2009, <http://bit.ly/1iO7y71>; See also: Instituto de Tecnologia e Sociedade, “Direito ao esquecimento: o mundo todo precise esquecer?” *Brasil Post* (blog), August 8, 2015, <http://bit.ly/1Hofb7Y>; See also the Proposed Bills: Câmara dos Deputados, Projeto de Lei 7881/2014, <http://bit.ly/1QAltH8>; and Câmara dos Deputados, Projeto de Lei 215/2015, <http://bit.ly/1JdKNY>.

56 Anderson Schreiber, “As três correntes do direito ao esquecimento,” *JOTA*, June 18, 2017, <http://bit.ly/2ink3ei>

Although self-censorship is less pervasive in Brazil than in some neighboring countries, the ongoing use of threats, intimidation, and violence against online journalists and independent bloggers in certain areas of the country is on the rise and has contributed to pockets of continuous self-censorship (see “Intimidation and Violence”).<sup>57</sup>

Reports about online disinformation and false news stories circulating on social networks have received attention over the past year. In November 2016, an analysis by BuzzFeed Brazil found that the top 10 false news stories about the “Car Wash scandal” received more Facebook engagement than the top 10 real news articles.<sup>58</sup> Another recent study looked at the growing role of online manipulation tactics surrounding politically-sensitive periods, notably during local elections in Rio de Janeiro and the impeachment of former president Rousseff in 2016. While it acknowledged the difficulty in making connections between actual bots and campaigns, the study found that bot networks appeared to be particularly active during the election campaign. In one case, researchers found a botnet of 3,500 Twitter accounts attacking one candidate with repeated messages, most likely in attempts to create trending topics against him.<sup>59</sup>

Ever since the approval of the Marco Civil, the principle of Network Neutrality has been incorporated into Brazilian law. Enacted in May 2016, a new decree regulating the Marco Civil solidified the rules that prohibit the discrimination or degradation of traffic for commercial purposes while permitting it for emergency and public calamity situations.<sup>60</sup> Zero-rating and Facebook’s Free Basics program<sup>61</sup> are thus considered to be barred by this new legislation, and any notice of violation of said principle by companies may be investigated and sanctioned.<sup>62</sup> However, zero-rating is still a common practice among larger mobile internet companies.<sup>63</sup>

## Digital Activism

Social media platforms such as Facebook and Twitter continue to play a central role in civic activism in Brazil.

Social networks have played a pivotal role in the organization and mobilization of protests for and against the government. After the impeachment of ex-president Dilma Rousseff in mid-2016, protests continued through late 2016 and early 2017, especially to denounce President Temer’s economic and social reforms,<sup>64</sup> or support corruption investigations and proposed measures to tackle corruption within “Operation Car Wash.”<sup>65</sup>

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57 Fenaj, “Violência contra jornalistas e liberdade de imprensa no Brasil - Relatório 2016,” January 17, 2017, <http://bit.ly/2jQAlfg>

58 Alexandre Aragao & Craig Silverman, “The Top Fake News Stories Outperformed Real News About A Major Scandal in Brazil, Too,” BuzzFeed, November 22, 2016, <http://bzfd.it/2m4Av56>

59 Dan Arnaudo, “Computational Propaganda in Brazil: Social Bots during Elections,” Samuel Woolley and Philip N. Howard, Eds. Working Paper 2017.8. Oxford, UK: Project on Computational Propaganda, <http://bit.ly/2zsRz7E>

60 Decree 8.771, May 11, 2016, <http://bit.ly/2c7lqqv>.

61 Internet.org changed its name to Free Basics in September 2015.

62 Pedro Vilela, “O que muda com o decreto de regulamentação do Marco Civil?” [What changes with the decree regulating Marco Civil?], Instituto de Referência em Internet e Sociedade, May 13, 2016, <http://bit.ly/2bLHR39>

63 Rafael Bucco, “América Móvil reavalia oferta de zero-rating no Brasil,” [America Movil reevaluates zero-rating in Brazil], *Telesíntese*, August 2, 2016, <http://bit.ly/2crx2sB>

64 “Protestos contra PEC 55 têm ônibus queimado em Brasília e invasão da FIESP” *El País*, December 14, 2016, <http://bit.ly/2gHqk1C>

65 “Milhares vão às ruas pela Lava-Jato e aumentam pressão sobre o Congresso,” *El País*, December 5, 2016, <http://bit.ly/2oqLMcQ>; “Protestos contra reforma da Previdência e terceirização ocorrem em várias cidades,” *El País*, March 31, 2017, <http://bit.ly/2olohv>

Citizens also increasingly engage with formal government platforms to express opinions and shape the design and implementation of legislation. Online participation was especially vibrant for the drafting and regulation of the Marco Civil.<sup>66</sup> A new app called Mudamos+ was produced in 2017, as part of an initiative by Instituto Tecnologia e Sociedade (ITS-Rio) in partnership with the Movement Against Electoral Corruption (MCCE). The open-source app uses Blockchain technology to create a secure way of proposing and signing popular initiative bills, creating a potentially strong tool of direct democracy through the internet. A bill was proposed in Congress to legitimate electronic signatures in popular initiative bills, which would enable Mudamos+ and similar apps to become legitimate forms of participation.<sup>67</sup>

Brazil is also a founding member of the Open Government Partnership — a global effort to increase transparency and accountability — and, as part of this effort, has significantly improved standards of access to public information in recent years, establishing a system whereby citizens are entitled to request information through an electronic system.

## Violations of User Rights

*Brazil's Marco Civil Law established a framework for internet users' rights, but other legal provisions—such as criminal defamation laws and those restricting certain speech during elections—contribute to a legal environment where individuals can face prosecutions for what they write online. High levels of violence in Brazil's urban centers, coupled with impunity for many crimes, have contributed to one of the highest rates of violence against journalists in the region. At least two journalists, including one editor of a news website, were killed during the coverage period.*

### Legal Environment

Although Brazil adopted some of the most progressive legislation in the world related to internet governance with the enactment of Marco Civil, several competing legal provisions, such as laws criminalizing defamation and blasphemy and restricting speech around elections, continue to threaten users' rights online.

The Brazilian Federal Constitution forbids anonymity but protects freedom of the press and freedom of speech, including cultural and religious expression.<sup>68</sup> Brazil made noteworthy progress in establishing a foundation for internet user rights with the passage of the Marco Civil Law, a so-called “Constitution for the Internet,” signed into law in April 2014.<sup>69</sup> The groundbreaking legislation establishes the right to freedom of expression online, offers detailed privacy protections pertaining to personal data, guarantees net neutrality, and promises to uphold the participatory nature of the internet. On May 11, 2016, during her last hours in office before the impeachment process that suspended her from power, Dilma Rousseff signed into law the decree regulating the Marco Civil law, which contained specific rules regarding net neutrality and data protection.<sup>70</sup>

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66 Open Government Partnership, “Brazil,” <http://bit.ly/2d8fzoH>

67 “ITS Rio protocola na Câmara ato para aceitação de assinaturas eletrônicas em leis de iniciativa popular” ITS Rio, March 30, 2017, <http://bit.ly/2nFhYJq>

68 Constituição Federal de 1988, [Federal Constitution of 1988], English translation: <http://bit.ly/1iOdLz>.

69 Law 12.965, April 23, 2014, <http://bit.ly/1kxaoKm>; See also English version by Carolina Rossini, distributed by CGI.Br at the end of Net Mundial event: <http://bit.ly/1jerSOK>

70 Decree 8.771, May 11, 2016, <http://bit.ly/2c7lqqv>

Nevertheless, Brazil has continued to see instances of local officials suing bloggers and online journalists for defamation, which is a crime punishable by six months to two years in prison or a fine according to the penal code.<sup>71</sup> Although people are rarely charged or imprisoned for racist or discriminatory speech, Brazilian law establishes penalties ranging from two to five years in prison for practicing or inciting discrimination based on race, ethnicity or religion in the media or in other publications.<sup>72</sup> The Criminal Code further outlines punishment for vilifying or mocking religion, with penalties ranging from one month to one year in prison, although it is unclear whether these penalties have been applied online.

Brazilian cybercrime law criminalizes breaches of digital privacy such as computer intrusion, the “installation of vulnerabilities,” and editing, obtaining, or deleting information—including credit card numbers—without authorization. The distribution, sale, production, or offer of programs or devices meant to facilitate these actions, or to interrupt ICT services, are also categorized as crimes.<sup>73</sup>

A report by a Parliamentary Inquiry Commission proposing a series of bills related to cybercrimes sparked criticism in early 2016. The bills included changes to the original text of the Marco Civil, and were seen by civil rights activists as a threat to freedom of expression, privacy and several other digital rights.<sup>74</sup> On May 4, 2016, the Parliamentary Commission adopted the final report.<sup>75</sup> The most controversial proposals were dropped after significant backlash from civil society and activists.<sup>76</sup>

## Prosecutions and Detentions for Online Activities

Defamation lawsuits continued to pose a threat to freedom of expression online in Brazil.

Online journalists and bloggers reporting on uncomfortable topics such as corruption frequently face intimidation, including judicial action. One local news website reported being sued by local officials eleven times since launching in 2014, in retaliation for publishing corruption-related stories. In a recent case in December 2016, a former mayor sought damages because the website referred to his removal from office due to his financial management.<sup>77</sup>

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71 Decree 2848/40, Penal Code, Art. 331, <http://bit.ly/1OV4Vwj>

72 Law 9.459, May 13, 1997, Art. 20, <http://bit.ly/2dYnwN3>

73 Esterban Israel, “Brazil Aims to Bring Order to Lawless Cybers,” Reuters, February 26, 2013, <http://reut.rs/2Atct6X>

74 Andrew Fishman, “Propostas da CPI dos Crimes Cibernéticos ameaçam a Internet livre para 200 milhões de pessoas,” [Cybercrime proposals threaten free internet for 200 million people], *The Intercept*, April 26, 2016, <http://bit.ly/1SlrFAB>

75 Câmara dos Deputados, [Chamber of Deputies], “Conheça as propostas do Relatório Final da CPICIBER,” [See the proposals of the final report by CPICIBER], <http://bit.ly/2dLfiG>

76 José Antonio Miracle, “Relatório final da CPI dos Crimes Cibernéticos gera discussão,” [Final report generates discussion], May 13, 2016, <http://bit.ly/2e9MUgk>; Coletivo Intervezos, “CPI de crimes cibernéticos aprova relatório que ataca liberdade na internet,” [Commission approves report that attacks freedom online], *Carta Capital*, May 6, 2016, <http://bit.ly/2dl03V3>

77 “Brazil: local journalists sued 11 times over municipal corruption coverage,” *Reporters Without Borders*, February 1, 2017, <http://bit.ly/2yl2Rrl>

In 2016, daily newspaper *Gazeta do Povo* faced an onslaught of lawsuits by judges alleging invasion of privacy, after the paper accessed information readily available online and disclosed it in its reporting. The story analyzed the salaries of judges and prosecutors from the state of Paraná, based on information publicly available on the government's transparency website.<sup>78</sup> In response, lawyers for *Gazeta do Povo* lodged a complaint with the Supreme Court, which suspended all cases in July 2016.<sup>79</sup> A final decision was still pending mid-2017. Similarly in 2017, a municipal accountant sued another journalist from *Folha MS* after accessing and reporting on salaries available on the municipal government website.<sup>80</sup>

On March 21, 2017, police raided the home of blogger Carlos Eduardo Cairo Guimarães and confiscated his electronic devices, before taking him in for questioning under "coercive conduction," which is when a judge authorizes police to take a witness to a precinct in order to testify.<sup>81</sup> Guimarães owned a blog about politics and, in 2016, released information leaked to him about a seizure and search warrant addressed to the former Brazilian president, Luiz Inácio Lula da Silva, some days before it was scheduled to happen. The case sparked criticism from civil society for weakening freedom of press and the protection of journalists' anonymous sources, both rights protected by the constitution.<sup>82</sup> On March 23, the judge that issued the warrant against Guimarães reviewed his previous decision and annulled any evidence obtained from the testimony and from the warrants. On the other hand, he reaffirmed that Eduardo was not to be considered a journalist, so he would not have protection of source guaranteed by law.<sup>83</sup>

## Surveillance, Privacy, and Anonymity

The Brazilian Constitution explicitly forbids anonymity.<sup>84</sup> Although in practice, anonymous speech online is common, judges have occasionally referred to the constitution as a basis for limiting certain instances of anonymous speech. Other judges, however, have upheld anonymous speech on the grounds that it is important for free expression and privacy, ruling that anonymous posts online are protected as long as it is possible to technically trace the speech through IP addresses. The Brazilian Superior Court of Justice (STJ) has held that identification through IP address is a "reasonably effective means for identification and corresponds to "average diligence" expected from internet providers.<sup>85</sup>

78 Sérgio Roxo, "Juízes do Paraná movem 36 ações contra jornal e reporters," [Judges of Paraná move 36 lawsuits against newspaper and reporters] *O Globo*, June 7, 2017, <https://glo.bo/2qX1bol>; Estelita Hass Carazzai, "Magistrates file dozens of lawsuits against journalists in PR," *Folha de São Paulo*, June 7, 2017, <http://bit.ly/1XaixZw>

79 Heloísa Medonça, "STF suspende ações de juízes contra jornalistas da 'Gazeta do Povo'" [Federal Supreme Court suspend actions from judges against journalists from the newspaper *Gazeta do Povo*] *El País*, July 1, 2016, <http://bit.ly/2rVNRPS>

80 Andrew Downie, "In Brazil, outdated defamation laws and costly court cases used to pressure critics," *Committee to Protect Journalists*, April 6, 2017, <https://cpj.org/blog/2017/04/in-brazil-outdated-defamation-laws-and-costly-court-cases>

81 Thiago Herdy, "PF realiza condução coercitiva de blogueiro em São Paulo," [Federal Police conducts coercively a blogger in São Paulo], *O Globo*, March 21, 2017, <https://glo.bo/2nyrYXH>

82 Article 19, "Sérgio Moro's decision against blogger is intimidated and violates the Constitution," March 22, 2017, <http://bit.ly/2nJqLfw>; "Abraji expresses concern over Moro's ruling over coercive blogger," *O Globo*, March 22, 2017, <https://glo.bo/2neLapb>; Daniela Fernandes, "Coercive conduction of blogger is serious attack on freedom of the press, says Reporters Without Borders," BBC, March 22, 2017, <http://bbc.in/2nsaw4x>

83 Brazilian Federal Justice - 13ª Vara Federal de Curitiba, Search and Seizure Warrant No. N° 500876224.2017.4.04.7000/ PR (March 23, 2017), <http://bit.ly/2ovARxV>

84 Constituição Federal de 1988, art. 5, <http://bit.ly/1FieR0R>

85 See Brazilian Superior Court of Justice Appeals to the Superior Court of Justice No. 1192208-MG, REsp 1186616-MG and REsp 1300161-RS

Several legal provisions also place restrictions on anonymity in Brazil. Real-name registration is required for individuals or legal entities in order to purchase mobile phones or to access private internet connections, although the use of pseudonyms in discussion forums across the web is quite common. Lawmakers have urged further restrictions on anonymity with regard to public access points such as LAN houses, suggesting that internet communications should be recorded in order to prevent cybercrimes. Several pieces of legislation of this kind already exist in São Paulo<sup>86</sup> and Rio de Janeiro,<sup>87</sup> and a bill under debate in the Senate would require LAN houses to register all users and keep a directory of individual identification for an unspecified amount of time.<sup>88</sup> The Marco Civil requires internet service providers such as LAN houses to confidentially store connection records in a safe, controlled environment, for at least one year following the provision of the service.<sup>89</sup>

Marco Civil Law treats privacy and data protection as fundamental rights, bans the disclosure of users' personal data to third parties—with the exception of police and judicial authorities—and requires providers to make privacy policies and terms of use clear and understandable.<sup>90</sup> Digital rights activists have raised concerns about Marco Civil's data retention mandate, which imposes obligations on internet connection providers to keep records of their users' connection logs for 12 months, and for application providers to keep records of access for 6 months.<sup>91</sup> On the other hand, Article 10 notes that the content of private communications can only be accessed with judicial authorization. Regulations decreed on May 11, 2016 further clarify security measures to be taken by providers regarding log-keeping, including how authorities must request users' data from intermediaries, the level of technical security said intermediaries must adopt to safeguard logs from being leaked, and other identification and security procedures to be undertaken by the professionals responsible for handling said data, such as the obligation for individual identification and for the use of two-factor authentication.<sup>92</sup>

The Brazilian government has continued to increase its capacity for surveillance using as justification major events such as the Olympics Games, which happened in August 2016, in Rio de Janeiro. In response to an information request, the Ministry of Defense reported it had spent R\$68 million (approximately USD 21 million) between 2014 and 2016 on surveillance equipment.<sup>93</sup> Civil society organizations have continued to criticize the lack of transparency on how the government uses surveillance, frequently justifying it as a pretext to combat crime.<sup>94</sup>

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86 Legislative Assembly of the State of São Paulo, Law 12228/2006, <http://bit.ly/2nuRWbN>

87 Rio de Janeiro Municipal Decree 36.207, September 12, 2012, <http://bit.ly/1WB0trP>

88 A rapporteur in the *Commission for Science, Technology, Innovation, Communication and Information Technology* from the Senate was designated in March 2017 to analyze Bill 28/2011, <http://bit.ly/1OxjBE8>

89 Marco Civil da Internet, Art. 13, <http://bit.ly/1kxaoKm>

90 Law No. 12.965, Government of Brazil, April 23, 2014. English version by Carolina Rossini, distributed by CGI.Br at the end of Net Mundial event, available at <http://bit.ly/1jerSOK>

91 Coding Rights and Instituto Beta para Internet e a Democracia, "Nota Técnica: Retenção de Registros de Conexão e Aplicações," [Technical note: Retention of connection and application logs], accessed October 12, 2016, <http://bit.ly/2egPy7C>

92 Decree 8.771, May 11, 2016, <http://bit.ly/2c7lqqv>. See also: Artigo 19, "Regulamentação do Marco Civil da Internet é um avanço," [Regulation of Marco Civil is a breakthrough], May 20, 2016, <http://bit.ly/2dYbhjf>

93 Natalia Viana, "Armed Forces want to use cell phone blockers against 'hostile' drones and terrorism in the Olympics," *Publica - Reporting Agency And Investigative Journalism*, June 30, 2016, <http://bit.ly/2ocGlvA>

94 Dennus Antonialli & Jacqueline de Souza Abreu, "Vigilância das Comunicações pelo Estado Brasileiro," *Internetlab Association of Research In Law and Technology*, 2016, <http://bit.ly/2he8se4>

Main digital rights advocacy organizations have largely supported a proposed Privacy and Data Protection Bill. It was sent to Congress to be analyzed by a Special Commission created in October 2016, before being submitted for a vote in plenary.<sup>95</sup> The bill aims to establish comprehensive data protection system governed by a new independent authority, with clear user rights regarding both government and private sector collection and use of data, and intermediary liability regarding the collection, storage and treatment of personal data.<sup>96</sup>

## Intimidation and Violence

Threats, intimidation, and violence against online journalists and bloggers constitute a major restriction on freedom of expression and human rights in Brazil. At least two journalists, including one editor of a news website, were killed during the coverage period.<sup>97</sup>

On July 24, 2016, João Miranda do Carmo, 54, editor of the outspoken news website *SAD Sem Censura* was shot by at least two men from a car parked outside his house in Santo Antônio do Descoberto. According to local news reports, the man was called by the murderers and, as soon as he stepped out of his house, was shot seven times, dying instantly.<sup>98</sup> Recent reports on his website had criticized municipal problems such as a local tax on garbage collection and delays in payments to local municipal employees. Following the arrest of two suspects, investigations pointed to the victim's reporting as the likely motivation for the crime.<sup>99</sup>

Brazil ranked ninth in the Committee to Protect Journalists' 2016 Impunity Index, which tracks countries where journalists are murdered and killers run free.<sup>100</sup> In a meeting with a CPJ delegation in 2014, the ex-President Dilma Rousseff committed to support legislative initiatives to federalize the competence for judging crimes against freedom of expression and to adopt a "zero tolerance" policy.<sup>101</sup> Since then, the conviction in 2015 of the murderers of José Roberto Ornelas de Lemos, the administrative director of the daily *Hora H*, has been considered a benchmark for justice and human rights. Lemos was shot at least 41 times in 2013 after writing about the spread of militias allegedly led by corrupt police officers in the suburb of Nova Iguaçu. In November 2015, police arrested six people accused of running a militia believed to be directly linked to Lemos' murder. The arrests also resulted in the creation of a new homicide division in the city.<sup>102</sup> However, most condemnations still only target the direct perpetrators of these crimes, allowing their planners to escape justice.

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95 National Congress, Draft Bill nº5.276/2016, <http://bit.ly/1TujEke>

96 Ministério da Justiça, "Anteprojeto de Lei para a Proteção de Dados Pessoais" [Legal Proposal for the Protection of Personal Data], accessed March 25, 2016, <http://bit.ly/1PQ0LpT>

97 Reporters Without Borders, "Journalists Killed 2016," <http://bit.ly/2oA0Vb1>; Marieta Cazarré, "Correção: Brasil é o 4º país com mais mortes de jornalistas em 2016, diz ONG" [Correction: Brazil is the 4th country with the most deaths of journalists in 2016, according to NGO], Agência Brasil, October 13, 2016, <http://bit.ly/2ebml3z>

98 Committee to Protect Journalists, "João Miranda do Carmo," <http://bit.ly/2nijXl6>

99 Polícia Civil, "Civilian police arrest suspect of killing journalist in Santo Antônio do Descoberto," August 08, 2016, <http://bit.ly/2yhvyas>

100 Elisabeth Witchel, "Getting Away With Murder," Committee to Protect Journalists, October 27, 2016, <http://bit.ly/2fb0jiW>

101 Committee to Protect Journalists, "Getting Away With Murder," October 8, 2015, <http://bit.ly/1G1HEGO>

102 Andrew Downie, "Amid rising violence in Brazil, convictions in journalists' murders are cause for optimism," Committee to Protect Journalists, February 29, 2016, <http://bit.ly/1MHdHtS>



Intimidation and harassment remains a serious concern in Brazil. In one case in April 2017, attackers fi ed at a car belonging to the owner of a blog focusing on local politics and corruption in Rio Grande da Serra, near São Paulo. He had previously received threats for his work.<sup>103</sup> Online bloggers and journalists who work in poor or rural areas and are not linked to major urban media outlets may face more harassment because they lack visibility and support. Under such circumstances, authorities feel little pressure to solve attacks on the provincial press. Unsolved attacks on journalists may in turn dissuade local reporters from investigating crime and corruption in their regions.<sup>104</sup>

## Technical Attacks

Brazil remains a top source and target of cyberattacks: According to Akamai in the last quarter of 2016, Brazil was the fourth source country in the world for web application attacks, and the second most targeted.<sup>105</sup> It was also the eight source country for DDoS attacks.<sup>106</sup> The Norton Cyber Security Insights Report estimated a financial loss of U\$10.3 billion due to cybercrime in Brazil in 2016, affecting 42.4 millions of users.<sup>107</sup>

There was at least one attack targeting a media outlet during this period. On January 6, users were unable to access the website of *Folha*, one of Brazil's major news sites, and others hosted by Universo Online (UOL), a web fi m owned by Grupo Folha, after a hacking attack that managed to redirect domains under UOL and Grupo Folha to pornographic websites. Users also reported being led to a deface message, which redirected them to sites with pornographic content.<sup>108</sup>

Another case that garnered significant media attention was the hacking of a cell phone and emails of the president's wife Marcela Temer in an extortion attempt. The incident happened in April 2016, but reappeared in the media in February 2017, when the hacker was condemned to fi e years in prison.<sup>109</sup>

The group of hackers Anonymous Brasil was behind several attacks during the coverage period. In August 2016, the group claimed responsibility for hacking governmental sites and databases belonging to the state of Rio de Janeiro, in protest against the Olympic Games.<sup>110</sup> In May, Anonymous leaked personal data about President Michel Temer and some of his ministers and political allies, exposing ID cards, emails, phone numbers, residential and work addresses, and business information.<sup>111</sup>

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103 "In Brazil, attacker fi es at political blogger's car," Committee to Protect Journalists, April 06, 2017, <https://cpj.org/2017/04/in-brazil-attacker-fi-es-at-political-bloggers-car.php>

104 John Otis, "Bloggers Targeted as Murders Spike in Brazil," Committee to Protect Journalists, February 2013, <http://bit.ly/1LzzPt0>

105 Akamai Inc, "Akamai's [State of the Internet] / Security Q4 2016 Report", 2016, p.16 <http://akamai.me/2ld6n1u>

106 Akamai Technologies Inc., "Akamai's [state of the internet] / Security Q4 2016 report", 2016. p. 11, <http://akamai.me/2ld6n1u>

107 Symantec Corporation, "Norton Cyber Security Insights Report 2016 - Global Comparison Brazil", 2016, <http://symc.ly/2nHgOiB>

108 "Hacker attack damages access to Folha's website (Portuguese)," *Folha*, January 06, 2017, <http://www1.folha.uol.com.br/poder/2017/01/1847522-ataque-de-hacker-prejudica-acesso-ao-site-da-folha.shtml>

109 "Hacker threatened to throw Temer's name 'in the mud' by leaking a hacked audio," *Folha de São Paulo*, February 10, 2017, <http://bit.ly/2luNNqn>

110 Altieres Rohr; Cauê Muraro, "Anonymous says he stole data from government websites and the municipal government of RJ," *G1*, August 8, 2016, <https://glo.bo/2nSjWIP>

111 Felipe Payão, "Anonymous exposes sensitive data of Michel Temer and government ministers," *Tecmundo*, May 22, 2017, <http://bit.ly/2qcUz21>

## BRAZIL

Brazilian authorities have made some efforts to increase cybersecurity and invest more resources in overcoming current obstacles. Since 2008, Brazil has engaged in a multi-stakeholder debate to develop its cybersecurity agenda, which resulted in the opening of a National Cyber Defense Command, and a National School for Cyber Defense aimed at preparing military personnel for the use of cyber tools on national defense.<sup>112</sup>

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112 Andrea Barreto, "Brazilian Armed Forces Strengthen the Nation's Cybersecurity Defense," *Diálogo Digital Military Magazine*, April 14, 2015, <http://bit.ly/1FinqJ7>