

BRAZIL

	2009	2011
INTERNET FREEDOM STATUS	Free	Free
Obstacles to Access	9	7
Limits on Content	8	7
Violations of User Rights	13	15
Total	30	29

POPULATION: 193.3 million
INTERNET PENETRATION 2009: 39 percent
WEB 2.0 APPLICATIONS BLOCKED: No
SUBSTANTIAL POLITICAL CENSORSHIP: No
BLOGGERS/ONLINE USERS ARRESTED: No
PRESS FREEDOM STATUS: Partly Free

INTRODUCTION

For a country with large social and economic disparities, Brazil has made significant gains in expanding internet access and mobile-phone usage in recent years. As of 2009, it was home to the largest population of internet users in Latin America and the fourth largest in the world.¹

The country first connected to the internet in 1990, and connectivity is now available in most areas through a variety of technologies, though some infrastructural limitations remain.² Several legal and judicial actions threatened free online expression in 2009 and 2010. There is an ongoing trend in which private litigants and official bodies sue internet-service providers (ISPs) and other internet companies, such as Google, and send take-down notices to blogging and social-networking platforms, such as Orkut. However, pending legislation would formalize an appeals process for such actions.

In recent years, civic participation through internet media has increased, including in response to the proposed Civil Rights Framework for the Internet in Brazil.³ Moreover,

¹ International Telecommunications Union (ITU), "ICT Statistics 2009—Internet," http://www.itu.int/ITU-D/icteye/Reporting/ShowReportFrame.aspx?ReportName=/WTI/InformationTechnologyPublic&ReportFormat=HTML4.0&RP_intYear=2009&RP_intLanguageID=1&RP_bitLiveData=False.

² Robert Hobbes Zakon, "Hobbes' Internet Timeline v8.2," Zakon Group LLC, <http://www.zakon.org/robert/internet/timeline/>, accessed August 11, 2010; Tadao Takahashi, ed., *Sociedade da Informação no Brasil: Livro Verde* [Information Society in Brazil: Green Book] (Brasilia: Ministry of Science and Technology, September 2000), <http://www.mct.gov.br/index.php/content/view/18878.html>; National Education and Research Network (RNP), "Mapa do Backbone" [Map of Backbone], <http://www.rnp.br/backbone/index.php>, accessed August 11, 2010.

³ Maira Magro, "Cries of Censorship Lead Brazil to Alter Internet Bill," *Journalism in the Americas* (blog), May 4, 2010, <http://knightcenter.utexas.edu/blog/?q=en/node/7104>.

restrictions on political campaigning via social-networking websites that were imposed ahead of the 2008 elections were removed for the run-up to the 2010 polls.

OBSTACLES TO ACCESS

According to the International Telecommunication Union (ITU), Brazil had over 75 million internet users as of 2009, accounting for 37 percent of the population.⁴ However, penetration varies greatly among regions due to a lack of infrastructure that affects large segments of the population in rural areas.⁵ For instance, while the household penetration rate is 31.5 percent in the southeast, it is only 10.6 percent in the north. In addition, the cost of broadband access is prohibitively expensive for many Brazilians, amounting to about 5 percent of per capita income.⁶ Broadband access is increasing as prices fall, reaching 7 percent of the population in 2009,⁷ but the market is still concentrated among major telecommunications and cable companies.⁸ In addition, Brazil is currently the largest mobile-phone market in Latin America, and penetration is rapidly increasing. Statistics show an average annual increase of 18 percent in the rate of mobile-phone use over the last five years, with approximately 197 million mobile phones in use by November 2010.⁹

Great improvements have been made in recent years as the government has initiated dozens of programs to connect the population to the internet, including investment in WiMax networks, Digital Cities projects,¹⁰ and a series of regional projects focused on media literacy and digital inclusion.¹¹ Many of these programs employ broadband

⁴ International Telecommunications Union (ITU), “ICT Statistics 2009—Internet,” http://www.itu.int/ITU-D/icteye/Reporting/ShowReportFrame.aspx?ReportName=/WTI/InformationTechnologyPublic&ReportFormat=HTML4.0&RP_intYear=2009&RP_intLanguageID=1&RP_bitLiveData=False.

⁵ Brazilian Institute of Geography and Statistics (IBGE), “Síntese de Indicadores 2008” [Synthesis of 2008 Indicators 2008], <http://www.ibge.gov.br/home/estatistica/populacao/trabalhoerendimento/pnad2008/default.shtm>, accessed June 5, 2010.

⁶ Institute of Applied Economic Research (Ipea), *Comunicados do Ipea No. 46: Análise e recomendações para as políticas públicas de massificação de acesso à internet em banda larga* [Ipea Communiqué No. 46: Analysis and Recommendations for Public Policy on Expansion of Access to Broadband Internet] (Brasília: Ipea, April 2010), p. 3 and 9 http://agencia.ipea.gov.br/images/stories/PDFs/100426_comunicadodoipea_n_46.pdf.

⁷ Ministry of Communications, *Um Plano Nacional para Banda Larga: O Brasil em Alta Velocidade* [A National Plan for Broadband: Brazil in High Speed] (Brasília: Ministry of Communications, 2010), <http://www.mc.gov.br/wp-content/uploads/2009/11/o-brasil-em-alta-velocidade1.pdf>; International Telecommunication Union (ITU), “ICT Statistics 2009—Internet,” <http://www.itu.int/ITU-D/ICTEYE/Indicators/Indicators.aspx>.

⁸ Teleco, “Seção: Banda Larga—Market Share de Banda Larga no Brasil” [Section: Broadband—Market Share of Broadband in Brazil], <http://www.teleco.com.br/blarga.asp>, accessed August 11, 2010.

⁹ Teleco, “Seção: Telefonia Celular—Estatísticas de Celulares no Brasil” [Section: Cellular Telephony—Statistics of Cellular Telephones in Brazil], December 29, 2010, <http://www.teleco.com.br/ncel.asp>.

¹⁰ Redline Communications Inc., “Neovia and Redline Initiate US\$30 Million WiMAX Network in Brazil,” WiMAX Industry, August 2, 2007, <http://www.wimax-industry.com/pr/7p.htm>; for a list of Digital Cities, see Teleco, “Seção: Banda Larga—Cidades Digitais no Brasil” [Section: Broadband—Digital Cities in Brazil], July 28, 2008, <http://www.teleco.com.br/cidadesdigitais.asp>.

¹¹ For a complete list, see Brazilian Institute of Science and Technology (IBICT), “Iniciativas no Brasil” [Initiatives in Brazil], <http://inclusao.ibict.br/index.php/iniciativas-no-brasil>.

technology, and in 2010 the government launched the National Broadband Plan, which aims to triple broadband access by 2014.¹² Internet access has also been boosted by a proliferation of privately owned “LAN (local area network) houses,” in which small entrepreneurs have purchased multiple computers via a government loan program, then offered access at reasonable prices for users. In many regions, these sites have become the primary means of internet access. Research published by the Brazilian Internet Steering Committee in 2008 showed that nearly 80 percent of the people from the lowest income brackets who access the internet do so via commercial venues such as LAN houses, a dramatic increase from 48.08 percent in 2006.¹³

Some states and cities have approved laws establishing limits on youths’ use of public computers in LAN houses. In São Paulo state, minors under the age of 16 can only use LAN houses with the written authorization of their parents, while in the city of Ilha Solteira, a court order prohibited teenagers from visiting LAN houses.¹⁴ As Brazilians at all socioeconomic levels use the internet,¹⁵ a growing number have taken advantage of the country’s e-commerce, e-government, and online-banking services, which are among the most developed in the world.¹⁶ Unlike in previous years, there were no instances during 2009 or early 2010 of advanced web applications like the video-sharing site YouTube or the social-networking platform Orkut being completely blocked by court orders, though individual videos or comments have been removed.

Despite an intricate regulatory environment, no specific legal or economic obstacles restrict the operation of ISPs or other businesses providing access to digital technologies. However, privatization plans implemented in the 1990s have created a trend toward concentration in the telecommunications market, and in the ISP market specifically. While more than 1,000 ISPs now operate in the country,¹⁷ the four largest companies—Brasil

¹² Ministry of Communications, *Um Plano Nacional para Banda Larga*.

¹³ Center of Studies on Information and Communication Technologies (CETIC), “TIC Domicílios e Usuários 2008—Total Brasil” [Statistics on Home Internet Access and Users 2008—Total Brazil], September/November 2008, <http://www.cetic.br/usuarios/tic/2008-total-brasil/rele-int-04.htm>; CETIC, “TIC Domicílios e Usuários 2006” [Statistics on Home Internet Access and Users 2006], July/August 2006, <http://www.cetic.br/usuarios/tic/2006/rele-int-04.htm>; Paula Góes, “Brazil: Socio-Digital Inclusion Through the Lan House Revolution,” *Global Voices*, September 28, 2009, <http://globalvoicesonline.org/2009/09/28/brazil-socio-digital-inclusion-through-the-lan-house-revolution/>; Colin Brayton, “Brazil: Tupis Are In The LAN House,” *The New Market Machines* (blog), March 16, 2008, <http://cbrayton.wordpress.com/2008/03/16/brazil-tupis-are-in-the-lan-house/>.

¹⁴ Felipe Zmoginski, “Justiça proíbe menor de ir à LAN House em SP” [Justice Prohibits Minor from Going to LAN House in São Paulo], *INFO Online*, April 27, 2009, <http://info.abril.com.br/noticias/tecnologia-pessoal/justica-proibe-menor-de-ir-a-lan-house-em-sp-27042009-39.shl>.

¹⁵ Marcelo Ballvé, “In Brazil, Internet Access Grows Rapidly, Even Among Poor,” *World Politics Review*, April 3, 2008, <http://www.worldpoliticsreview.com/article.aspx?id=1891>.

¹⁶ “Brazil—Internet and Broadband Market,” *Research and Markets*, December 2008, http://www.researchandmarkets.com/reportinfo.asp?report_id=680153.

¹⁷ Teleco, “Seção: Banda Larga—Provedores de Acesso à Internet – Outros Provedores” [Section: Broadband—Internet Access Providers – Other ISPs], May 14, 2010, http://www.teleco.com.br/blarga_pprov.asp.

Telecom, POP, Terra, and UOL—control more than 50 percent of the market.¹⁸ Seven private companies share the mobile-phone market, of which the largest four control over 99 percent.¹⁹

The National Telecommunications Agency (ANATEL) and the Administrative Council for Economic Defense (CADE), an antitrust body, work to ensure that information and communication technologies (ICTs) operate in a free, fair, and independent manner. The two agencies have a cooperation agreement that defines their competencies. The CADE is authorized by the General Telecommunications Law to have the final word when dealing with antitrust issues, such as market concentration and price setting.²⁰ In a pioneering initiative, the Brazilian Internet Steering Committee, a multi-stakeholder organization, was created in 1995 to guarantee transparency and social participation in decisions related to internet governance.²¹ Committee members come from the government, the private sector, academia, and nongovernmental organizations, with the last group chosen since 2004 in relatively democratic and open elections.

LIMITS ON CONTENT

The government does not employ any technical methods to filter or otherwise limit access to online content. Nonetheless, legal action by the judiciary and government officials has emerged in recent years as a possible barrier to free speech and a means of removing content that is deemed undesirable.

It is increasingly common for civil and administrative charges to be filed against ISPs, online news journals, and bloggers. Google Brazil and some of its services, such as Orkut and YouTube, have been the target of numerous judicial demands,²² some of which have involved the removal of content that would be a matter of public interest. In a groundbreaking decision in February 2009, a judge obliged Google to change its search results in Brazil with regard to a Brazilian businessman.²³ Other rulings ordered the closure of e-mail and blog accounts, and the deletion of pages from Orkut to protect individuals'

¹⁸ Teleco, "Seção: Banda Larga—Provedores de Acesso à Internet" [Section: Broadband—Internet Access Providers], May 14, 2010, http://www.teleco.com.br/internet_prov.asp.

¹⁹ Teleco, "Seção: Telefonia Celular—Operadoras de Celular, Jun/10" [Section: Cellular Telephony—Cellular Operators, June 2010], August 5, 2010, <http://www.teleco.com.br/opcelular.asp>.

²⁰ Maria Cecília Andrade, Ubiratan Mattos, and Pedro C. E. Vicentini, "Reforms in Brazilian Telecommunications Regulations and their Impact on Sector Competition," in *The Antitrust Review of the Americas 2009* (London: Global Competition Review, 2009), <http://www.globalcompetitionreview.com/reviews/9/sections/31/chapters/361/reforms-brazilian-telecommunications-regulations-impact-sector-competition>; Teleco, "Regulation: Legislation Guide," July, 28, 2010, http://www.teleco.com.br/en/en_legis.asp.

²¹ See the website of the Brazilian Internet Steering Committee, <http://www.cg.org.br/internacional/index.htm>.

²² Danny O'Brien, "Is Brazil the Censorship Capital of the Internet? Not Yet," *CPJ Blog*, April 28, 2010, <http://cpj.org/blog/2010/04/is-brazil-the-censorship-capital-of-the-internet.php>.

²³ Alessandro Cristo, "Justiça discute permanência de notícias na internet" [Justice Discusses How to Keep News Online], *Consultor Jurídico*, March 21, 2009, <http://www.conjur.com.br/2009-mar-21/justica-decide-noticias-ficaram-velhas-internet>.

“Right of Publicity” (their right to control how their name and image is used), to combat pedophilia, or to limit copyright infringements. In April 2010, Google began publishing a list of the countries whose government agencies send the most requests for content removal or data disclosure; Brazil topped the list with 291 in December 2009, an increase from 2008.²⁴ According to Brazilian legal experts, the take-down notices and other orders generally stem from private legal disputes rather than direct demands from the government.²⁵

Upon receipt of a take-down notice, ISPs and other companies are expected to remove the content, but the affected user may then challenge the removal in court. Some free expression groups have argued that this system, which effectively places the legal burden on the owner, producer, or host of the censored content and allows only after-the-fact remedies, leaves room for abuse and suppression of critical speech. The current practice has developed somewhat informally and is not established by law, but Congress is considering legislation that would codify it.²⁶

Past state-initiated censorship attempts have primarily appeared in the context of elections. However, in a positive development, following strong political pressure, the Senate in September 2009 approved changes to the electoral law that permitted the use of the internet in political campaigns. The Superior Electoral Court had prohibited online campaigning during the 2008 elections.²⁷ The new law, No. 12.034/09, protects freedom of speech. It also stipulates that election propaganda over the internet would be permitted after July 5, 2010, the same date when paid advertisements on radio and television were authorized to begin ahead of October general elections; any premature advertising could result in sanctions. Candidates are also permitted to campaign through social networks, instant messaging, and the Twitter microblogging service, but the content must be generated or edited by candidates, parties, or coalitions. While ordinary citizens are permitted to post comments in favor of candidates as a matter of their individual personal opinion, paid campaign advertisements or even free advertising on the websites of corporations or public entities are forbidden. Infractions of these campaign rules can be

²⁴ Google, “Government Requests,” <http://www.google.com/governmentrequests>, accessed August 10, 2010; O’Brien, “Is Brazil the Censorship Capital of the Internet? Not Yet.”

²⁵ Such lawsuits can be filed more easily in Brazil than in many other countries, where other forms of dispute resolution or regulation of online content prevail. See O’Brien, “Is Brazil the Censorship Capital of the Internet? Not Yet.”

²⁶ *Ibid.*

²⁷ The court’s resolution, No. 22.718, determined that electoral campaigns and advertisements could only be posted on a candidate’s web page. It barred electoral campaigns from using such tools as Orkut, YouTube, e-mail, and text messaging, and prohibited them from buying advertising space on the internet. Paula Góes, “Brazil: Blogs Banned from the 2008 Elections,” *Global Voices*, March 30, 2008, <http://globalvoicesonline.org/2008/03/30/brazil-blogs-banned-from-the-2008-elections/>; Superior Electoral Tribunal, Resolution No. 22.718, available at <http://www.tse.gov.br/internet/eleicoes/2008/pdf/r22718.pdf>; Gaurav Dua, “Orkut Brazil Warns Users Against Political Showdown Regarding Upcoming Elections,” *Orkut Plus*, September 14, 2008, <http://www.orkutplus.net/2008/09/orkut-brazil-warns-users-against-political-showdown-regarding-upcoming-elections.html>.

punished with severe fines. In practice, during the run-up to the October elections, a range of candidates were indeed able to make use of social media in their campaigns.

National and international news sources are unrestricted, and Brazilians freely gather information through the internet, mobile-phone technology, and other ICTs.²⁸ Blogs,²⁹ photoblogs, social-networking platforms,³⁰ and citizen journalism have proliferated in recent years.³¹ With 86 percent of internet users regularly connected to Orkut and other social-media sites, Brazil has the highest social-media penetration rate in the world. In 2009, social media accounted for 22 percent of Brazilians' time online.³² As of August 2010, Orkut remained Brazil's leading social networking tool, reaching over 36 million people. However, the number of Facebook users increased dramatically from 2009 as Brazilians sought to connect with acquaintances outside the country where Orkut is less popular. Twitter's popularity also grew significantly, nearly doubling its penetration to 23 percent of internet users.³³

There have been a host of projects aimed at improving government transparency and democratic governance via use of the internet, such as the e-Democracy project led by Congress and "Adopt a Representative," a civil society initiative to increase public supervision of local officials and participation in policymaking.³⁴ In addition, the government in 2009 released online many documents from the country's dictatorship period.³⁵ Another recent phenomenon has been the growing number of policemen who write blogs intended to build public trust. Other examples include projects promoting open access to public

²⁸ Maira Magro, "Journalists Exchange Experiences About Online News During Seminar in São Paulo," Knight Center for Journalism in the Americas, June 14, 2010, http://knightcenter.utexas.edu/events_article.php?page=9946.

²⁹ Some top-ranked Brazilian blogs are listed here: Caio Caprioli, "Os blogs mais acessados do Brasil" [The Most Accessed Blogs in Brazil], *Metablog*, May 5, 2008, <http://colunistas.ig.com.br/metablog/2008/05/05/os-blogs-mais-acessados-do-brasil>; "Top 100 Blogs Brasileiros Segundo o Pagerrank e os Backlinks" [Top 100 Brazilian Blogs According to Pagerrank and Backlinks], *Interney*, August 18, 2007, <http://www.interney.net/?p=9760065>.

³⁰ Google's Orkut is incredibly popular in Brazil. In June, Brazilians made up 48.2 percent of Orkut users worldwide. See Alexa, "Orkut.com," <http://www.alexacom/siteinfo/Orkut.com#>; Matt Rhodes, "Brazil Tops League of Social Media Users," *Fresh Networks*, June 15, 2010, <http://www.freshnetworks.com/blog/2010/06/nielsen-study-social-media-22-percent-time-online/>; ComScore, "Eighty Five Percent of Brazilian Internet Users Visited a Social Networking Site in September 2008," news release, November 19, 2008, <http://www.comscore.com/press/release.asp?press=2592>.

³¹ Brazilians are active in the Global Voices citizen journalism project, and there is a Brazilian site for user-generated content called Overmundo. See Global Voices' Brazil page at <http://globalvoicesonline.org/-/world/americas/brazil/>, and Overmundo at <http://www.overmundo.com.br/>.

³² "Social Networks/Blogs Now Account for One in Every Four and a Half Minutes Online," *Nielsen Wire* (blog), June 15, 2010, http://blog.nielsen.com/nielsenwire/online_mobile/social-media-accounts-for-22-percent-of-time-online/.

³³ Sarah Radwanick, "Orkut Continues to Lead Brazil's Social Networking Market, Facebook Audience Grows Fivefold," press release, ComScore, October 7, 2010, [http://www.comscore.com/Press Events/Press Releases/2010/10/Orkut Continues to Lead Brazil's Social Networking Market Facebook Audience Grows Fivefold/\(language\)/eng-US](http://www.comscore.com/Press%20Events/Press%20Releases/2010/10/Orkut%20Continues%20to%20Lead%20Brazil's%20Social%20Networking%20Market%20Facebook%20Audience%20Grows%20Fivefold/(language)/eng-US).

³⁴ Technology for Transparency Network, "Adote um Vereador" [Adopt a Representative], <http://transparency.globalvoicesonline.org/project/adote-um-vereador>.

³⁵ Yana Marull, "Brazil Puts Dictatorship Files on the Web," *Sydney Morning Herald*, May 14, 2009, <http://news.smh.com.au/breaking-news-technology/brazil-puts-dictatorship-files-on-the-web-20090514-b3zw.html>.

information and governmental data,³⁶ and projects tracking the quality and security of public schools through online platforms and mobile phones.

Brazilian bloggers and citizen journalists regularly take advantage of digital technologies to circulate information and mobilize protests, including surrounding natural disasters. When severe rain and mudslides occurred in Rio de Janeiro in April 2010, online activists played a critical role in providing information to the news media and the public. This included creating a collaborative map displaying various forms of damage suffered across the metropolis.³⁷ Mobile phones have become a major tool for organizing events like the annual gay rights parade in São Paulo, as well as a means for bringing attention to the prevalence of violent crime.

In an example of online opinion impacting policy debates, the Civil Rights Framework for the Internet in Brazil, an internet regulation bill before Congress, attracted considerable public commentary through blogs, Twitter (at #marcocivil), and other online platforms. The New York-based Committee to Protect Journalists and critics in Brazil said that the initial language in the bill would promote censorship,³⁸ as it allowed third parties to request content removal based on complaints of any kind. The bill's subsequent draft,³⁹ the result of public pressure and comments, renders web hosts liable only if they fail to comply with a direct court order to remove content, rather than requiring them to preemptively self-censor. The bill was still awaiting passage as of December 2010. Similarly widespread social participation featured in the discussions surrounding the reform of the Brazilian Copyright Act (on Twitter at #reformaLDA). Civil society groups have joined forces with academics to support or criticize the government and press for a transparent process and a more flexible copyright law.⁴⁰ There are still concerns about the bill's potential impact on internet access. It too was still pending as of December 2010, as many pieces of legislation were put on hold until after the fall elections.

³⁶ Maira Magro, "Brazil's Chamber of Deputies Approves Bill Granting Access to Public Information," *Journalism in the Americas*, April 14, 2010, <http://knightcenter.utexas.edu/blog/?q=en/node/6940>; see also the website of the civil society group Fórum de Direito de Acesso a Informações Públicas [Forum for the Right of Access to Public Information] at <http://www.informacaopublica.org.br/>.

³⁷ Maira Magro, "Brazil's Citizen Journalists Crucial in Covering Record Floods," *Journalism in the Americas*, April 9, 2010, <http://knightcenter.utexas.edu/blog/?q=en/node/6900>; "Veja o mapa da devastação no Rio e colabore" [View Map of Devastation in Rio and Collaborate], *O Globo*, <http://oglobo.globo.com/rio/info/chuva/>.

³⁸ Monica Tavares, "Marco da internet: sites jornalísticos querem ficar de fora do projeto do governo que regulamenta o setor" [Internet Framework: News Sites Want to Stay Out of Government Project to Regulate the Sector], *O Globo*, April 16, 2010, <http://oglobo.globo.com/economia/mat/2010/04/16/marco-da-internet-sites-jornalisticos-querem-ficar-de-fora-do-projeto-do-governo-que-regulamenta-setor-916364403.asp>; O'Brien, "Is Brazil the Censorship Capital of the Internet? Not Yet."

³⁹ Cultura Digital, "Balanço parcial: novos artigos atendem às sugestões sobre remoção de conteúdo" [Partial Balance: New Articles Meet Suggestions Regarding Content Removal], May 3, 2010, <http://culturadigital.br/marcocivil/2010/05/03/balanco-parcial-do-debate-novo-artigo-20-atende-as-contribuicoes>.

⁴⁰ See the website of the copyright reform movement at <http://www.reformadireitoautoral.org/>.

VIOLATIONS OF USER RIGHTS

The constitution and federal law protect freedom of speech as well as cultural and religious expression. Specific laws also establish freedom of the press. However, some legislation limits these rights, and the constitution outlines a particularly complex legal framework, especially regarding online speech.⁴¹ For example, free expression of thought is assured and anonymity is formally forbidden in the same paragraph.⁴² This provision is now part of the above-mentioned 2009 law that regulates elections in Brazil (Law No. 12.034/09).⁴³ In addition, bill 494/08, currently under consideration in the Senate, aims to impose a series of obligations on ISPs, websites, and blogs to ensure cooperation with the police on pedophilia investigations.⁴⁴ Brazil's judiciary is independent but some judges have issued rulings that may be detrimental to the full exercise of free expression online, such as a November 2009 decision forbidding bloggers in the state of Mato Grosso from reporting on embezzlement charges against a local politician.⁴⁵

Individual bloggers have faced defamation lawsuits, sometimes for very high amounts. These are most commonly filed by companies over postings that criticize their products or services.⁴⁶ In one case, blogger Denise Bottmann was sued after posting comments and evidence accusing a publisher of plagiarism;⁴⁷ she eventually won the lawsuit in April 2010.⁴⁸ In another example, Emilio Moreno da Silva Neto, a blogger and journalism student at Colégio Santa Cecília, was ordered in November 2009 to pay his school's

⁴¹ An English translation of the constitution is available at <http://www.v-brazil.com/government/laws/constitution.html>.

⁴² Jose Murilo, "Brazil: Inventive Censorship, and the Case for Anonymity," Global Voices, September 7, 2008, <http://globalvoicesonline.org/2008/09/07/brazil-inventive-censorship-and-the-case-for-anonymity>.

⁴³ Law 12.034, September 29, 2009, available at http://www.planalto.gov.br/ccivil_03/ Ato2007-2010/2009/Lei/L12034.htm.

⁴⁴ Brazilian Senate, "Tramita no Senado projeto para coibir crimes contra crianças e adolescentes na internet" [Senate Clears Project to Curb Crimes Against Children and Adolescents on the Internet], news release, May 31, 2010, <http://www.senado.gov.br/agencia/verNoticia.aspx?codNoticia=102501&codAplicativo=2>.

⁴⁵ Brazilian Association of Investigative Journalism (ABRAJI), "Judge forbids bloggers from writing about politician's court case," International Freedom of Expression eXchange (IFEX), November 20, 2009, http://www.ifex.org/brazil/2009/11/20/cavalcanti_and_vandoni_injunction/.

⁴⁶ Alessandro Martins, "Lista de blogs processados ou ameaçados juridicamente" [List of Blogs Sued or Threatened With Legal Action], *QueroTerUmBlog.com!*, December 17, 2009, <http://queroterumblog.com/lista-de-blogs-processados-ou-ameacados-judicamente/>. In December 2010, the newspaper *Folha de São Paulo* filed a lawsuit against a blog that sought to satirize the well-known daily. ABRAJI, "Newspaper files lawsuit against satirical blog," IFEX, http://www.ifex.org/brazil/2010/12/30/falha_de_sao_paulo_sued/.

⁴⁷ Urso de Óculos, "Denise Bottmann sued by Landmark Press", March 4, 2010, <http://www.ursodeoculos.com/english/?p=1315>.

⁴⁸ Alessandro Martins, "O caso de processo a blog mas importante do ano" [The Year's Most Important Case of a Blog Being Sued], *QueroTerUmBlog.com!*, December 26, 2009, <http://queroterumblog.com/o-caso-de-processo-a-blog-mais-importante-do-ano/>. And <http://apoiodenise.wordpress.com/2010/04/01/acao-de-martin-claret-contra-denise-bottmann-e-rejeitada-em-segunda-instancia-por-unanimidade/>.

principal approximately US\$9,200 for comments posted on his blog by an anonymous user about a fight at the school.⁴⁹

The Digital Crimes Bill,⁵⁰ first introduced in 2005 by Senator Eduardo Azeredo, has raised concerns that it would restrict technologies like open WiFi networks, criminalize actions such as unlocking mobile phones, and oblige ISPs to record user information.⁵¹ Following public criticism of the draft—including a petition that gathered over 150,000 signatures—discussion surrounding the bill largely subsided in early 2010 and was substituted by a public debate over the proposed Civil Rights Framework for the Internet in Brazil.⁵² However, in the fall of 2010, the bill was brought back to the Congressional agenda, retaining a number of problematic provisions.⁵³ Its passage was pending at year's end.

Surveillance of internet activities is not a significant concern in Brazil, although government efforts to collect user data have increased in recent years, and illegal wiretapping remains a significant problem. Specific laws allow for surveillance, but only when authorized by judicial orders under due process. In 2007, the number of wiretaps was estimated at between 300,000 and 409,000, and most were conducted without a judicial order.⁵⁴ In 2009, civil courts authorized over 10,000 wiretaps.⁵⁵ A special congressional commission was established in 2009 to analyze surveillance issues. The panel's report

⁴⁹ ABRAJI, "Journalism Student Ordered to Pay Hefty Amount in 'Moral Damages' Case After Critical Comments Posted on His Blog," IFEX, December 1, 2009, http://www.ifex.org/brazil/2009/12/01/neto_sued_for_damages/; Juliana Lima, "Brazilian Journalism Student Must Pay Damages for Comment on His Blog," *Journalism in the Americas*, November 26, 2009, <http://knightcenter.utexas.edu/blog/?q=en/node/5935>.

⁵⁰ "Censura Não!: Brazilian Bloggers Protest New Cybercrime Bill," OpenNet Initiative, July 25, 2008, <http://opennet.net/blog/2008/07/censura-n%C3%A3o-brazilian-bloggers-protest-new-cybercrime-bill/>; Reporters Without Borders, "Legislators Urged to Oppose Cyber-crime Bill Likely to Threaten Online Free Expression," news release, July 23, 2008, http://en.rsf.org/brazil-legislators-urged-to-oppose-cyber-23-07-2008_27917.html; Paula Góes, "Brazil: Bloggers Question the 13 New Cyber-Crimes," Global Voices, July 17, 2008, <http://globalvoicesonline.org/2008/07/17/brazil-bloggers-question-the-13-new-cyber-crimes/>; Rodrigo Guimarães Colares, "Brazilian Cybercrime Bill Needs More Transparency," Safernet Brasil, June 17, 2007, <http://www.safernet.org.br/site/noticias/brazilian-cybercrime-bill-needs-more-transparency>.

⁵¹ Paula Martini, "Access Versus Surveillance: Brazilian Cybercrime Law Project," iCommons, November 5, 2008, <http://archive.icommons.org/articles/access-versus-surveillance-brazilian-cybercrime-law-project>.

⁵² O'Brien, "Is Brazil the Censorship Capital of the Internet? Not Yet"; Joana Varon, "Internet and Democracy: Brazilian Procedure for a Civil-Rights Based Regulatory Framework for Internet," *a2k* (blog), January 12, 2010, <http://a2kbrasil.org.br/Internet-and-democracy-Brazilian>; Cultura Digital, "Draft Bill Proposition on Civil Rights Framework for Internet in Brazil," April 20, 2010, <http://culturadigital.br/marcocivil/2010/04/20/draft-bill-proposition-on-civil-rights-framework-for-internet-in-brazil/>.

⁵³ Joana Varon, "Brazilian Internet regulation: new challenges imposed by misguided cybercrime draft bill," A2K Brasil, November, 8th, 2010, <http://www.a2kbrasil.org.br/wordpress/lang/en/2010/11/brazilian-internet-regulation-new-challenges-imposed-by-misguided-cybercrime-draft-bill/>; "Comentários e Sugestões sobre o substitutivo do Projeto de Lei de Crimes Eletrônicos (PL n. 84/99) apresentado pela Comissão de Constituição e Justiça e de Cidadania" [Comments and Suggestions About the Replacement of the Bill on Cybercrimes (PL n. 84/99) Presented by the Commission on the Constitution, Justice and Citizenship], Rio de Janeiro School of Law, Center for Technology and Society, November 2010, <http://www.a2kbrasil.org.br/wordpress/wp-content/uploads/2010/11/coment%C3%A1rios-ao-substitutivo-PL-88-99.pdf>.

⁵⁴ "Trezentos mil brasileiros estão com telefone grampeado" [Three Hundred Thousand Brazilians Have Bugged Phones], Consultor Jurídico, October 27, 2007, <http://www.conjur.com.br/static/text/60835.1>.

⁵⁵ "Brasil tem 10,5 mil escutas telefônicas autorizadas em curso" [Brazil Has 10,500 Authorized Wiretaps Under Way], *Imprensa Livre*, May 23, 2010, <http://www.redeimpresalivre.com.br/archives/5095>.

suggested that many individuals, politicians, and members of the police force should be investigated and condemned for illegal wiretapping. Privacy is also threatened by defamation suits and other such cases. Brazil's recent listing by Google as the world's top issuer of requests for content removal or user information stems in part from the fact that judicial orders to remove content in private-party disputes are often accompanied by a request to identify the publisher of the information.⁵⁶

Some lawmakers have pushed for requirements that any internet communication from a public access point, such as a LAN house, be recorded, and that data from users be gathered, to prevent crime and allow the LAN house to avoid liability for acts committed by its users. In the state of Parana, the legislature is debating a bill that would oblige LAN houses to install cameras in their computer rooms. The bill was proposed after the police department released statistics showing that 30 percent of cybercrimes in the state had originated in LAN house computers.

Several legal provisions, including Article 57-D of the recently revised electoral law, place restrictions on anonymity. Users are generally required to register with their real names before purchasing mobile phones or opening a private internet connection, though the use of pseudonyms in discussion forums is common. There have been no reports of such registration being employed to punish users for their online speech on political or social issues, largely because there are no government efforts to track who participates in such discussions.

While traditional media workers are often victims of violence and death threats in Brazil,⁵⁷ such attacks have yet to extend significantly to online journalists, bloggers, and commentators. However, the line between traditional and online journalism is blurred at times, as many reporters straddle the two types of media. In October 2010, radio journalist Francisco Gomes de Medeiros, who reported on organized crime both for radio and on his personal blog, was shot and killed in front of his home by a gunman apparently working for an imprisoned drug trafficker.⁵⁸ In 2009 and 2010, there were no widely reported physical attacks solely as retribution for online expression, though some bloggers reported receiving threats of lawsuits.

Cyberattacks plague Brazil, with targets ranging from online banking sites to energy plants.⁵⁹ In 2009, several prominent intelligence sources confirmed that a series of

⁵⁶ O'Brien, "Is Brazil the Censorship Capital of the Internet? Not Yet."

⁵⁷ Maira Magro, "Police Accuse Three Men of Torturing Editor in Northeast Brazil," *Journalism in the Americas*, June 10, 2010, <http://knightcenter.utexas.edu/blog/?q=en/node/7449>; Maira Magro, "Reporter Who Exposed Death Squad in Brazil Receives Threats," *Journalism in the Americas*, May 25, 2010, <http://knightcenter.utexas.edu/blog/?q=en/node/7300>; Maira Magro, "Escaped Killer of Brazilian Journalist Turns Himself In," *Journalism in the Americas*, May 25, 2010, <http://knightcenter.utexas.edu/blog/?q=en/node/7302>.

⁵⁸ Danny O'Brien, "Six Stories: Online Journalists Killed in 2010," Committee to Protect Journalists (CPJ), December 17, 2010, <http://www.cpj.org/internet/2010/12/online-journalists-killed-in-2010.php>.

⁵⁹ Dmitry Bestuzhev, "Brazil: A Country Rich in Banking Trojans," Securelist, October 16, 2009, http://www.securelist.com/en/analysis/204792084/Brazil_a_country_rich_in_banking_Trojans.

cyberattacks in January 2005, September 2007, and November 2009 were responsible for blackouts.⁶⁰ The blackouts generally occurred at night and were relatively short, causing only limited economic damage. The Brazilian government has denied that the power outages were caused by hacking, but Brazilian hackers have published comments on their blogs affirming that the energy control system is vulnerable to such attacks.⁶¹ An increasing amount of hacker instructional material is produced in Brazil, including information on how to conduct illegal mobile-phone wiretaps or hack passwords.⁶²

⁶⁰ “Cyber War: Sabotaging the System,” *60 Minutes*, CBS, November 8, 2009, <http://www.cbsnews.com/stories/2009/11/06/60minutes/main5555565.shtml>; Kevin Poulsen, “Report: Cyber Attacks Caused Power Outages in Brazil,” *Wired*, November 7, 2009, <http://www.wired.com/threatlevel/2009/11/brazil/>.

⁶¹ “Apagão Brasil—Mistério ou Ataque Hacker?” [Brazilian Blackout—Mystery or Hacker Attack?], Papatuss Log.com, <http://www.papatusslog.com/2009/11/apagao-brasil-misterio-ou-ataque-hacker.html>.

⁶² For examples of tools and hardware for “do-it-yourself wiretapping,” see ItecDiffusion.com at http://www.itecdiffusion.com/PT/escuta_telemovei.html; See for example Apostila Hacker [Hacker Toolkit], at <http://www.apostilahacker.com.br/>.