



Halftime for the Brazilian press

Will justice prevail over censorship and violence?



A special report by the Committee to Protect Journalists

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Brazil is home to vibrant media, but journalists are regularly murdered with impunity and critical journalists are subject to legal actions that drain resources and censor important stories. During the 2014 World Cup, this contradiction will be on vivid display. Does Dilma Rousseff's administration have the will and determination to beat back impunity and end legal harassment, allowing press freedom to thrive? **A special report by the Committee to Protect Journalists**

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Introduction

By Joel Simon

For a long time, Brazil has been fighting to overcome its contradictions. The country features a dynamic, modern, and diverse economy—and some of the worst poverty in the hemisphere. It has been led by two successive Socialist governments, and yet retains one of the most **skewed income distributions** in the world.

Brazil is also home to a vibrant and robust national media. But journalists are regularly murdered with impunity and critical reporters are subjected to legal harassment and judicial censorship.

When Brazil draws global attention for the 2014 World Cup and the 2016 Olympic Games in Rio de Janeiro, these contradictions will be on vivid display.

But as this report makes clear, Brazilian President Dilma Rousseff is confronting the challenge of creating a more favorable environment for the media. After initially **failing to recognize** the gravity of the threat posed by unchecked violence against the press, Brazilian authorities have taken steps to bring the killers of journalists to justice. In the past year, authorities obtained an unprecedented **four convictions** in such cases.



Soldiers, police, and journalists take position during an operation at a slum in the capital in November, 2010. (Reuters/Sergio Moraes)

The Rousseff administration has also sought to improve the online environment—understandable since Brazil is rife with what is known as judicial censorship, both online and off-. Hundreds of blog posts and links are taken down each year by court order, according **Google**.

The Marco Civil da Internet was developed with broad input from civil society, and initially hailed as a landmark piece of legislation that could safeguard freedom of expression online. A troubling amendment that would have imposed a sweeping and onerous data retention requirement on Internet companies operating in Brazil was dropped from the final legislation.

These efforts are to be commended, but the contradictions remain. Despite the convictions, the murder rate for journalists has not declined, and Brazil continues to feature on CPJ's **Impunity Index**, mired in 11th place on the rankings of countries around the world where the killers of journalists go free. Laws on the books continue to make it possible for powerful figures to bring punitive suits against critical journalists—suits that drain resources from media organizations and bloggers and keep them from pursuing important stories.

The political environment surrounding the World Cup is likely to be volatile. Large street protests fueled by anger over the extravagant expenditures on sport stadiums rather than on unmet social needs are expected to resume once the matches get under way.

By mid-July, several questions will be answered.

Will Brazil be World Cup champion?

How will the government respond to protests or other disturbances?

And will Brazil's leaders show the political maturity and confidence to allow unfettered coverage by the global media?

It will take more time to answer another key question linked to the future of Brazil's democracy.

Does the Rousseff administration have the will and determination to beat back the culture of impunity and end the legal harassment of the media?

If Rousseff succeeds in creating a safe and secure environment for the Brazilian media, then Brazil will have eliminated a key contradiction. It will also have advanced in its efforts to define its political future as a hemispheric and global leader.

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“The idea is that the protection mechanism will not force journalists to abandon their profession but rather continue with their work provided certain safety guarantees,” said Tarciso Dal Maso Jardim, a member of the working group and an independent legislative consultant for the Brazilian Senate.

With at least 12 journalists **killed** in direct relation to their work since Rousseff took office in 2011, and five others killed in unclear circumstances, Brazil has become one of the world’s **most dangerous** countries for reporters. **König**, the investigative journalist and CPJ awardee, who himself has been beaten, **threatened**, and forced to **flee his home**, said the expansion of such a program would be an important step toward preventing anti-press attacks.

A similar protection program in Colombia is frequently cited as helping to reduce violence against journalists there since 2000. In Colombia, a committee of government officials and civil society representatives meets frequently to assess the security needs of journalists under threat. Despite some deficiencies, the program has assisted numerous journalists under threat and prevented physical attacks against Colombian reporters, according to CPJ research.

Brazil’s former federal minister for human rights, Maria do Rosário Nunes, has said she believes that such a mechanism would “reduce impunity in crimes against journalists” and **provide protection** for reporters under imminent threat, according to news reports. Also important, **said** do Rosário, is the proposal to create protocols for law enforcement officials to ensure that the press can cover demonstrations without fear of reprisal.

Do Rosário left the ministry at the end of March 2014 to run for federal deputy in the October 5 general elections. On April 1, during the swearing-in ceremony of Do Rosário’s successor, Ideli Salvatti, Rousseff **said** the new official “will have to sustain a program of great relevance.”

Though the level of violence is unacceptably high, Brazil has recently made significant progress in the fight against impunity. In 2013, convictions were reached in the killing of journalists in three different cases: radio reporter **Francisco Gomes de Medeiros**; **Edinaldo Filgueira** of *Jornal o Serrano*; and **Domingos Sávio Brandão de Lima Júnior**, owner, publisher, and columnist of the daily *Folha do Estado*. Although these convictions represent a major step toward reversing the country’s record of impunity in journalist murders, in 2013 Brazil appeared for the third consecutive year on CPJ’s Impunity Index, which calls attention to countries where journalists are frequently murdered and the killers go free.

The working group also recommended that the Human Rights Ministry and the Ministry of Justice cooperate with the United Nations—both through UNESCO and the Rio de Janeiro-based U.N. Information Center—to establish a national **Observatory on Violence Against Journalists**. The observatory would be responsible for recording press violations, and creating a system of investigations and resolution. It would have the ability to refer cases to the national protection mechanism when a need to take preventive measures was determined. The group supported the active participation of freedom of expression and press organizations in the formation and management of the observatory.

The working group also urged Congress to provide for major federal police involvement in investigations of crimes against freedom of expression, particularly in cases when there is evidence of omission, lapses, or complicity by local authorities. Local journalists, legislators, and government officials say a **bill** under consideration by Congress would speed cases through the judiciary.

Two of the largest Brazilian press groups, the National Federation of Journalists, or **FENAJ**, and the Brazilian Press Association, known as ABI, have supported the project. Still, Article 19’s South America director, Paula Martins, notes that a new bill should not be necessary, because a constitutional amendment approved in 2004 addresses grave human rights abuses. Amendment 45 reformed more than 20 provisions of the Brazilian Constitution, establishing better judicial mechanisms to protect human rights. The reforms amended Article 109, granting the Attorney General’s Office the power to transfer a case to federal jurisdiction when grave human rights violations are suspected. Though no cases have been transferred to federal jurisdiction under this amendment, in theory federal prosecutors can already invoke it to investigate journalist murder cases.

With protest groups vowing to use the World Cup as a venue to air dissent, a few recommendations from the working group called on the Justice Ministry to create elaborate protocols for security forces during demonstrations to ensure that the press can cover them without fear of physical harm. The working group urged law enforcement officials not to confiscate equipment or memory cards belonging to journalists, and also called for security training for reporters.

ABRAJI documented 163 press freedom violations, involving 152 journalists, from May 2013 through late March 2014. In more than 100 cases, reporters said they were deliberately attacked after identifying themselves as members of the press. Law enforcement officials were responsible for more than 80 of these deliberate abuses, while protesters accounted for 22 of them.



A police officer aims pepper spray at photographers during a protest in September 2013. (Reuters/Ueslei Marcelino)

In February, Santiago Ilídio Andrade, a cameraman with Bandeirantes television network, was filming a confrontation in Rio de Janeiro between police officers and demonstrators protesting a public transportation fare increase when a flare hit him in the head, according to news reports. He died after several days in a coma. The authorities released video footage that appeared to show protesters launching the device, and alleged that the protesters had meant to target police officers, not the journalist. Two suspects were identified, arrested and placed in preventive detention. Both have been charged with murder. (One suspect has admitted to holding the flare. The police say the other suspect admitted to lighting it but denied intending to hurt anyone. The lawyer of the latter suspect says his client was “bullied into confessing,” according to press reports.)

“It is inadmissible that democratic protests be twisted by those that don’t have respect for human rights,” Rousseff wrote on her official Twitter account.

A group of local human rights groups held a March hearing before the Inter-American Commission on Human Rights to draw attention to abuses by security forces during street protests. Natália Damázio, a lawyer with the local NGO *Justiça Global*, said police repression during demonstrations was one of the main issues in the hearing, but not the only one. “Brazil is creating mechanisms to violate freedom of expression and association using mass arbitrary detentions, and the irregular use of nonlethal weapons,” said Damázio, according to press reports.

Assigned only to submit concrete recommendations, the working group ended its effort in March. José Roberto de Toledo, ABRAJI’s president, said that while there are no clear deadlines for the implementation of the proposals, the government will be compelled to show progress from words to actions. “If some of these recommendations are finally executed, authorities will be able to show tangible outcomes during the political campaign,” said Toledo, who is a commentator at RedeTV!, a columnist, blogger, and coordinator for *Estadão Dados* (a project to disseminate data journalism) at the national daily *O Estado de S. Paulo*.

Free press advocates say implementation of the recommendations will depend on how much pressure civil society groups can exert on the government. If deadly violence continues to rise, officials may be forced that take decisive measures and act promptly when public pressure is at its peak. But many say the national election in October, with Rousseff seeking re-election, may also result in some delays.

Laura Tresca, freedom of information officer in Brazil for Article 19, is optimistic about the implementation of some recommendations this year, since they require administrative action and not legislation. She cited the expansion of the national protection mechanism for human rights defenders. “The government must show results,” she said, “and some of these recommendations can be simply adopted if there is political will.”

However, the general elections may hinder the approval of legislative measures. “Those proposals that were sent to Congress will likely be delayed,” said Dal Maso, the legislative consultant and member of the working group.

The FIFA World Cup will put the domestic challenges of the Rousseff administration in the spotlight. The government’s goal will be to get through the countrywide soccer event, expected to attract more than half a million foreigners, without a major setback. But press freedom advocates say that they take heart because their concerns have become part of the national debate.

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Freedom of the press is still a work in progress in Brazil

By Fernando Rodrigues

The street protests in Brazil in June 2013 received extensive news coverage. However, for the first time in years, attacks against journalists and media organizations also became a frequent topic in the press.

Formal censorship in Brazil ended with the transition to civilian rule in 1985, after 21 years of military dictatorship. Under democracy, journalists have still suffered attacks, but this has never been a topic of sustained media attention. This lack of interest is intriguing to observers abroad. It is as if the perception does not exist in Brazil that the job of reporters in the country is often dangerous.

This may have something to do with the fact that Brazil, historically, has experienced very uneven development among its many regions. While in some of those regions individual and collective rights are protected, others lag far behind. In large capitals and metropolitan areas, respect for media organizations, journalists, and freedom of expression is stronger. In more remote areas of the interior, that is not always the case. Brazil has about 5,500 municipalities, half of them very small. In these towns, it is common for the political leader in power to also own the major media channels.

When crimes against journalists are committed in the interior, there are two common reactions, and they are not always mutually exclusive. One, attacks against reporters are condemned. Two, doubts are aired whether the attack was intended to silence freedom of expression or whether it was political and partisan in nature, because the media outlet and/or the journalist were directly related to a political party.

It is clear that attacks on freedom of expression should always be condemned, regardless of whether the owner of the newspaper, TV or radio station, or website is a politician or not. But this overlap of interests—political and journalistic—has undermined the rights of journalists to exercise their profession freely.

Then came the events of June 2013. The protests resulted in attacks against reporters in Brazil's major capital cities. Many of the journalists assaulted worked for media companies considered independent. What is more, the assaults were perpetrated both by protesters and security forces. A debate quickly ensued whether Brazil should take measures to ensure safe working conditions for reporters.

The Brazilian Association of Investigative Journalism (ABRAJI) **studied** the attacks against media workers and counted 163 episodes from May 2013 to March 2014. Most violent incidents occurred in large urban centers. There was an increase in the coverage of these attacks. Media organizations, journalists, and government agencies mobilized to seek ways to help ensure the safety of reporters. Since it was founded, ABRAJI has offered seminars and workshops to train journalists working in zones of conflict. The Brazilian government has also begun to act, and on March 28 and 29, 2014, the Brazilian Ministry of Justice held a **workshop** to help train media workers to cover street protests.

Brazil is a young democracy. Certain republican values have not yet been fully consolidated. Only now, 50 years after the 1964 coup d'état, has the number of Brazilians who support democracy **risen above** the 60 percent mark. Freedom of the press and safe conditions for media workers are still new in many regions. The protests of June 2013 showed that these rights can also be fragile in Brazil's major cities. The fact that this debate is now becoming more widespread is a good sign. The country is moving in the right direction, but the journey will be a long one.

Fernando Rodrigues is a journalist, founder of ABRAJI and a member of the Board of Trustees of the Fund to Support Investigative Journalism (F/ABRAJI). He works for the Folha de São Paulo newspaper and the UOL news portal.

2. The vicious cycle of impunity

By Sara Rafsky

When the World Cup kicks off in Brazil in June, the government of President Dilma Rousseff will be celebrating the country's emergence as a global powerhouse. The event, to be staged at sites across the country, will put the nation's vast and diverse territory on display, unlike the Olympics, which Brazil is hosting two years later in just one city, Rio de Janeiro. While the 2012 **murder** of a local soccer journalist in central-western Goiânia may run counter to the official narrative of success, it reflects the disparate realities of a country as immense as Brazil, and depicts a darker side of "the beautiful game."

Valério Luiz de Oliveira, the second generation in a family of prominent sports journalists, was known for his **critical commentary** on his television and radio programs on PUC-TV and Rádio Jornal 820 AM. He was particularly unsparing in his condemnation of the managers of the local soccer team Atlético Goianiense, which had recently lost the state championship. He **compared** them to rats abandoning a sinking ship. Luiz did not shy from criticizing the powerful team vice president, Maurício Borges Sampaio, a wealthy businessman, despite Sampaio's banning him from the team's headquarters and attempting to have him removed from his job, Luiz's son, Valério Luiz de Oliveira Jr., told CPJ. On July 5, 2012, a gunman on a motorcycle shot Luiz, 49, six times outside his offices at Rádio Jornal.

In February 2013, the authorities arrested five men and charged them with planning, assisting, and carrying out the murder. Among them was a sergeant from the military police, accused of organizing the crime, and Sampaio, who was charged as the mastermind. All of the men deny the charges, Luiz Jr. told CPJ. (One man charged as an accomplice, Marcus Vinicius Pereira Xavier, **confessed and implicated** the others, but later disavowed the confession, according to **news reports**. In late March 2014, Vinicius fled to Europe and is considered a fugitive. The rest of the men are free pending trial.)

Luiz's case is in many ways exemplary of justice in Brazil: halting and incomplete. Human rights abuses and press freedom restrictions were at the forefront of discussions of recent Olympic Games in China and Russia, but many in the international community might be surprised to learn that Brazil is the **11th deadliest country** in the world for journalists since 1992, ranking one spot worse than war-torn Afghanistan, according to CPJ research. At least 10 journalists have been **murdered** in direct reprisal for their work since Rousseff came to power at the start of 2011, while five others were murdered in unclear circumstances. As the violence has increased, so too has the country's impunity crisis, with Brazil ranked for four consecutive years on CPJ's index of nations where the murders of journalists are most likely to go unpunished.

The wave of deadly violence has hit provincial journalists much more than their colleagues in major urban centers, a circumstance that may have made the killings easier to ignore. Despite the troubling statistics, the government initially appeared not to acknowledge the problem. In 2012, Brazilian officials, along with officials from other countries with high impunity rates, **raised objections** to a United Nations plan that would strengthen international efforts to combat journalist murders and impunity. But under pressure from press freedom advocates, the government **backtracked**, and the U.N. Plan of Action for Security of Journalists and the Issue of Impunity was adopted. Later, after widespread press freedom abuses during countrywide protests made journalists' safety an issue of national debate, the wheels of justice began their slow grind.

Since August, convictions have been obtained in four journalists' murders, an achievement unheard of in the other countries that appear with Brazil on CPJ's **Impunity Index**. The reasons for this sudden burst of justice are unclear. Marcelo Moreira, editor-in-chief of RJTV, the local television news station of TV Globo in Rio de Janeiro, told CPJ that the advocacy of media organizations and press freedom groups like the Association of Brazilian Investigative Journalism might have prompted national media outlets to finally cover an issue they had long considered provincial, in turn pressuring the authorities.

Another explanation might be Rousseff's desire to improve the country's international image before the World Cup and Olympic Games, or to curry favor with the local press before the October presidential elections. Whatever the reason, the flurry of convictions, combined with the proposed protection mechanism and federal jurisdiction in journalists' murders under debate in the national congress, demonstrate that this is a government that "understands that Brazil is a dangerous place for a journalist to work, when previously they denied it," Moreira, a former president of the investigative journalism association, told CPJ.

Heloisa Marques Gimenez, an adviser in the Ministry of Justice, denied that this concern was anything new for the government. "We are closely watching the issue," she said, "and we are handling it with all the means available to us."

Marques and Sérgio de Carvalho Alli, an adviser in the press office of the executive branch, both pointed to new initiatives under discussion in various branches of government and the working group that investigated attacks on the press as examples of the policies that officials are seeking to improve the environment for journalists. However, Tássia Rabelo, an official with the Human Rights Ministry, said creation of the working group in late 2012 was not only a show of commitment but also a "recognition of the problem by the Brazilian government, which previously considered the vast majority of deaths of journalists recorded in Brazil to have no direct relation to their exercise of the profession."



The funeral of Valério Luiz de Oliveira, a critical sports journalist who was shot dead in October 2012. (YouTube/Band TV Goiânia)

A closer inspection of some of these cases, however, reflects the unique challenges of attaining justice in Brazilian journalists' murders. Unlike countries such as Mexico or Honduras, where these crimes usually are barely even investigated—no evidence, no arrests, no explanations—the authorities in Brazil often come tantalizingly close to solving the murders, only to see cases evaporate just before the final reckoning. In only one of the four recent cases were all involved parties, including the mastermind, brought to justice. The resolution of that case—the 2002 murder of **Domingos Sávio Brandão Lima Júnior**, owner, publisher, and columnist of the daily *Folha do Estado* in Cuiabá, in the central-western state of Mato Grosso—was by no means swift. It wasn't until October 2013, 11 years after the crime, that a police officer-turned-businessman, João Arcaño Ribeiro, was convicted of ordering Brandão's death in retaliation for the journalist's reporting on his criminal activities.

The other recent convictions snared only the triggermen. The cases of **Edinaldo Filgueira** and **Décio Sá** hold many parallels. As with almost all the recent journalist murders, both lived far from the country's main urban centers. Both maintained careers in traditional print media, while using the freedom of the blogosphere to air their most serious allegations of local political corruption and criminal activity. Filgueira, the founder and director of the local newspaper *Jornal o Serrano* in northeastern Serra do Mel, had recently published a critical poll on the performance of the local government on his blog when he was shot six times by three unidentified men outside his office on June 15, 2011.

In December 2013, seven men were convicted of planning and participating in the crime, including the gunman, and received sentences ranging from 19 to 23 years in prison. One of the men, who is considered a fugitive, was sentenced in absentia. Josivan Bibiano, who was mayor of Serra do Mel at the time of Filgueira's death, was charged with being the mastermind of the crime. After being jailed twice, however, Bibiano was released in a decision that critics alleged to be irregular, and it was unclear if he would ever face a trial, local journalists and representatives of the Association of Brazilian Investigative Journalism told CPJ.

A blog set up in remembrance of Filgueira **reported** that Bibiano is the cousin of three of the convicted men. In a troubling development, Marcos José de Oliveira Ferreira, a cousin of Filgueira who had traveled to Serro do Mel from São Paulo to participate in the sentencing hearing, was **murdered** the day after the convictions by unidentified gunmen. No motive has been established, but the authorities have not ruled out a connection to the blogger's case, according to **news reports**.

Marcos Victor, a lifelong friend of Filgueira and a contributor to *Jornal O Serrano*, told CPJ that he had nothing but praise for the work of the authorities investigating the crime. He lauded in particular the designation of a special investigator and the involvement of federal law enforcement, but said the chains of accountability broke down once the case reached the judicial branch. Victor told CPJ, "Considering the degree of corruption that exists in the Brazilian courts, I can say that justice will not be achieved in this case." (Luiz's son expressed the same sentiment, telling CPJ, "The problem is with the judiciary.") Both men said they are in favor of federal authorities' taking jurisdiction of the cases.

Sá was a veteran political reporter for the local newspaper *O Estado do Maranhão* in the northern city of São Luis and wrote about politicians and corruption on his blog, *Blog do Décio*, which was one of the most widely read in the state. On April 23, 2012, an assailant walked into the bar where Sá was seated and shot him at least three times at close range.

In the months after the attack, the authorities **arrested** at least nine suspects who they said were accomplices and plotters and were linked to a loansharking ring that Sá, on his blog, had tied to a local murder. The suspects included a local businessman, Gláucio Alencar, charged with being the leader of the ring and of ordering Sá's murder, and a deputy chief of police, both of whom denied the charges, according to **news reports**. In February 2014, two other men, including the confessed gunmen, were sentenced to jail terms ranging from 18 to 25 years in prison. The other men are still awaiting trial.

While many bloggers in Brazil toil in relative obscurity, Sá was one of the best-known journalists in the state and had powerful backers. Though São Luis is on the far north coast of Brazil in a state that is often considered something of a Wild West, *O Estado do Maranhão* is owned by the Sarneys, one of Brazil's most prominent political families. José Sarney, a former president of Brazil and then president of the Senate, **called the crime** "an attack on democracy."

A marked contrast to the relatively rapid investigation and trial in Sá's case is the lack of progress in the case of the **far less prominent** blogger **Mario Randolpho Marques Lopes**, whose body was found along with that of his companion in Rio de Janeiro state two and a half months before Sá's murder. Marques had also written about local political corruption and alleged police involvement in criminal activity. The only significant development in the investigation more than two years since his murder was the decision to exhume the blogger's body in February 2013, to compare his DNA samples with blood found in a car, according to **news reports**. There has been no explanation or public update in the case since.

In other cases, such as those of **Mafaldo Bezerra Goes** and **Luciano Leitão Pedrosa**, **arrests** have been made and prosecutions continue.

If anything can be learned from the erratic nature of the Brazilian justice system, it is that the most powerful force for combatting impunity is often the press corps itself. Victor, who founded the Edinaldo Filgueira Institute to promote freedom of expression in the region, said the convictions in the Filgueira case would never have been achieved without the **mobilization** of the local community of bloggers, who put together a conference where they commemorated Filgueira as a patron of all bloggers, and established a National Bloggers' Day in his honor to keep the case in the public eye.

Luiz's 25-year old son established the Valério Luiz Institute, which is seeking justice for his father's murder and has joined forces with other local press organization to fight for press freedom and the protection of journalists. The institute has organized public hearings, created social media campaigns, and sent local soccer teams onto the field

wearing T-shirts bearing a stark black and white portrait of Luiz. The journalist's son is also advocating federal jurisdiction in his father's case and federal protection mechanisms for journalists at risk.

"Would they have pulled the trigger if the Goiânia press was united, cohesive and strong?" Luiz Jr. wrote in a statement. "After the accused are convicted, any colonel will think twice before picking up a rifle because of a microphone."



Brazilian journalist Rodrigo Neto was shot dead in March 2013. He had aggressively covered police corruption throughout his career and frequently received threats. (Diário Popular)

A similar form of grass-roots mobilization was used by the Vale do Aço press corps in Minas Gerais State last year. After journalist Rodrigo Neto and photographer Walgney Assis Carvalho of the daily *Jornal Vale do Aço* were murdered in a period of weeks, a group of local reporters founded the Rodrigo Neto Committee to investigate the killings, including suspected police involvement, and to continue the work the journalists left behind. The committee was formed to "demonstrate to society that the press is united and we will not disband until we get an answer for this crime. We're mirroring the work that Rodrigo himself did: conducting research and always remembering, as a way to combat impunity," one of the committee's founders, Anna Sylvia Rodrigues, said at the time.

A year later, several police officers are in prison on charges of participating in the crime, but no mastermind has been identified and the exact motive remains

unexplained, according to news reports. After continuously pressuring the authorities in the first months after the murders, the committee's public actions appeared to slow after the first wave of charges were filed in mid-2013, according to a review of the committee's website and social media accounts. In a public message posted to the group's Facebook page in the fall of 2013, a spokesman wrote: "The Rodrigo Neto Committee is not finished. Journalists and media professionals are following the hearings ... [but] the situation is tense. There has been no lull ... the threats to professionals continue." CPJ's requests for comment from the committee went unanswered.

Precedents for organized professional solidarity campaigns in the wake of journalists' murders exist across the region—which benefits from a historically strong civil society—from the Manizales project in Colombia to the Chauncey Bailey Project in the United States. By contrast, isolation and a lack of solidarity in countries such as El Salvador and Honduras compound risk and can make a dangerous place even more deadly for the press, CPJ research has shown. In Mexico, lethal violence and threats by organized crime have terrorized the media into silence. Thus, a recent national movement to demand justice in the murder of journalist Gregorio Jiménez de la Cruz in Veracruz was an unprecedented, and hopeful, development.

The Neto and Carvalho cases exemplify the best and the worst of the state of impunity and journalists' murders in Brazil: Outside the national media glare of São Paulo and Rio de Janeiro, two journalists were murdered in circumstances that implicate criminal elements within the police force. The local press corps mobilized to demand justice, the investigations progressed, and alleged accomplices and gunmen were placed in custody and charged. Despite these advances, if the story ends there, the Brazilian press is not out of danger. Victor told CPJ that the lack of total resolution in Filgueira's murder has created a general sense of fear in Serra do Mel, which has resulted in several journalists' fleeing the area and losing their livelihoods. Luiz told CPJ that self-censorship is now widespread in Goiânia, and that he suspects the local press is waiting to see what happens with the case against the accused mastermind Sampaio. "If we really want threats to stop," Moreira told CPJ, "we have to get the big guys."

The 10 journalist murders in the past three years reflect the difficulty of netting “the big guys.” But the image of journalists allegedly murdered by rogue criminal elements within the local police forces, and whose cases are tried by courts under the influence of local political and economic interests, is likely not the one the president hopes to promote at the World Cup or the Olympic Games. If Rousseff is serious about combatting anti-press crime, her government will have to undertake painful efforts to root out state and municipal-level corruption, as well as beef up preventative safety measures. But the country is home to a vibrant, talented investigative press corps, which the government seems to be increasingly aware it must protect. Citing the progress of the recent convictions, Moreira told CPJ, “Brazil is a big, young democracy and we are still growing up. This process may be moving slowly, but it won’t stop.”

Sara Rafsky is research associate in CPJ’s Americas program. She wrote CPJ’s 2012 [special report on press freedom in Argentina](#) and provided research for the 2013 [special report on the Obama administration and the press](#). Previously a freelance journalist in South America and Southeast Asia, she was awarded a 2008 Fulbright Grant to research photojournalism and the Colombian armed conflict.

Appendix: Journalists killed in Brazil since January 1, 2011

CPJ research has determined that at least 12 journalists have been killed in direct relation to their work since Dilma Rousseff was inaugurated as president on January 1, 2011. Another five have been killed in unclear circumstances, and CPJ continues to investigate those cases.

The following are details of the confirmed cases, in which CPJ is reasonably certain that a journalist was murdered in direct reprisal for his or her work; killed in crossfire during combat situations; or killed while carrying out a dangerous assignment such as coverage of a street protest.

Luciano Leitão Pedrosa

TV Vitória and Radio Metropolitana FM

April 9, 2011, in Vitória de Santo Antão, Brazil

Television and radio journalist Pedrosa was shot at a restaurant in Vitória de Santo Antão in northeastern Pernambuco state, according to press reports.

An assailant fired multiple shots after entering the restaurant at about 9 p.m., the Recife-based daily *Diario de Pernambuco* reported. Pedrosa, struck once in the head, was pronounced dead at the scene. The unidentified gunman fled on a motorcycle driven by another individual who had been waiting outside, press reports said.

Pedrosa, 46, had hosted a program on TV Vitória, "Ação e Cidadania" (Action and Citizenship), for seven years, and had reported for the FM radio station Metropolitana. According to press reports, Pedrosa was known for his critical coverage of criminals and municipal authorities.

Police initially told reporters that the gunman had declared it was a robbery. But in February 2012, police officials announced they had arrested three suspects and had concluded that the killing was tied to Pedrosa's journalism, according to news reports. Investigators said brothers Josemir and Josemar Soares da Silva had organized the murder in reprisal for Pedrosa's reports on their alleged drug trafficking. Police identified Dailton Gomes Brasil as the alleged gunman. A fourth alleged conspirator was himself murdered later in 2011.

Police said the brothers had threatened Pedrosa, including once on the journalist's live television program.

MEDIUM:	Radio, Television
JOB:	Columnist / Commentator
BEATS COVERED:	Crime
GENDER:	Male
LOCAL OR FOREIGN:	Local
FREELANCE:	No
TYPE OF DEATH:	Murder
SUSPECTED SOURCE OF FIRE:	Criminal Group
IMPUNITY:	Yes
TAKEN CAPTIVE:	No
TORTURED:	No
THREATENED:	Yes

Edinaldo Filgueira

Jornal o Serrano

June 15, 2011, in Serra do Mel, Brazil

Edinaldo Filgueira was leaving his office at night when he was shot six times and killed by three unidentified men on a motorcycle, according to the Brazilian [press](#). He died at the scene.

Filgueira, 36, was the founder and director of the local newspaper *Jornal o Serrano*. He was also the regional director of the ruling Workers Party (PT) and wrote a blog in which he criticized political adversaries. According to local [press reports](#), Filgueira had recently published a critical poll on the performance of the local government on his blog, after which he received death threats.

On July 2, a joint force of federal and local police arrested several suspects who they said belonged to a gang of contract killers. They also seized weapons and large quantities of ammunition in the arrests. Federal police chief Marcelo Mosele confirmed to CPJ at the time that they had ruled out other possibilities and were exclusively focusing on Filgueira's journalistic work as the motive for the crime.

On December 5, 2013, seven men were convicted of planning and participating in the crime, including the gunman, and received sentences ranging from 19 to 23 years in prison, according to [news reports](#). One of the men, who is considered a fugitive, was sentenced in absentia. Josivan Bibiano, who was mayor of Serra do Mel at the time of Filgueira's death, was charged with being the mastermind of the crime but, after being jailed twice, was released, according to news reports. There has been no movement in his case since. A blog set up in remembrance of Filgueira [reported](#) that Bibiano is the cousin of three of the convicted men.

The prosecutor in the case said Filgueira was killed because he had been denouncing corruption in the city government.

The day after the conviction, Marcos José de Oliveira Ferreira, a cousin of Filgueira's who had traveled to Serra do Mel from Sao Paulo to participate in the sentencing hearing, was [murdered](#) by unidentified gunmen. No motive has been established but authorities have not ruled out a possible tie to the blogger's case, according to [news reports](#).

MEDIUM:	Print
JOB:	Editor, Publisher / Owner
BEATS COVERED:	Politics
GENDER:	Male
LOCAL OR FOREIGN:	Local
FREELANCE:	No
TYPE OF DEATH:	Murder
SUSPECTED SOURCE OF FIRE:	Unknown Fire
IMPUNITY:	Partial
TAKEN CAPTIVE:	No
TORTURED:	No
THREATENED:	Yes

Gelson Domingos da Silva
Bandeirantes TV
November 6, 2011, in Rio de Janeiro, Brazil

Domingos, 46, was shot and killed during a confrontation between state police and suspected drug traffickers in Rio de Janeiro, according to press reports. Domingos was a veteran cameraman for the national television network Bandeirantes.

Domingos had accompanied police on an early-morning raid at the favela, or shantytown, known as Antares, [news reports](#) said. [Footage](#) from Domingos' camera showed he was struck amid an intense exchange of fire between police and the suspects. Officials said the cameraman was struck by a shot to the chest fired from a high-powered assault rifle. Domingos was wearing a bullet-resistant vest, but it was not strong enough to withstand the blast, [news reports](#) said.

Four suspects were killed and nine arrested in the raid, which also netted weapons, drugs, and money, [press reports](#) said. No police fatalities were reported. Officials said they were trying to identify the individual who shot Domingos.



AP

MEDIUM:	Television
JOB:	Camera Operator
BEATS COVERED:	Crime
GENDER:	Male
LOCAL OR FOREIGN:	Local
FREELANCE:	No
TYPE OF DEATH:	Dangerous Assignment
SUSPECTED SOURCE OF FIRE:	Unknown Fire
IMPUNITY:	Yes

Mario Randolph Marques Lopes
Vassouras na Net
February 9, 2012, in Barra do Piraí, Brazil

The bodies of Randolph and his companion, Maria Aparecida Guimarães, were found in the city of Barra do Piraí in Rio de Janeiro state. Both had been abducted from Randolph's home the night before and had been shot to death early that morning, [news reports](#) said.

Randolfo, 50, editor-in-chief of the news website *Vassouras na Net*, had frequently accused local officials of corruption and had reported on an alleged network of assassins run by a former police chief, according to news reports and the journalist's website. His most recent article accused local judges and courts of being corrupt and too powerful, CPJ research shows.

The journalist was also attacked in 2011, according to news reports. In July 2011, an unidentified gunman entered the *Vassouras na Net* newsroom, in the city of Vassouras, and [shot](#) him five times in the head, which left him in a coma for three days, Randolph [reported](#) on his website. He survived and, for his safety, decided to move to Barra do Piraí, but did not stop working on his website.



In an **interview** posted on his website, Randolph said he believed he was targeted in 2011 in retaliation for his reporting on irregularities in the investigation of a local murder. No one was charged or arrested for the attack, news reports said.

News **reports** said authorities were investigating a possible political motive in the 2012 murder. Police chief José Mário Salomão de Omena told **reporters**, "He created such a large volume of enemies that it is even difficult to know where to start."

MEDIUM:	Internet
JOB:	Internet Reporter
BEATS COVERED:	Corruption, Crime, Politics
GENDER:	Male
LOCAL OR FOREIGN:	Local
FREELANCE:	No
TYPE OF DEATH:	Murder
SUSPECTED SOURCE OF FIRE:	Government Officials
IMPUNITY:	Yes
TAKEN CAPTIVE:	Yes
TORTURED:	No
THREATENED:	Yes

Décio Sá

O Estado do Maranhão and Blog do Décio
April 23, 2012, in São Luis, Brazil

Sá, 42, a Brazilian political journalist and blogger, was shot six times while sitting in a bar, according to **news reports**. The assailant fled the scene with a motorcyclist who was waiting outside, the reports said.

Sá wrote about politics for the local newspaper *O Estado do Maranhão* for about 17 years, according to news reports. He was also known for his coverage of politicians and corruption on his blog, *Blog do Décio*, which was one of the most widely read in the state, news reports said. Cezar Scanssette, a journalist at *O Estado do Maranhão*, told CPJ that Sá had many enemies because of his critical reporting.

Investigators told **reporters** that the murder was a contract killing carried out by professionals who had most likely mapped out Sá's daily routine, news reports said. Police considered Sá's blog reporting as the likely motive for the murder, the reports said. José Sarney, president of the Brazilian Senate and whose family owns *O Estado do Maranhão*, **called** the crime "an attack on democracy," news reports said.

In the months following the attack, authorities **arrested** at least nine suspects who they said were accomplices and plotters and were linked to a loan shark ring that Sá had tied to a local murder in his blog, according to **press reports**. The suspects included local businessman Gláucio Alencar, accused of being the leader of the ring and of ordering Sá's murder, and a deputy chief of police, both of whom denied the charges, according to **news reports**.

Suspect Jhonatan de Sousa Silva told police he was the gunman and had been hired by the other defendants. Sousa said the defendants were angered by Sá's reporting on their alleged loan-sharking, extortion, and embezzlement practices, according to **news reports**. In February 2014, Sousa was sentenced to 25 years and three months in jail, according to **news reports**. Marcos Bruno Oliveira, who claimed he was innocent, was sentenced to 18 years and three months on charges of transporting Sousa to and from the crime. Alencar and the police officer, as well as the other remaining suspects, currently await trial, according to **news reports**.

Sá is survived by his wife, who was pregnant, and an 8-year-old daughter.

MEDIUM:	Print, Internet
JOB:	Internet Reporter, Print Reporter
BEATS COVERED:	Corruption, Politics
GENDER:	Male
LOCAL OR FOREIGN:	Local
FREELANCE:	No
TYPE OF DEATH:	Murder
SUSPECTED SOURCE OF FIRE:	Criminal Group
IMPUNITY:	Partial
TAKEN CAPTIVE:	No
TORTURED:	No
THREATENED:	Yes

Valério Luiz de Oliveira
Radio Jornal
July 5, 2012, in Goiânia, Brazil

An unidentified gunman on a motorcycle shot Luiz, 49, at least four times outside his offices at Radio Jornal, where he hosted a sports program, news reports said.

Luiz was known for his critical commentary, particularly regarding the management of the local soccer team Atletico Goianiense, according to news reports. Before his death, he had been banned entry from the premises of the team's headquarters, news reports said.

Manoel de Oliveira, a well-known sports commentator and the journalist's father, said he believed his son's death was related to his reporting and that he had "lost his son because of football," the TV station Globo reported. Lorena Nascimento de Oliveira, Luiz's wife, said he had told her he was concerned by problems he had had with people involved with the sport, the Globo report said. She did not offer further details.

The management of the Atletico Goianiense team put out a statement condemning the murder and calling for a full investigation. "Luiz was known for his commentary, which at times angered some sectors of the club, but on the other hand, his strong opinions also informed the club's decision-making and helped Atletico grow," the statement said.

Adriana Ribeiro de Barros, head of the state's homicide unit, noted the journalist's controversial opinions and said they would be investigating the case.

MEDIUM:	Radio
JOB:	Columnist / Commentator
BEATS COVERED:	Sports
GENDER:	Male
LOCAL OR FOREIGN:	Local
FREELANCE:	No
TYPE OF DEATH:	Murder
SUSPECTED SOURCE OF FIRE:	Unknown Fire
IMPUNITY:	Yes
TAKEN CAPTIVE:	No
TORTURED:	No
THREATENED:	Yes

Eduardo Carvalho

Última Hora News

November 21, 2012, in Campo Grande, Brazil

A motorcycle-riding assailant shot Carvalho, editor and owner of the news website *Última Hora News*, at his home in Campo Grande, capital of Mato Grosso do Sul state, according to [news reports](#). Carvalho often covered local corruption, [news reports](#) said.

The journalist and his wife were arriving home at night when the gunman, riding on the back of a motorcycle, shot him at least three times. Carvalho's wife retrieved a gun the journalist carried, but the weapon was locked and she could not return fire, according to [news reports](#). The gunman and the motorcycle driver fled the scene.

Carvalho, a former military police officer, frequently wrote critical reports about police and politicians, according to *Última Hora News*. The website [reported](#) that the journalist was authorized to carry a gun because he had been threatened and had survived an earlier assassination attempt. Police officials told reporters that Carvalho had been the subject of many lawsuits related to his reporting.

His most recent story, published on the day of his murder, accused an unnamed military police official of intimidating local citizens. Divino Furtado Mendonça, the municipal police chief, told reporters that investigators were focusing on Carvalho's journalistic work as the likely motive, according to news reports.

MEDIUM:	Internet
JOB:	Publisher / Owner
BEATS COVERED:	Corruption, Crime
GENDER:	Male
LOCAL OR FOREIGN:	Local
FREELANCE:	No
TYPE OF DEATH:	Murder
SUSPECTED SOURCE OF FIRE:	Government Officials
IMPUNITY:	Yes
TAKEN CAPTIVE:	No
TORTURED:	No
THREATENED:	Yes

Mafaldo Bezerra Goes

FM Rio Jaguaribe

February 22, 2013, in Jaguaribe, Brazil

Two gunmen on a motorcycle shot Goes as he walked from his house to the radio station where he worked, according to [news reports](#). Goes, who hosted a radio show on FM Rio Jaguaribe in the city of Jaguaribe, in the northern state of Ceará, was shot at least five times in the head and abdomen, the reports said.

Goes had often denounced local criminal groups and drug traffickers on his program, according to [news reports](#). Family members told the local media that Goes had received death threats, according to [news reports](#). The police said the reporter had not filed a formal complaint.

Authorities said they [believed](#) the murder could be related to Goes' reporting on crime. "He died because of his profession. He made a lot of people angry," said Police Chief Vera Lúcia Passos Granja in [local reports](#).

Police said on Sunday that they had identified the gunmen and that they suspected the murder had been ordered by a drug dealer imprisoned in the city of Fortaleza but who operated in Jaguaribe, according to the [newspaper *Diário do Nordeste*](#). Authorities said they were looking for the suspects, local reports said. A week after the crime, police officials said they were seeking preventative detention for the two suspects but did not provide more details.

MEDIUM: Radio
JOB: Broadcast Reporter
BEATS COVERED: Crime
GENDER: Male
LOCAL OR FOREIGN: Local
FREELANCE: No
TYPE OF DEATH: Murder
SUSPECTED SOURCE OF FIRE: Criminal Group
IMPUNITY: Yes
TAKEN CAPTIVE: No
TORTURED: No
THREATENED: Yes

Rodrigo Neto
Rádio Vanguarda and *Vale do Aço*
March 8, 2013, in Ipatinga, Brazil

Two unidentified men on a motorcycle shot Neto as he was getting into his car after attending a local barbecue in Ipatinga, in the southeastern state of Minas Gerais, according to [news reports](#). The journalist died at a local hospital.

Neto was the host of the show "Plantão Policial" (Police Shift) on Rádio Vanguarda in Ipatinga and had started working the week before as a reporter at the daily *Vale do Aço*. He was also a press aide for the local mayor, according to Fernando Benedito Jr., a journalist in Ipatinga and a friend of Neto.

Benedito told CPJ that Neto, who had once wanted to be a police officer, had aggressively covered police corruption throughout his career. He said Neto had frequently received threats, especially for his coverage of cases in which police officers were suspected of being involved in local murders. Durval Ângelo, a state congressman and president of the state assembly's human rights commission, said that Neto had been working on a book about one of these cases at the time of his death that he planned to title "The Perfect Crime," [Vale do Aço reported](#).

News accounts [reported](#) local authorities as saying that they would be primarily looking into his journalistic work as the possible motive. In the days after the murder, law enforcement officers said Neto had twice reported being threatened to the authorities, most recently in February 2012, according to [news reports](#).

Journalists in Ipatinga told CPJ that the local press corps had formed the "Rodrigo Neto Committee" to investigate the murder and keep pressure on authorities to solve the case.

MEDIUM: Print, Radio
JOB: Broadcast Reporter, Print Reporter
BEATS COVERED: Crime
GENDER: Male
LOCAL OR FOREIGN: Local
FREELANCE: No
TYPE OF DEATH: Murder
SUSPECTED SOURCE OF FIRE: Government Officials

IMPUNITY: Yes
TAKEN CAPTIVE: No
TORTURED: No
THREATENED: Yes

Walgney Assis Carvalho

Freelance

April 14, 2013, in Coronel Fabriciano, Brazil

An unidentified assailant shot Carvalho, 43, at least twice in the back as he sat at a popular fishing hole and restaurant, before riding away on a motorcycle, according to [news reports](#). Carvalho was a freelance photographer who contributed to the daily *Vale do Aço* in the southeastern state of Minas Gerais.

Durval Ângelo, a state congressman and president of the State Assembly's human rights commission, posted on Twitter that authorities should investigate a possible link between Carvalho's murder and that of *Vale do Aço* journalist [Rodrigo Neto](#) on March 8, according to [news reports](#). The congressman said that Carvalho had apparently told people he knew who had murdered Neto, but did not offer further details.

Neto had covered police corruption throughout his career, and had frequently received threats, especially for his coverage of cases in which police officers were suspected of being involved in local murders. *Vale do Aço* [reported](#) that Carvalho also did photography work for the local police.

Fernando Benedito Jr., a local journalist and friend of Neto, told CPJ in an email, "Like Rodrigo, he [Carvalho] knew too much."

In the weeks after the murder, Minas Gerais state police chief Cylton Brandão announced a shuffling of law enforcement leadership and, while he said police couldn't yet confirm that the two journalist murders were linked, acknowledged the possibility of police involvement.

In late April, authorities announced that several police officers had been placed in preventative detention in connection with one of the murder cases that Neto had been investigating. Local journalists interpreted the news as a hopeful sign that the authorities were beginning to hold criminal police officers accountable, but it was unclear if and how exactly the suspects had any links to the Neto and Carvalho murders.

MEDIUM: Print
JOB: Photographer
BEATS COVERED: Crime
GENDER: Male
LOCAL OR FOREIGN: Local
FREELANCE: Yes
TYPE OF DEATH: Murder
SUSPECTED SOURCE OF FIRE: Government Officials
IMPUNITY: Yes
TAKEN CAPTIVE: No
TORTURED: No
THREATENED: No



Santiago Ilídio Andrade

Bandeirantes

February 10, 2014, in Rio de Janeiro, Brazil

Andrade, cameraman for the television network Bandeirantes, was filming a confrontation in Rio de Janeiro between police officers and demonstrators protesting a public transportation fare hike when a flare hit him in the head, according to [news reports](#). He underwent surgery at a local hospital and was in a coma for four days before being declared brain dead.

Initial [reports](#) conflicted as to who was responsible for the attack, but authorities released video footage that appeared to show protesters launching the device. Authorities also [alleged](#) that the protesters had meant to target police officers, not the journalist, the reports said.

On February 8, 2014, Fábio Raposo told authorities that he had given the explosive device to another protester but had not ignited it himself, according to news reports. Two days later, authorities said they had identified the protester believed responsible for shooting the device. On February 12, the suspect, Caio Silva de Souza, was [in custody](#). Souza said he did not realize at the time that the flare was an explosive device, according to [news reports](#). Raposo and Souza were placed in preventive detention and [charged](#) with homicide.

MEDIUM:	Television
JOB:	Camera Operator
BEATS COVERED:	Politics
GENDER:	Male
LOCAL OR FOREIGN:	Local
FREELANCE:	No
TYPE OF DEATH:	Dangerous Assignment
SUSPECTED SOURCE OF FIRE:	Local Residents

Pedro Palma

Panorama Regional

February 13, 2014, in Miguel Pereira, Brazil

Palma was [gunned down](#) by two unidentified men on a motorcycle outside his home in Miguel Pereira, a suburb to the south of Rio de Janeiro, and died at the scene, according to [news reports](#). Palma was the owner of the local weekly newspaper *Panorama Regional*, which was circulated in several nearby municipalities.

[News reports](#) said the paper had frequently alleged corruption in the local government. A friend of the publisher [told](#) the daily *O Globo* that Palma had received threats but had not taken them seriously. The journalist's wife also said he had received threats but said she did not know who had made them, according to [news reports](#).

In an issue of *Panorma Regional* published after Palma's death, his colleague and friend Belisa Ribeiro wrote that he had told her he received threats but did say in relation to which report. In the [article](#) and on her [Facebook page](#), Ribeiro said it did not appear that Palma had had been investigating a big political scandal, but that that he had regularly denounced typical small town problems, such as faulty infrastructure and negligent local policies. If this was all it took to get him killed, she wrote, "[then] I am scared."

Military police captain Coronel César Augusto de Souza [told local journalists](#) that authorities were looking into a possible link to the newspaper's reports but that all possible motives were being investigated.

MEDIUM:	Print
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JOB:	Publisher / Owner
BEATS COVERED:	Corruption, Politics
GENDER:	Male
LOCAL OR FOREIGN:	Local
FREELANCE:	No
TYPE OF DEATH:	Murder
SUSPECTED SOURCE OF FIRE:	Government Officials
IMPUNITY:	Yes
TAKEN CAPTIVE:	No
TORTURED:	No
THREATENED:	Yes

3. Censorship via the courts

By John Otis

Published since 1824 in the Brazilian city Recife in northeastern Pernambuco State, *Diario de Pernambuco* is South America's oldest daily newspaper still in circulation. Over its 190 years the paper butted heads with the powerful and was censored by Brazil's military regimes. But last year *Diario de Pernambuco* suffered its first case of official censorship since Brazil returned to democracy in 1985.

In August 2013 the paper broke the news that Guilherme Uchoa, the president of the Pernambuco state legislature, was the subject of an influence-peddling investigation. He was accused by state prosecutors of pulling strings on behalf of his daughter, a lawyer who was trying to help her client fast-track the process of adopting a child. Uchoa denied the charges and was found not guilty.

News of the investigation, though, was a major scoop that produced a frenzy of coverage in the Recife media. Then Uchoa's name suddenly disappeared from the stories. Arguing that his name and image were being unduly harmed, Uchoa persuaded a local judge to bar *Diario de Pernambuco*, its sister TV station, and the crosstown rival *Jornal do Commercio* newspaper from linking Uchoa's name to the investigation. The judge warned that for every day these media outlets ignored the injunction, they would be fined about \$21,500.

The injunction was lifted after a week, but the forced silence was disconcerting. Surrounded by reporters and copy editors in the cramped second-floor newsroom, Paulo Goethe, the executive editor of *Diario de Pernambuco*, told CPJ, "This is a very sophisticated way to pressure the media."

Known as judicial censorship, such legal actions amount to a crafty end-run around Brazil's Constitution. Even though the 1988 Constitution guarantees freedom of the press and outlaws censorship, politicians, business people, and celebrities have used laws intended to guarantee the privacy of average citizens to silence the media.

Often relying on their close connections to local judges, these powerbrokers have secured legal orders that effectively prevent or discourage critical reporting by making it extremely costly for media outlets and independent journalists to publish unflattering stories about them. In some cases, libel is not the issue. Rather than contesting the details of published reports, these public figures try to prevent the news from appearing in the first place on the grounds that their privacy is being invaded and their honor besmirched.

Judicial censorship is widely considered the second biggest problem facing the media in Brazil after violence against journalists. The targets of judicial censorship range from major metropolitan dailies and Internet companies like Google to independent bloggers in remote towns. Because television is in real time and Brazilian stations post only a fraction of their news videos online, they have largely avoided judicial censorship, although there have been a few cases.

Unable to pay the legal costs of defending themselves in court, newspapers have backed away from controversial stories while some independent news bloggers have stopped writing, said Taís Gasparian, a São Paulo lawyer who often defends journalists.

In an interview with CPJ, Ricardo Pedreira, president of the Brasília-based National Association of Newspapers, said that judicial censorship "is totally unconstitutional. It hurts Brazilian society because people are not getting all the information that they should be."

Since 2005, the newspaper association has registered 25 instances of judicial censorship. That number does not include the thousands of links to critical media stories or YouTube videos that Google Brazil and UOL, the largest Brazilian Internet company and news portal, have been ordered by judges to eliminate. YouTube is owned by Google.

Many cases of judicial censorship are reversed, in part, because appeals court judges often have higher levels of education than small-town magistrates and lack personal ties to the political figures filing the lawsuits, Pedreira said. But the appeals process is costly and can take months—or years—and by then the news has been censored.

During Brazil’s 2012 municipal elections, for example, judges in several towns intervened on behalf of political candidates to prevent newspapers from publishing polls suggesting those candidates were losing. By the time the initial decisions were overturned, the polls were out of date, said Guilherme Alpendre, executive secretary of the Brazilian Association of Investigative Journalism, or ABRAJI.

Alpendre said he considered judicial censorship more sinister than the crackdowns on the news media during the nation’s 21-year military dictatorship.

“During the dictatorship, a censor would sit in at editorial meetings and say ‘no’ to this story or ‘yes’ to that story,” Alpendre told CPJ. “But what’s going on now is worse because it exists within Brazil’s democracy.”

Prominent members of the Brazilian judiciary play down the threat.

Chief Justice Joaquim Barbosa, and one of his predecessors, Antonio Cesar Peluso, have both **told CPJ** that cases of judicial censorship are rare, that many decisions are overturned on appeal, and that the issue does not constitute a serious threat to freedom of expression.

“Prior censorship is bad, it is illegal, and unfortunately there are those who make mistakes, and that is what’s happening in Brazil. These specific cases of censorship are inadvertent mistakes committed by some judges,” Barbosa **said** during an international conference on investigative journalism in Brazil in late 2013. He did not respond to CPJ’s recent request for comment.

Legal experts blame several factors for the rise of judicial censorship. After the country’s return to democracy in 1985, citizens felt more empowered to defend their rights and, as a whole, Brazil became a more litigious society. In the words of Gasparian: “Everybody began to sue everybody.”

In addition, Brazil’s 2002 Civil Code contains four ambiguous articles that protect privacy but clash head-on with the Constitution’s declaration of free speech.

For instance, Article 17 of the Civil Code prohibits the dissemination of personal information that can “damage the honor” of an individual. Unlike in the United States, where the Supreme Court has determined that public officials carry a high burden of proof in cases alleging defamation or libel, Brazil’s judiciary has set no such standard. As a result, politicians in Brazil have leveraged the privacy articles to muzzle free expression.

So have the rich and famous, which has led to an effective ban on the publication in Brazil of unauthorized biographies. The best-known **lawsuit** was filed in 2007 by the Brazilian crooner Roberto Carlos who, alleging that his privacy had been violated under Articles 20 and 21 of the Civil Code, forced a publisher to remove an unauthorized biography from bookstores. Author Paulo Cesar de Araújo had spent 15 years working on the book.



The targets of judicial censorship range from major metropolitan dailies, pictured, to Internet companies and independent bloggers. (Reuters/Paulo Whitaker)

Many legal scholars argue that the privacy articles in the Civil Code are unconstitutional. But despite continuing challenges to the legality of the four articles, they remain in effect and are often invoked by judges when ruling on behalf of plaintiffs in cases against journalists.

The most prominent and **longest-lasting case** involves a dispute between the family of José Sarney, a former Brazilian president who is now an influential senator, and the newspaper *O Estado de São Paulo*. In 2009, *O Estado* began publishing articles—based in part on leaked transcripts from phone conversations that were tapped during a federal investigation—alleging that Sarney used his position in the Senate to award jobs and give raises to his friends and family. Through his **lawyers** and in a **statement** on his website, Sarney denied the allegations.

The Sarneys reached out to a judge in Brasília, a family friend who had recently been photographed at a lavish party with the Sarneys, according to Ricardo Gandour, chief content officer and executive editor of the Estado Group, which owns the newspaper. Based on Article 17 of the Civil Code, the judge issued an injunction barring *O Estado* from publishing any more reports about the allegations or face a daily fine of 150,000 reais, or about \$64,000 at the current exchange rate. More than four years later, *O Estado*'s final appeal is still pending and the injunction remains in place.

“We are fighting the case but have to respect the law,” Gandour told CPJ. Brazil’s judiciary, he added, “is becoming disproportionately powerful compared to other branches of government.”



Former Brazilian President José Sarney has waged a legal battle against the newspaper *O Estado de São Paulo*. (Reuters/Ueslei Marcelino)

In some cases, other news outlets have been allowed to report on topics banned elsewhere, such as with the Sarney case and after *Diario de Pernambuco* was muzzled. But the possibility of being slapped with a fine or gag order is often enough to keep competing outlets quiet.

Even when media companies win in court, they lose in other ways because these legal battles can be expensive, drawn-out ordeals.

Take the 2007 case of *Folha de São Paulo*, which published an **investigation** written by Elvira Lobato about the growing business empire of the Rio de Janeiro-based Universal Church of the Kingdom of God. Lobato’s **article** claimed the church, a neo-Pentecostal movement, used a company in a tax haven to channel contributions from followers to 19 businesses owned by the church, which include television and radio stations,

newspapers, travel agencies, and real estate.

The church denied this allegation and, at its urging, its parishioners all over Brazil filed 109 civil defamation lawsuits against Lobato, claiming she had offended their faith. The church’s strategy amounted to a legal war of attrition. The idea was to file so many lawsuits in so many towns that it would be impossible for Lobato to contest them all.

Lobato and *Folha*’s lawyers had to travel thousands of miles to make mandatory court appearance in towns as far away as Xapuri near Brazil’s western border with Peru—some 2,500 miles from the reporter’s home in Rio de Janeiro. So far, 97 of the suits have been thrown out while the rest are pending. But the newspaper spent huge sums on airfare, hotels, and legal fees.

“It was a hellish experience,” Lobato told CPJ.

Smaller papers and independent journalists, she pointed out, lack the financial muscle to fight judicial censorship.

One such journalist is São Paulo blogger Fábio Pannunzio. He worked for 30 years as a radio and TV reporter and was sued only once. But as the author of *Blog do Pannunzio*, which often denounced government corruption, he was sued eight times in four years. Facing huge legal defense fees, he shut down the blog in 2012.

“As a blogger, I wrote similar accusations to those I would say on television, but I was sued as an individual,” Pannunzio told the Knight Center for Journalism in the Americas at the University of Texas shortly after shutting down his blog. “The figures I was denouncing did not want to take on a big broadcaster with a big business infrastructure. They wanted to target who they thought was most vulnerable to censorship.”

Although independent journalists may be easier targets for judicial censorship, public figures are not afraid to go after large media companies and Internet giants, like Google.

Every week, Google Brazil receives orders from judges around the country to remove from its search engine links to news stories deemed offensive to politicians and other public figures. The company has also been ordered to remove videos from YouTube and to turn over to the police information about people who uploaded the content, who could then be investigated for offending or defaming public officials.

In Google’s latest [transparency report](#) covering the first half of 2013, the company said it had received orders from Brazilian judges to remove about 400 blog posts and links. Though the number of court orders is down from the same period a year earlier, it remains much higher than the number of similar orders Google received in most other countries.

Google’s lawyers contest the cases but often lose. Marcel Leonardi, Google Brazil’s director for public policy, told CPJ that the company goes to great lengths to avoid turning over data to government authorities. Google’s legal team reviews each government request for user data and pushes back when the requests are overly broad or don’t follow the correct process, he said.

“Freedom of expression is dear to us,” he said, “The free flow of information is essential to creativity and innovation, and leads to economic growth for countries and companies alike.”

Rodrigo Flores, director of content for UOL, said his company receives similar orders about once a month and that they “create an environment of fear.” Most orders are initiated by politicians seeking to remove links to news stories detailing charges of corruption or other wrongdoing.

“They sincerely believe that they can erase history,” Flores said.

But for some legal experts, a strong case can be made for erasing story links, especially if they are out of date and inaccurate.

Augusto de Arruda Botelho is president of a lawyers’ collective in São Paulo, known as IDDD, that supports the rights of Brazilians to defend themselves. He told CPJ that it’s only fair for search engines and news websites to eliminate links to stories about accusations that made a big splash in the press but later turned out to be unfounded.

He also blames journalists for instinctively jumping on lurid allegations but failing to publish follow-up stories when charges are dropped or defendants are found not guilty. “Many times reporters ignore the journalistic principle of giving the other side of the story,” he said.

Arruda Botelho says he’s no fan of politicians who invoke privacy laws to derail journalistic investigations of wrongdoing. But at the same time he vigorously defended the right of public figures to go before a judge and ask for an injunction.

“I think it is everybody’s right to knock on the court’s door to say: ‘I think my rights are not being observed,’” he said. “Even public officials must be presumed innocent.”

Their efforts to booby trap journalists sometimes backfire.

During the court-ordered injunction against the media in Recife, subsequent news articles—while omitting Uchoa’s name—included so many other key details about the politician that readers could easily identify him. Uchoa received blistering criticism in the national media and eventually backed down. The injunction was withdrawn, and Uchoa claimed it was all a big misunderstanding.

Goethe, of *Diario de Pernambuco*, hopes the blowback from the Uchoa case deters other politicians from going down the same legal pathway. But a few blocks away at *Jornal do Commercio*, the paper’s executive editor, Maria Luiza Borges, remains wary.

“Our politicians are arrogant,” Borges told CPJ. “They don’t admit to having faults. They don’t deal with negative stories in a democratic way.”

John Otis, CPJ's Andes correspondent for the Americas program, works as a correspondent for Time magazine and the Global Post. He authored the 2010 book Law of the Jungle, about U.S. military contractors kidnapped by Colombian rebels, and is based in Bogotá, Colombia.

Appendix: The civil code

Brazil's 2002 Civil Code contains four ambiguous articles that protect privacy but clash head-on with the Constitution's declaration of free speech:

Article 17. A person's name cannot be used by others in publications or representations that expose the person to public scorn, even when there is no defamatory intent.

Article 18. A person's name cannot be used in advertising without that person's authorization.

Article 20. Unless authorized or necessary to the administration of justice or the maintenance of public order, the dissemination of words or writings or the display or use of a person's image may be prohibited at his or her request regardless of any applicable damages which may ensue, if it harms the honor, good reputation or respectability of the individual, or if intended for commercial purposes.

If the person is dead or missing, the spouse or relatives may apply for this protection.

Article 21. An individual's private life is inviolable, and a judge, at the request of the interested party, may take necessary measures to prevent or terminate any acts contrary to this standard.

4. The Marco Civil da Internet

By Geoffrey King

The fate of freedom of expression in Brazil hinges in part on the implementation of the country's landmark law on Internet rights, the Marco Civil da Internet.

Originally hailed as a model for how governments should approach Internet legislation in order to protect privacy, security, and the free flow of information, the Marco Civil's shining example became tarnished as soon as it entered the political arena. The political jockeying was particularly fraught because it came on the heels of revelations that the United States' National Security Agency had spied on Brazil's leader and its flagship energy company..

The Chamber of Deputies, the lower house of Brazil's Congress, finally approved the Marco Civil on March 25, 2014—minus its most problematic provision, which would have required that data be stored in Brazil, but with other flaws intact. Despite dozens of amendments added while in committee, the Senate passed a version nearly identical to the lower house's on April 22. President Dilma Rousseff signed the bill into law on April 23, 2014.

The journey of the Marco Civil is instructive for how governments and civil society should approach Internet regulation—and which legislative outcomes are in the best interest of Internet providers and users, including journalists.

The Marco Civil began as an open source project. Launched from the imagination of a young law professor, and built collaboratively by Internet users and the Brazilian government, the Marco Civil represented from its inception an alternative approach to Internet regulation. Rather than relying on a pernicious model of cybercrime legislation, the Marco Civil began with the premise that it would encode free speech, privacy, and net neutrality—equal treatment for different types of data—directly into Brazilian law.

“The future of democracy depends on the future of the Internet, on net neutrality and on freedom of expression,” said Alessandro Molon, congressional deputy with the governing Worker's Party and the rapporteur of the bill. “Our future also depends on the freedom we have to download things from the Internet, what we can say and express online, and also on our ability to share with our friends. All these are extremely important issues for the future of our society, and that is the reason why it was so difficult to pass in Congress.”

Yet some journalists remain concerned about how the law will be implemented. “Some articles in the legislation were written as a guide to facilitate the removal of content from sites, blogs, portals,” Fernando Rodrigues, journalist and founder of the Brazilian Association of Investigative Journalism, told CPJ in an email. “The government argues that that does not apply to news items, but many lawyers and experts see a very dangerous loophole, since today everybody claims to be a reporter or a journalist.”



Brazilian President Dilma Rousseff speaks at an Internet forum on April 23, 2014, after a bill guaranteeing Internet privacy and access to the Web was approved by Congress. (AP/Andre Penner)

On March 12, 1989, in a short **proposal** that soon became the World Wide Web, **Tim Berners-Lee** encouraged the development of “a universal linked information system” that would “allow a place to be found for any information or reference which one felt was important, and a way of finding it afterwards.” The proposal would soon change the face of journalism by placing vast amounts of the world’s information at reporters’ fingertips. The Web has become a research and publication platform that allows news to be gathered and disseminated at low cost, facilitating the free flow of news even in repressive countries. Further, hyperlinking **allows** journalists to connect directly to primary source information, as well as to the work of their peers, thus giving readers a clearer picture of the world around them.

The interconnectedness envisioned by Berners-Lee has taken root in few places as rapidly as in Brazil, which boasts about 100 million Internet users, according to the research firm **eMarketer**. Brazil has the second-largest market share of Facebook users and YouTube viewers outside the U.S., as **reported** by *The Wall Street Journal*; the same can be said for Twitter, according to the consumer research company **SemioCast**. According to the research group Nielsen, **overall mobile use stands at 84 percent** among Brazilians 16 years and older. Smartphone penetration, at 23 percent, is **second in Latin America only to Mexico**, according to the marketing publication *Portada*.

Globally, the Internet has an **estimated** 2.7 billion users, but Berners-Lee is sounding a warning cry. Issues related to privacy, free speech, and anonymity “have crept up on us,” **he told the Guardian** in March of 2014. “Our rights are being infringed more and more on every side, and the danger is that we get used to it.” His solution? “We need a global constitution—a bill of rights.”

The original Marco Civil “was definitely a bill of rights similar to what Tim Berners-Lee is now proposing in the sense of creating a Magna Carta for the Internet,” said **Ronaldo Lemos**, director of the private Institute for Technology and Society in Rio de Janeiro and a professor of law at the prestigious Rio de Janeiro State University. Lemos **conceived** of the Marco Civil in 2007 and served as one of the legislation’s strongest advocates.

Part of what made the original Marco Civil so strong, Lemos told CPJ, was that it applied open source principles to democratic self-governance. After Lemos and a group of lawyers helped defeat a first-of-its-kind cybercrime law in Brazil, the government engaged them in a surprising way. “The Minister of Justice approached us—myself and a group of other researchers and professors—and basically said, ‘So, how about we develop a platform so we can write the Marco Civil collaboratively online? It’s a law about the Internet, so it makes sense that it’s collectively constructed.’ And that’s what we did. We created a platform. We received a lot of contributions in a very transparent way, and based on those contributions, the original draft was basically produced. The government undertook it, transformed it into a draft bill, and sent it to Congress about two years and a half ago.”

In the open-source phase, any Internet user could critique the text, which received more than 2,000 direct comments from civil society, government entities, universities, corporations, bloggers, and other individuals.

Among the improvements made possible by this approach was a key modification to an early provision that would have imposed liability on website hosts for their users’ content if they failed to immediately censor material after a complaint from a third party that the content was defamatory or otherwise objectionable. As CPJ **pointed out** at the time, the provision would have incentivized widespread censorship by Internet companies. After CPJ and many others **objected** to the provision, a requirement for a court order to remove content was added to the bill.

After the bill was transmitted to Congress in 2011, political realities quickly set in. The bill languished in Congress without a vote for nearly two years due to political and industry opposition to its net neutrality provisions.

“In terms of net neutrality, there was great pressure exerted by the Internet service providers,” Molon, the congressional deputy, said. ISPs in many countries have consistently **opposed steps** that would limit their ability to charge different prices, slow, or even block **certain data** on their networks.

Although the bill was eventually amended to include concessions that would help it move forward, it remained largely intact. All the while, civil society pushed for its **Internet Bill of Rights**. Among the voices championing the Marco Civil was Berners-Lee. At a May 2013 news conference in Rio de Janeiro, he **stated**, “This draft bill preserves the Internet as it should be: an open and decentralized network, in which users are the engine for collaboration and innovation.”



Brazilian congressmen open boxes of signatures supporting the Marco Civil da Internet. (AP/Eraldo Peres)

Three weeks later, the *Guardian* ran its **first headline** based on disclosures from the former National Security Agency contractor Edward Snowden. Then on September 1, Brazil’s TV Globo **reported**, citing Snowden’s documents, that the NSA had spied on Brazilian President Dilma Rousseff and her top aides. On September 9, the station **reported** that the agency had also spied on *Petróleo Brasileiro S.A.*, or Petrobras, the national oil company.

Suddenly, the government invoked “**constitutional urgency**” for the bill. “That means that Congress cannot vote on anything until it votes on the Marco Civil, and as a result of that, things started to become really politically agitated,” Lemos told CPJ. “What started to happen was a lot of compromises being achieved in order to protect net neutrality,” a core principle of the Marco Civil. Amid the chaos, the government

introduced the data localization provision, Article 12.

The provision would have empowered the president to require that Internet data infrastructure be physically situated in Brazil, rather than in decentralized locations intended to maximize network efficiency and security, or in jurisdictions with strong civil liberties protections. If implemented, this provision would have begun a process of corroding the Internet’s interconnectedness, and might have led to technological **divestment** from Brazil. If widely emulated, it could even have led to the catastrophic **fragmentation** of the Internet itself.

The Snowden revelations were “definitely the turning point,” Lemos told CPJ.

As **reported by ZDNet**, Berners-Lee called the new data localization provision an “emotional reaction” that would not have the practical effect of protecting Brazilians’ data from spy agencies like the NSA. Lemos agreed. In his view, the impact of localization on international espionage is “basically zero.” It has been **widely reported** that the NSA has access to the so-called Internet backbone connecting data centers to the rest of the Internet. In addition, companies based or operating in the U.S. would still be legally bound to comply with NSA orders, and experts agree that the NSA can hack into databases that are outside the U.S.

Instead, Lemos said, financial incentives drive localization efforts. Noting that data centers represent “investments and jobs,” he said that Brazil could instead “attract data centers if it invested in infrastructure,” which he sees as the better approach. And Richard Clarke, the former White House special adviser on cybersecurity and a recent participant in President Barack Obama’s intelligence review group, said in a February speech, according to **news reports**, that governments “want localization so local companies can do better against international companies.” Clarke continued: “When you think of data localization, don’t buy the argument that is being pushed by privacy considerations—it’s being pushed by the bottom line. If you think passing a law making data localization a requirement in the EU or Brazil ... stops the NSA from getting into those databases, think again.”

In fact, increased localization would make it far easier for the Brazilian government to surveil or censor its own citizens, and civil litigants could find localization similarly useful.

Brazil already makes more requests to take down Internet content than most other governments around the world, according to Google's [figures](#). In September 2012, the director of Google Brazil was [arrested](#) for failing to remove two videos critical of Alcides Bernal, a candidate for mayor of Campo Grande in southwestern Brazil. In a historic 23-6 vote in March 2014, Bernal was [removed from office](#) amid allegations of public corruption—the [first](#) impeachment in the municipality's history.

“If you have a data center located in Brazil, it's very likely there would be a big line of court officials trying to serve injunctions to the data center operators, because the data would be very easy to be both obtained, and also taken down,” Lemos told CPJ. “Until we have better laws in terms of data protection and other civil rights protections, it actually harms these rights to have them located in Brazil.”

Furthermore, as security expert Bruce Schneier [told](#) The Associated Press, such efforts would encourage “some of the worst countries out there to seek more control over their citizens’ Internet. That’s Russia, China, Iran, and Syria.”

In remarks before the U.S. Senate Judiciary Committee in November 2013, Google’s director of law enforcement and information security, Richard Salgado, [testified](#), “If data localization and other efforts are successful, then what we will face is the effective Balkanization of the Internet and the creation of a ‘splinternet’ broken up into smaller national and regional pieces, with barriers around each of the splintered Internets to replace the global Internet we know today.” Such a situation would prove antithetical to the “interconnectedness” that Berners-Lee described; governments could conduct surveillance and block content within their countries with ease, allowing them to restrict or even stop the flow of news into and out of their countries.

The arguments against forcing the data centers to be kept to Brazil ultimately prevailed; the provision was struck from the version of the Marco Civil approved by the Chamber of Deputies, and omitted from the final law.

Though the data localization provision was scrapped, other problematic provisions remain. The law mandates that companies retain user data not only at the level of Internet service providers for one year, but also at the application provider level—a broad term that includes websites such as YouTube and Twitter—for six months. Data retention is [problematic](#) even at the ISP level, as it creates a detailed record of users’ activities to which the government may refer. As CPJ reported in the 2013 edition of *Attacks on the Press* in [a chapter](#) on NSA storage capabilities, such retention casts a chill on journalists, especially those who report on government. On April 8, 2014, the European Court of Justice [invalidated](#) the European Union’s mandatory data retention directive, saying it interferes with the right to privacy.

[Joana Varon](#), a researcher and project coordinator at the private Center for Technology and Society of the Getulio Vargas Foundation in Rio de Janeiro, finds the retention of application-level data to be the most troubling of all the Marco Civil’s provisions. In an email to CPJ, she said it is “the worst part” of the law, “as it imposes mandatory data retention for the big Internet application providers (not the ISPs that provide connectivity, but the ISPs that provide online services).” This can be a threat to new business models of ISPs focused on socially positive innovations by placing additional financial burdens on them, she said.

Moreover, a person with knowledge of discussions around the Marco Civil, who asked not to be named because he was not authorized to speak to the media, told CPJ that plans were underway to extend the time period for both ISP and application-level data retention to three years, which he noted may be beyond the current data retention practices of any major information and communications technology company.

The experts with whom CPJ spoke also expressed concern about Article 21 of the Marco Civil, which deals with the rights of those whose privacy has been breached. As Varon noted in a February 11 coalition [letter](#) to the Brazilian government, an early draft of Article 21 allowed anyone objecting to nudity or sexual content “of a private nature” to demand its removal from the Internet; an Internet application provider that failed to comply could be held liable for the content in court. Because the original draft of Article 21 allowed anybody to make and enforce such a complaint, not just the person depicted in the image or video, the provision if passed would have facilitated the suppression of

any content containing nudity, regardless of whether the alleged victim objected to its publication. Although the provision targeted a relatively narrow type of speech, it did so poorly: by empowering unconnected third parties to force liability on Internet companies, the provision had the potential for widespread **abuse** against critical commentary and other newsworthy speech.

The provision was modified prior to passage of the Marco Civil so that only the persons depicted in a “private” video or image can demand its removal from the Internet. Nonetheless, even constrained “notice and takedown” regimes often **damage free expression**. Public figures and officials in Brazil frequently abuse existing privacy and defamation laws to silence the media. As CPJ has consistently documented, **vague** or **overbroad** privacy laws often end up being applied in a manner that threatens press freedom.

The privacy provision, “will certainly pose a threat to the freedom of expression,” said Rodrigues, the founder of the investigative journalism association.

Deputy Rubens Bueno, leader of the opposition Popular Socialist Party in the House of Representatives, told CPJ he voted against the Marco Civil because of mechanisms allowing the president to control the media and social networks. Although the law prohibits the blocking, monitoring, filtering, or analysis of content, Bueno argues that the government can do so in an emergency by presidential decree, and his party does not see any guarantees preventing the government from trying to control media that criticize the executive branch.

Despite the Marco Civil’s flaws, the majority of its provisions are highly protective of user privacy and speech. In many ways, the law is a high point in how governments approach Internet legislation, and sets an example for technologically-facilitated, participatory democracy. The law still enjoys high levels of support from civil society. And it is possible, as several of the experts with whom CPJ spoke pointed out, that one or more the law’s most problematic provisions could be found unconstitutional and thus rendered unenforceable.

Lemos was buoyed by the process. “The process in itself is quite amazing, because it has taught to a lot of people how democracy works ... While it was transparent, and open, and collaborative and so on, it was pretty much a rational debate, in which the best arguments would win.”

Said Molon, “The bill was built from the bottom up.” Although professional politicians played a role, “it is important to emphasize that this is an initiative that began with civil society urging the government to do something about rights online. This is a people’s bill, built by the people. And the process by which it was drafted produced a great change in the way that Congress works.”

Carlos Lauría contributed to this report.

San Francisco-based CPJ Internet Advocacy Coordinator Geoffrey King works to protect the digital rights of journalists worldwide. A constitutional lawyer by training, King also teaches courses on digital privacy law, as well as the intersection of media and social change, both at UC Berkeley. Follow him on Twitter at [@CPJInternet](#). His public GPG encryption key can be found [here](#).

5. Recommendations

CPJ offers the following recommendations to the Brazilian authorities:

- Expand the national protection program for human right defenders to explicitly include journalists under imminent threat.
- Ensure that civil society organizations, particularly freedom of expression and press groups, are deeply involved in the development of the protection mechanism.
- Enact legal reforms that would federalize crimes against free expression so that federal authorities will have broader jurisdiction to investigate and prosecute such crimes.
- Ensure that all legislation conforms with international standards guaranteeing the right to freedom of expression.
- Until legal reforms are adopted, ensure the implementation of Constitutional Amendment 45 granting the Attorney General's Office the power to transfer a case to federal jurisdiction when grave human rights violations are suspected.
- Build on significant progress made by the justice system by conducting exhaustive and timely investigations and trials for crimes against journalists.
- Develop procedures and training for law enforcement agencies to ensure that journalists can cover demonstrations in the weeks leading up to and during the FIFA World Cup without fear of attack or retribution.
- Modify laws on privacy and defamation to ensure that they are not used as a way to censor reporting on sensitive issues, including online.
- Amend the Marco Civil da Internet by repealing and prohibiting data retention requirements that are not necessary to network performance. Data preservation requests authorized by the judiciary further the same law enforcement interests while avoiding many of the privacy, free expression, and security concerns that data retention creates.
- Avoid or narrowly circumscribe any notice-and-takedown laws in future legislation; modify the Marco Civil to remove liability of application providers and Internet service providers for the actions of their users.

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