

A close-up profile of a person's face, looking upwards and to the right. The face is painted with vibrant colors: green covers the forehead and right side of the face, yellow covers the cheek and nose, and blue covers the eye area. A white curved line is painted under the blue area. The person has dark hair and is wearing a black headband with white circular patterns. The background is a clear blue sky.

# **THE COUNTRY OF THIRTY BERLUSCONIS**

**BRAZIL JANUARY 2013**

**REPORTERS  
WITHOUT BORDERS**  
FOR FREEDOM OF INFORMATION

## **INVESTIGATION BY BENOÎT HERVIEU**

With help from Luiz Gustavo  
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correspondents in Brazil

## INTRODUCTION

No country has ever managed to be asked to host the world's two biggest sports events in such quick succession. By being awarded the rights to host the 2014 FIFA World Cup and the 2016 Summer Olympics, Brazil has been consecrated as a new world power, one that emerged during Inácio Lula da Silva's two terms as president, from 2003 to 2011.

Despite a reduced growth rate forecast for 2013, its favourable indicators contrast with a world in crisis. Described as an "impassive colossus" in its national anthem, it has narrowed the gulf between rich and poor in the past decade, enhanced its diplomatic influence in the western hemisphere and is now attracting not only investors but also new immigrant waves from a Europe in recession.

But this is not to say that violent crime, corruption and inequality are all a thing of the past. A record of 11 journalists killed in 2012, five of them in direct connection with their work puts Brazil among the world's five deadliest countries for the media.

Murders are not the only way that freedom of information is violated in Brazil. The level of concentration of media ownership contrasts starkly with the extent of its territory and extreme diversity of its civil society. The colossus is clearly a bit too impassive about pluralism a quarter-century after its return to democracy in 1985.

Despite having one of the world's leading Internet communities and even its own national Facebook equivalent, called Orkut, Brazil falls far short of providing all of its citizens with equal and untrammelled access to online information. The Internet is much more subject to censorship and blocking than in neighbouring countries, contrary to the image that Brazil is promoting of itself ahead of the World Cup and Olympics.

←  
A woman with the  
Brazilian flag painted  
on her face during  
a demonstration on  
the 52<sup>nd</sup> anniversary  
of the founding of the  
city of Brasilia  
on 21 April 2012.



## FOCUS

**A** More than half of the cases were located in the north and northeast, followed by the southeast, including Rio and São Paulo, and the centre-west. Only the three southern states seem to have been relatively spared. No murder of a journalist has been reported there for seven years.

**B** Main press groups are located in Rio and São Paulo.

**C** On 30 April 2009, the Federal Supreme Court repealed the entire 1967 press law, which dated back to the early years of the military dictatorship. Since 2009, there has been an intermittent debate about an alternative press law.

## PRESS FREEDOM

### Killed reporters

2012 : 5

2011 : 3

2010 : 1

### 99<sup>e</sup> OUT OF 179

countries in the 2011/2012 Reporters Without Borders press freedom index.

## SUMMARY

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# 1 JOURNALISM UNDER THE SWAY OF THE “COLONELS”

***A “colonel” in the present-day Brazilian sense of the term is a big landowner or industrialist who may also be a state governor or parliamentarian and who often also has a say in opinion-making in his part of Brazil thanks to ownership of several news media. The “colonel” culture is at the root of the media’s strong dependence on the centres of power in Brazil.***

The shape of media ownership in Brazil directly affects the free flow of news and information and obstructs pluralism. Ten leading business groups owned by as many families still control the mass media market. Broadcasting is dominated by the Rio-based Globo group, owned by the Marinho family, followed by the Sistema Brasileiro de Televisão (SBT), owned by the Silvio Santos group, Rede Bandeirantes owned by the Saad group, and Record (owned by the evangelical protestant bishop Edir Macedo – see box page 20). In the print media, the pack is again led by the Globo group, with the *Globo* daily, which is rivalled at the national level by the *Folha de São Paulo* group, owned by the Frias Filho family, the *O Estado de São Paulo* group, owned by the Mesquita family, and by Editora Abril, which publishes the weekly *Veja* and other magazines. Less polarized than the media in its South American neighbours, where state and privately-owned media are often at war with each other, the Brazilian media reflect their almost incestuous relationship with the political and economic power centres. Concentration of ownership at the national and regional level and harassment and censorship at the more local level are the distinguishing features of a system that has never really been questioned since the end of the 1964-85 military dictatorship, with community media often the main victims (see box page 20). The generals have gone but the “colonels” remain.

As well as an army rank, the term “colonel” in Brazil refers above all to the archetypal big landowner common in the northeast who has direct control over political power even if he does not exercise it himself. He is king in his own state and very often also a media owner, a local or federal parliamentarian or powerful industrialist. “We have tens of Berlusconis, maybe more than 30 Berlusconis,” said Eugênio Bucci, a São Paulo university professor and regular columnist for the daily *O Estado de São Paulo* and the magazine *Época*. Bucci knows the ins and outs of the Brazilian media, having worked for them for years and having for a while headed the state radio station *Radiobras*. And he is not sparing in his criticism of the “colonel” system and its heritage. “The federal communication minister, Paulo Bernardo, recently said it is easier to remove the president in Brazil than to withdraw a broadcast frequency from any politician, and this is still true,” Bucci said, referring to the 1992 impeachment



of the young President Fernando Collor de Melo as a result of a corruption scandal. "We have an excessive number of parliamentarians, senators, deputies, governors and ministers who are in a position of direct influence over a news outlet when they are not openly its owner." The seal of Brazil's recovered democracy, the 1988 federal constitution, should in theory prevent an elected office-holder from owning dozens of local radio stations and dozens of local TV stations and newspapers.

"Do you know any democratic countries where politicians own as many news outlets and at the same time have the power to allocate the very broadcast frequencies and state concessions of which they themselves are the recipient?" Bucci asked. "The constitution expressly forbids such overlapping of interests. Just as it bans monopolies and oligopolies. But no law defines a monopoly or oligopoly, and if the worst comes to the worst, a media-owning politicians can always use a brother, cousin or uncle as front-man." The Brazilian media system is controlled not only by broadcast frequency allocation but also by the allocation of state advertising, a major source of income for the media. "Since the end of the dictatorship in 1985, all the governments, one after another, have increased the volume of state advertising, reinforcing the financial servitude that prevents us from talking about a free and pluralist press", Bucci said.

Governments, ministries, state agencies and state-owned companies – including the national oil company Petrobras and the Banco do Brasil – are all in effect paying a high price to be supported and promoted by the media. In 2009, the federal government spent more than 1.5 billion reais (600 millions euros) on advertising in the privately-owned media. In 2010, São Paulo's municipal government spent 110 million reais (40 million euros) and the São Paulo state government spent 266 millions reais (97 million euros) on media ads. "The leading media groups such as Folha, Estado and Globo would get by if these payments stopped but it would mean death for the average medium-sized media outlet," Bucci said. "This is not just pressure, this is all-out tutelage."

## COURT PROHIBITIONS

Financial and political tutelage is unfortunately not the only constraint on diverse and freely-reported news and information in Brazil. Courts that are readily influenced by local political official are nowadays just as much a threat. Here again, the colonel system is an enduring heritage. Referring to José Sarney, who was president from 1985 to 1990 and is now federal senate speaker, a university academic and free speech activist said: "The state I come from, Maranhão, is entirely under the Sarney family's thumb. A journalist or blogger, or even a comedian or performing artist will be declared *persona non grata* in Maranhão for the least criticism of our patriarch". Lúcio Flávio Pinto, a journalist and blogger in the northern state of Pará, has been sued more than 30 times because of his articles drawing attention to the deforestation and trafficking in precious woods that is threatening the Pará environment. Sometimes the courts go as far as to anticipate the local colonel's wishes. In the northeastern state of Sergipe, José Cristian Góes is the target of both civil and criminal proceedings in connection with a short piece of fiction that he posted on his blog in May 2012. It mocked the nepotism and corruption of local politicians but mentioned no names or dates and did not elicit any legal action from Sergipe governor Marcelo Dedá.

"Ten leading  
business  
groups control  
the mass  
media market"

Nonetheless, Edson Ulisses de Melo, a high court judge who is the governor's brother-in-law and who was appointed by him, brought a complaint against Góes, who is now facing not only a possible heavy damages award and court costs of more than 25,000 reais (9,000 euros) but also the possibility of a four-year jail sentence. This is outrageous, especially as the 2009 repeal of the 1967 press law, a hangover from the military dictatorship, effectively abolished prison sentences for libel, slander and insult.

The Góes case is one of the many examples of a surge in lawsuits against news and opinion providers that began shortly after the repeal of the 1967 law. Even if the possibility of imprisonment for an article is no longer a real threat, demands for often exorbitant damages have filled the gap. More seriously, the lawsuits are being accompanied with increasing frequency by an absurd form of partial "preventive censorship," in which a news media is banned from providing any further coverage of the subject at issue although the information is available through other news outlets.

The most famous example concerns a major national daily and shows that the Sarney family's influence extends beyond the borders of Maranhão state. *O Estado de São Paulo* and its website Estadão have been subject to a court order since July 2009 banning them – but no other news outlet – from referring in any way to sensitive matters involving the former president's son, businessman Fernando Sarney. The ban is still in place because the Estado media group rejected Fernando Sarney's offer to withdraw his lawsuits in exchange for a pledge from Estado to censor its coverage of his business affairs.

"The least violation of this judicial order would cost us 150,000 reais (55,500 euros) a day," said Estado Group content director Ricardo Gandour, who attributes the curbs that the courts impose on news and information to historic attitudes that Brazil has not yet managed to shed. "Before the emergence of an autonomous and independent Brazilian society with its own press, Brazil had a royal court that imposed its control," he said. "Something remains of that culture, which explains the fact that the absolute value of freedom of expression has not yet been accepted. There are many Brazilian judges who do not really understand what free speech and the free flow of information mean." Carlos Ayres Britto, a former president of the Federal Supreme Court (Brazil's highest court and guarantor of the constitution) and architect of the 1967 law's repeal, has also been the moving force behind last November's creation of a National Forum on the Judiciary and Media Freedom, which will hopefully lead to better court decisions affecting freedom of information. Will it also benefit the Internet?



→  
A woman reading  
a newspaper in  
downtown Salvador on  
7 February 2012.





# 2 CENSORSHIP OF THE INTERNET

***It is hard to imagine that preventive censorship would be capable of containing the flow of news and information on the Internet. Nonetheless, Brazil's courts are above all targeting online information. The debate about Internet regulation has developed into a legislative battle involving rival parliamentary initiatives.***

Winner of the Esso Prize for TV journalism in 2012, Fábio Pannunzio is a reporter and presenter on the national television channel *TV Bandeirantes* (or *TV Band*). Until recently he was also a blogger but he had to close his Blog do Pannunzio on 26 September as a result of the four civil and criminal proceedings brought against him in the states of São Paulo and Paraná. "I will be asked to pay 2 million reais or 1 million dollars for every future reference I make to the cases I am being sued over, and I have already had to fork out 53,000 reais (20,000 euros) in fees for eight lawyers," the exasperated journalist said. Two of the actions against Pannunzio were brought by Mato Grosso parliamentarian José Geraldo Riva, who has himself been named in a total of 142 lawsuits. Pannunzio criticized his business activities and accused him of collusion in questionable matters that had never been mentioned by the local press. The other two proceedings are the result of a complaint by São Paulo state public security chief Antônio Ferreira Pinto, who was accused by Pannunzio in a June 2012 post of covering up serious human rights abuses by the police. "I covered the same cases on the air for *TV Bandeirantes* as I did on my blog but, curiously, I was never sued as a TV reporter, only as a blogger," Pannunzio said. "So it is clear that the censors look for vulnerability."

Outspoken blogs were hounded by the courts during the 2012 municipal election campaign and some were closed down at candidates' requests for nothing more than just posting unfavourable opinion polls. Not even the Internet heavyweights escaped the persecution. Google Brazil had to take down or modify around 300 items relating to the elections. Altogether, it was asked to remove more than 2,300 items between January and June 2012. According to Google's *Transparency Report*, Brazil ranks third – behind the United States and India and ahead of France – in government requests for information about users. Google Brazil president Fábio Coelho was even arrested by the police on 26 September for being slow to remove a video posted by a voter that was deemed to have insulted a candidate. Marcel Leonardi of Google Brazil said: "It's the local judge's assessment that always counts, an assessment based on two obsolete laws. One is an electoral law that dates back to 1965, the military dictatorship, and has never been changed. The other is an electoral law that was bizarrely updated in 2009. It treats all types of media in the same way

and provides for the possibility of preventive censorship, which in practice varies enormously from one state to another." Google is anxiously awaiting the outcome of the legislative battle about the future regulation of the Brazilian Internet. The impact could be felt throughout the world and the United Nations special rapporteur for freedom of expression has already issued a warning about the perverse effect of making Internet companies liable for the content posted online.

## LEGISLATIVE RESPONSES

"Not only freedom of expression but also technological creation is now really threatened on the Brazilian Internet," said Sérgio Amadeu, a university academic and sociologist, and adviser to Brazil's Internet Management Committee. "Intellectual property rights are providing new grounds for censorship along with the traditional allegations of defamation and insult, as seen in the lawsuit accusing the satirical blog Falha de São Paulo<sup>1</sup> of improper use of Folha's trademark." The issue of copyright along with those of Net neutrality and private data protection are supposed to be addressed by a much-awaited draft law, known as the "Marco Civil" law, which could be held up as model for other countries. However, a final vote in the Chamber of Deputies has already been postponed five times (see box page 12). Based on recommendations by the Internet Management Committee and proposed by Workers Party deputy Alessandro Molon, the bill is a response to two new cyber-crime laws that were adopted and promulgated in December. One of them, Law 12735, proposed by senator Eduardo Azeredo of the Brazilian Social Democratic Party (PSDB) and then heavily amended, caused a great of online agitation with a provision – finally vetoed by the president – under which the Internet would have been partly placed under military control to prevent any Brazilian WikiLeaks.

"Many people described this law as a digital AI5," Amadeu said, alluding to Institutional Act No. 5 (AI5) of 13 December 1968, under which the military government gave itself the power to suspend institutions and fundamental freedoms at any time in the name of state security. "But the real offensive against the Internet is now coming from the telecom companies, which want to control the flow of online data at the expense of Net neutrality and keep the data of individual users for as long as they see fit. They are the enemies of freedom of information and pose the biggest obstacle to adoption of the Marco Civil." His view is shared by Arthur William, the national coordinator of the World Association of Community Radio Broadcasters (AMARC-Brazil), who thinks the Internet companies pose as big a threat to digital radio stations as the existing telecommunications legislation (see box 20) does to community radio stations. "With the very unfair distribution of broadcast frequencies and the very limited space for community radio, many small radio stations are forced to turn to Internet broadcasting," William said. "But these digital radios are subjected to broadcasting costs even higher than analogue broadcasting. Internet operators that charge blanket rates are directly to blame. It is similar to the way that broadcast frequencies are allocated sparingly and without the use of reliable criteria."

Democratization of online information and democratization of information on the airwaves go hand in hand. Many journalists, unions, civil society groups, community organizations and Internet sector representatives are calling for global regulation that includes this. But they all know they will have to overcome a combination of political and business interests that have prevented Brazil from attaining the levels of pluralism that could have been expected. The perspectives have not been improved by the level of violence against the media reached in 2012.





ORDEM E PROGR

## **“MARCO CIVIL” BILL**


### **PROMISING BUT KICKED AROUND**

Proposed by federal deputy Alessandro Molon and backed by former President Lula when presented to parliament, the so-called “Marco Civil” draft law on the Internet aims to define the rights and duties of the state, the public and “technical intermediaries” (the various kinds of Internet access and service providers) regarding use of the Internet.

The bill was approved by the Senate in 2011 but a vote in the Chamber of Deputies has been postponed five times because some of its key provisions are opposed by telecom companies and operators that have good political connections and, according to some of our sources, the receptive ear of communications minister Paulo Bernardo.

The Marco Civil reaffirms the crucial principle of Net neutrality, meaning





equal treatment for all data circulating on the Internet, without discrimination as regard content, origin or destination. This provision obviously does not suit the telecommunications companies, which know they have much to loose from it.

There has also been controversy about the bill's provisions for the withdrawal of content and their applicability to copyright demands. Article 15 of the Marco Civil's original draft stipulated that content could be withdrawn from the Internet only when a judicial order requesting removal had not been respected by the website or Internet platform concerned.

"This provision alarmed the bill's enemies, the most intransigent defenders of copyright," said Sérgio Amadeu of the Internet Management Committee (see report). "So they managed to get a clause added to Article 15 under which content withdrawal only after non-compliance with a court order does not apply to copyright violations. So, as things stand, content held to violate copyright can be withdrawn without a court order. This is absurd and dangerous!"

Consensus is unfortunately also lacking on one of the bill's

cardinal provisions, protection of the individual data of users. Major interests are again at stake here. As things stand, content platforms have access to this data for a year. Telecom operators also want to register and keep such data but this is ruled out by Molon and the bill's other promoters, who point out that the content platforms only obtain the data entered on their own web pages, while Internet access operators have the ability to keep the data and content of all the sites visited by an Internet user.

And finally, there is also controversy about the role of the National Telecommunications Agency (ANATEL), which the private sector Internet companies and operators would like to see acting as Internet regulator. The communications minister's apparent support for this option annoys Molon, who thinks the executive should act as regulator only under certain specific conditions.

Amadeu said: "The ANATEL regulation that the telecom companies are demanding is one that would serve their own interest and allow them to continue charging the tariffs that suit them. In Brazil, you pay 100 per cent of the price for high-speed broadband but you get only 20 per cent of the speed."

→  
A mosaic of the  
Brazilian flag  
decorates  
the cable-car  
station at Complexo  
do Alemão, a  
network of favelas  
in Rio de Janeiro.  
10 October 2011.

Expensive and imperfectly developed, the Brazilian Internet has not yet won its democratic spurs, or has won them only as regards to the technical and practical aspects. According to the journalist and blogger Fábio Pannunzio, whose figures were confirmed by other sources, "out of a total population of 200 million, 70 million have regular access to the Internet but only 20 million use it constantly."

# 3 DEADLY YEAR FOR MEDIA PERSONNEL

***A total of 11 journalists were killed in 2012, five of them in connection with their work. This was largely due to the degree to which journalists and news media are exposed to often violent local political disputes. Consideration is now being given to the idea that crimes of violence against freedom of information should be treated as federal crimes.***

Their names are Mário Rodolfo Marques Lopes, Décio Sá, Valério Luiz de Oliveira, Paulo Rocaro and Eduardo Carvalho. They were the five journalists, some of them also bloggers, who were killed in 2012 for reasons directly related to their profession. Their cases highlighted the different kinds of violence to which Brazilian journalists are still exposed. Both Paulo Rocaro, editor of the *Jornal da Praça* daily, and Eduardo Carvalho, editor of the Última Hora News website, were based in Mato Grosso do Sul, a state bordering Paraguay that is a drug-trafficking hub. And both paid the price for writing about the cartels and their infiltration of local government. The motives are much less certain in the case of Valério Luiz de Oliveira, a sports commentator for *Rádio Jornal 820 AM*, a privately-owned regional station in the central state of Goiás, but he was known for being outspoken and sometimes very sharp in his comments about the managers of clubs linked to political circles. Both Mário Rodolfo Marques Lopes, the victim of a execution-style murder in February in Rio de Janeiro state, and Décio Sá, gunned down in April in Maranhão, had been critical of local government practices and corruption in their blogs, called Vassouras na Net and Blog do Décio respectively.

The recent increase in the number of murders of journalists and the possible responses are the subject of debate. Some journalists are reluctant to offer a firm diagnosis. They include Marcelo Moreira, who is president of the Brazilian Association of Investigative Journalism (ABRAJI) and head of programming at *TV Globo*. "ABRAJI has no set theory," he said. "The murders cannot be linked to an overall context similar to the context in Mexico or Colombia. But it is clear that the level of impunity continues to be high and pressure from journalists and civil society is needed to obtain results. Too many cases unfortunately go unreported or receive little coverage." Another journalist went further. "Murders of journalists do not elicit the same response from the journalistic profession and international opinion as they do in other countries," he said. "In many cases it is well known, although it may not be spelled out, that the victims had other interests, political or activist, that may have exposed them to reprisals."

Relations with local politicians seem to account for the marked increase in threats and physical attacks on journalists and news media in recent years, with a worrying



surge in the number of cases during the campaign for the municipal elections held on 7 and 29 October 2012. José Augusto “Guto” Camargo, president of the 5,000-strong São Paulo Union of Journalists and general secretary of the National Federation of Journalists (FENAJ), said local officials “constitute the major source of hostility towards journalists.” In 2011, Camargo registered 60 cases of violence of different kinds against journalists that was directly related to their work. This brought Brazil back to the level of 2005-2006, after an average fall of 20 points until 2010. “More than half of the cases were located in the north and northeast, followed by the southeast (including Rio and São Paulo) and the centre-west,” Camargo explained. “Only the three southern states seem to have been relatively spared. No murder of a journalist has been reported there for seven years. This geographical distribution varies little. Similarly, politically-motivated attacks continue to be the most frequent, followed by reprisals linked to coverage of crime or stories involving police abuses. The problem is that violence of political origin, very often superimposed on censorship, is both the most common and least visible.” Last year also saw two cases of journalists being forced to flee abroad as a result of threats of police origin. They were André Caramante of *Folha de São Paulo* and Mauri König of *Gazeta do Povo*, a daily based in the southern city of Curitiba.

## “FEDERALIZING” CRIMES AGAINST FREEDOM OF INFORMATION

Journalists’ unions and associations think the authorities, including the federal authorities, have yet to fully appreciate the scale of the problem. A working group on the Human Rights of Journalists in Brazil was created on 24 October within the Human Rights Secretariat, an offshoot of the president’s office. The initiative has been welcomed although it is not known what resources it will get, when it may produce any results and what contribution it may make to a debate about making violence against freedom of information a federal crime. “Making it a federal crime on the Mexican model is a privilege that would not necessarily be accepted in a country where the overall crime rate is still high,” said a spokesman for ABRAJI, which is due to submit its proposals soon to the working group. Marcelo Salles of the SDH said: “The mechanism for putting the federal authorities in charge of an investigation into serious human rights violations already exists because local police and judicial authorities often lack the required independence and skills. But for this to happen, the prosecutor’s office has to ask the Federal Supreme Court and the Federal Supreme Court has to agree.”

FENAJ’s Camargo pointed out that a bill “federalizing” crimes of violence against journalists was already submitted to the federal parliament in June 2012. It would automatically put the federal authorities in charge of investigating such crimes if the local authorities failed to initiate proceedings within 30 days, a deadline that could be extended twice. Would this be a privilege? “No, because the draft law provides for a significant period for a local investigation,” Camargo said. But will such a bill be supported by local officials with good connections in Brasília? Meanwhile, Maria do Rosário, the minister in charge of the SDH, announced on 20 December that a protection programme already in operation for witnesses in criminal cases, human right defenders and endangered teenagers could be extended to journalists and bloggers. However, while journalists need better protection, experience has shown that mechanisms focusing solely on safety do not necessarily also serve the duty to provide news and information.



## A PRESS LAW

### BUT FOR WHAT PURPOSE?

It took a long time to obtain the repeal of the 1967 press law, which dated back to the early years of the military dictatorship. It was notorious for its sometimes long jail terms for publishing or broadcasting information deemed to be subversive. Back then, Brazil was subject to the military regime's strict control, which culminated with the December 1968 promulgation of Institutional Act 5 (AI5), allowing the suspension of civil liberties at any time.

The press law curiously survived the return to democracy in 1985 and the adoption in 1988 of the democratic constitution, which rendered most of its provisions obsolete. This hangover from the dictatorship continued to serve as a means of pressuring journalists, especially unruly local journalists, in the name of "protecting the honour, privacy and image of persons," above all politicians who wanted to maintain their influence over the media.





It took until 2007, 30 years after its adoption, for a federal legislator, Miro Teixeira, to ask the Federal Supreme Court to rule on its constitutionality. The court took a first step in 2008, provisionally striking down 20 of its most repressive articles. It finally decided on 30 April 2009, by seven out of 11 votes, to scrap the law altogether.

The desirability of a new media law has been the subject of sporadic debate since 2007. Guto Camargo, the general secretary of the National Federation of Journalists (FENAJ), said: "We obviously applauded the repeal of the 1967 law, which was so undemocratic, but it left a void as regards the legal bases governing the media, the status of journalists and their relations with society and its institutions. That's why we defend a new regulatory law."

The FENAJ has been promoting part of this demand through its long campaign for an obligatory qualification in journalism for those working as journalists. This is obviously not supported by media owners' associations, and

the National Association of Newspapers (ANJ) questions the principle of a new law.

Some politicians and parliamentarians are pressing for a new law for less legitimate reasons. They regret that repeal of the 1967 law included elimination of its provisions for "protecting honour," which were among its most draconian articles.

Among the thousand or so draft laws for regulating the media registered at the National Congress, the one that has progressed most, proposed by Senator Roberto Requião, would regulate the right of response. The Requião bill aims to ensure that anyone feeling insulted or defamed in the media would have the right to rapid rectification.

Although recently approved by the upper house's constitution and justice committee, the bill is much criticized. It provides for the possibility of investigating the source of information in an article and obtaining rectification

→  
Outside wall of a favela monitoring group in the north Rio favela of Maré.

within two months. If the news media concerned fails to respond to a request for rectification within a week, the plaintiff can bring a legal action. After being notified of the lawsuit, the media or journalist concerned would be allowed only three days to defend themselves. This deadline is too short, and would just contribute to the excessive number of legal proceedings, critics say.

# 4 DOUBLE STANDARDS ON NEWS PROVIDERS DURING “PACIFICATION”

***Brazil's showcase city, Rio de Janeiro, is sprucing itself up for the FIFA World Cup and Olympic Games and, as part of the facelift, the police are trying to reclaim control of the most visible favelas from criminal gangs in a controversial process called “pacification” that has exposed the gulf between the different kinds of news providers in Brazil.***

“Thank you FIFA!” is the ironic message of a mural in Metro-Mangueira, a favela in northern Rio de Janeiro, just a few blocks from the legendary Maracanã stadium. The mural shows a young *carioca* (Rio inhabitant) in the famous yellow shirt worn by the “Seleção,” the national team that has won the World Cup five times and is expected by Brazilians to win it again at home in less than two years' time. The words “Thank you FIFA!” are painted as tears on the boy's eyes because the small favela lost nearly half of its 600 inhabitants as part of the city-wide preparatory clean-up.

The “pacification” of Rio's favelas has been officially under way since 2008. The process began with the deployment of soldiers and elite members of the local police to hunt down the drug dealers who traditionally impose their own law in the favelas. A journalist was killed in one of the ensuing shootouts. It was *TV Bandeirantes* cameraman Gelson Domingos da Silva, who was fatally wounded on 6 November 2011 in Antares, a favela in the western part of the city. After the big “cleansing” operations, the next stage of the pacification has been the deployment of the 7,000-member Pacification Police Units (UPP) to keep a permanent watch on the neighbourhoods supposedly reclaimed from the criminal gangs. But André Fernandes, co-director of the Favela News Agency (ANF), says it is more of an “occupation” than a “pacification.” With a total of 140 employees and contributors, ANF operates a news website and publishes *A Voz da Favela*, an eight-page newspaper-style monthly.

“Pacification may mean crime in retreat in certain places and favelas finally accessible to an outside population that would never have set foot in them before,” Fernandes said. “But for favela residents, it also means fear of a police whose methods have scarcely changed, small shops hastily dismantled, rents that have often tripled and above all, the continuing lack of long-term public health and education projects. And what will happen after 2016?” Cléber Araújo, the head of a small businessmen's association in Complexo do Alemão, a sprawling conglomeration of 13 favelas with 100,000 inhabitants in the north of the city that has also been pacified, makes no bones about his scepticism. “For the time being improving the favelas responds to a political, economic and media interest that will clearly no longer be the same after the Olympic Games,” he said.

As he spoke, Araújo looked at the hillside shanties (morros) and the brand-new, French-designed cable cars of the kind normally seen in winter sports resorts that have been passing overhead since 2011. "In reality, it is all down to an image problem, which had to be dealt with urgently and which is the result of years of a growing social and geographical divide. After 2016, either the favelas are transformed or the process of pacification comes to a complete halt, and then things will be worse."

"The authorities have decided it's time to pacify Rio's favelas"

## REVERSE PATERNALISM

The image problem involves two key issues for the provision of news and information. One is coverage of the favelas by the media and the other is the ability of the favela "communities" to cover their own news. Eduardo Sá, a freelance reporter for the São Paulo monthly *Caros Amigos* and the magazine *Fazendo Mídia* who has written more than a dozen articles about favela life, is very critical of the mainstream media's coverage of the favelas. "Their coverage is a reflection of the logic imposed by pacification, which is focusing above all on the favelas nearest the sites of the big sports events," he said. "Priority is being given to the sensational and short term. The favela residents find it hard to accept a media presence they regard as one-sided and often limited to covering the major police operations."

Nelson Moreira of the daily *O Dia*, who heads the Rio de Janeiro journalists' union, denies that his newspaper pays too much attention to pacification and demolition operations, "especially now that some favelas are under control." He also points out that the pacified favelas are in the minority and do not include those in the western part of the city where *quadrilhas* – criminal gangs consisting of retired and active service soldiers and police officers – prevent any media presence. Moreira is still traumatized by the 2008 abduction and torture of three *O Dia* employees by a *quadrilha* in the Batán favela, which is far from any of the future Olympic sites. As regards the pacified favelas, he likes to think that perceptions are changing and points to "the tourist interest that the favelas are eliciting in the media, especially the print media."

Marcelo Beraba, the *Estado de São Paulo*'s Rio bureau chief and cofounder of ABRAJI, is also ready to examine his conscience on the subject of the favelas, although it is not easy because this extremely sensitive subject exposes the entire country's inner thoughts about itself. "It is true, the leading media peddled this fear that Rio would turn into one gigantic favela for too long, often to the detriment of the 20 per cent of the population that live in the 'communities,' more than 1 million of the 6 million *cariocas*," said Beraba, who is also his newspaper's mediator. "We should be talking about jobs and housing and not just pacification." But the outside world's attention, which will inevitably concentrate on the sports events, can also have its perverse effects. "We must pay attention to our own excesses," the lucid Beraba qualified. "Because in the process of evolving, we, the mainstream media, have yielded to a sort of reverse paternalism. Helping an additional tourist attraction, suddenly everything is supposed to be idyllic in the favelas. But for how long?" Raika Moisés, co-editor of *Mídia e Favela*, an online newsletter published by a monitoring group based in Maré, a still "unpacified" northern favela, seems more optimistic. "While it is true that our publication focuses on subjects that the mainstream media





## BROADCASTING

### COMMUNITY RADIO STATIONS STILL PERSECUTED

Giving a precise figure for the number of community radio and TV stations in this vast country is extremely difficult. Non-profit civil society and educational websites linked to the community radio sector put the number of community broadcasters with legal frequencies at 4,600. But how many others are there that appear, disappear and reappear clandestinely because they have not been able to get a licence?

Brazil's progressively-minded community broadcaster networks regard the new legislation in neighbouring countries such as Argentina and Uruguay with envy and find it hard to accept that there has been no legislative progress under either President Lula or his political heir and successor, Dilma Rousseff.

"The Lula and Dilma administrations were the first to recognize the social role of the communities but they never dared to change the regulatory framework, the preservation of which is imperative for the mainstream media and the telecom companies," AMARC-Brazil coordinator Arthur William said.

Half a century after its adoption, the 1962 telecommunications



law has never been thoroughly overhauled and continues to regulate broadcast frequencies. A law that was specially written for community radio and TV stations and other short-range broadcasters was promulgated in 1998 under President Fernando Henrique Cardoso (1995-2003). "There was a strong tendency to criminalize grass-roots movements at the time and the law has never been updated," William said.

Strongly criticized by community broadcasters, the law limited the power of their transmitters to 25 watts, as opposed to the 50 watts initially proposed for radio stations and 100 watts for TV stations. This was a gift to commercial broadcasters keen to maintain their dominant position in the frequency market.

Community hopes were lifted when an amendment was proposed in congress in December 2012 decriminalizing any community radio and TV broadcasting below the 100-watt threshold. The Chamber of Deputies approved it but the Senate immediately rejected it.

Aside from the limited range of frequencies available to them and the continuation of threatening legislation that impedes their development, the small community broadcasters also suffer from the lack of a clearly-defined status. Many radio and TV

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A man holds his son  
on his shoulders as  
he crosses a street  
in the favela of  
Grotão.  
Rio de Janeiro.

stations dedicated to religious proselytism claim "community" status although they do not have the informative and educational programming that characterizes true community broadcasters. The same problem affects other countries in the region but in Brazil it has assumed the character of a religious invasion of radio and TV broadcasting.

Community broadcasters are not the only ones affected. TV Record, the network with Brazil's second highest viewer ratings (after *TV Globo*), is owned by Edir Macedo, the bishop of the very powerful neo-pentecostal Universal Church of the Kingdom of God. "This violates the principle that no public service or provider of a public service can be subservient to a system of beliefs, and violates the secular nature of the state," said media expert Eugênio Bucci. He also cited the state of São Paulo's public service station *TV Cultura*, which broadcasts no other religious services but Catholic Church ones.



↑  
Protest wall painting  
in the north Rio favela  
of Metro-Mangureira

never or rarely cover, the big media groups are beginning to fund and sponsor projects," she said. "It's a sign that our efforts to describe a different aspect of these neighbourhoods are starting to bear fruit.

## LOUDSPEAKERS INSTEAD OF BROADCAST FREQUENCIES

Should addressing the image problem depend solely on the inclinations of the often fickle mainstream media? Journalists from the favelas logically say no. The lack of pluralism is obviously a challenge to them. A major challenge given the limited resources available to them to make their voice heard. A community leader and champion of the "black consciousness" that Brazil celebrates every 20 November, Rumba Gabriel likes to brandish a South African flag to symbolize his cause. But he knows the flag alone has little chance of rallying support without the help of a broadcast frequency and *Radio Liberdade*, the radio station he used to host along with six other people in Jacarezinho, has not been broadcasting for the past four months. "They blamed interference and electricity theft, but in reality they just wanted to silence us," Gabriel said. "It's the same for many other small radio stations. It is difficult, if not impossible, to raise the consciousness of people who are already marginalized and who keep hearing all today that pacification means change, as if the favelas were at war." He also bitterly condemned "the extinction of the local funk culture and the festive favela atmosphere since pacification."





## “The lack of pluralism is obviously a challenge”

Cléber Araújo said there are four community radio stations in Complexo do Alemão. “They are just street radio stations,” he said. “None of them has a legal frequency so they have to improvise.” Because they lack access to the airwaves, three of them – *Grotto*, *Nova Brasília* and *Morada* – use loudspeakers attached to electricity pylons along the favela’s main thoroughfares, pylons that are already weighed down with countless power supply connections.

Some community broadcasters have illegal frequencies. Others are legal but lack frequencies. *TV Tagarela* (which means Chatterbox TV) is one of the latter. Located in Rocinha, a sprawling favela next to Leblond, a guarded neighbourhood with luxury villas on the south side of Rio, this TV station without a TV broadcast frequency was briefly suspended at the start of pacification but has been recognized as a legal entity since 2008. It covers only part of Rocinha but thanks to the ingenuity of its 12 producers, three of who have been collecting salaries for the past few months, it has won support and will celebrate its 15th anniversary on 1 May. “As we cannot broadcast, we record live,” said Augusto Pereira, one of the producers. “We organize public debates with as many participants as possible, then we record the debates on videotape, we duplicate the tapes and we sell them. That’s how we finance ourselves. What with that and producing videos for other people, we make about 2,000 reais (700 euros] a year). Public health and education are the priority subjects for this original community TV station, which steers clear of the subject of drugs because of the continuing threat from gun-toting dealers, despite pacification. It is not the only danger.

“Our goal is dialogue and debate, not immediate news reporting,” Pereira said. “We would love to extend our activities but everyone here has outside jobs and we achieve only 10 per cent of what we would like.” As well as technical handicaps, he cited their often strained relations with the UPP, who are sometimes quick to censor an event “because the communities are not in the habit of requesting permission from the police before organizing meetings of cultural events.” Pereira’s concern is above all due to what he calls a “veiled repression” that is familiar to community and alternative media. “We are always hemmed in by politicians who want to use us for their own purposes. And that is far more difficult to get out of.”

## TRUTH COMMISSIONS

### POSE CHALLENGE FOR INFORMATION AND MEMORY

*Freelance journalist Ivan Seixas was a political prisoner from 1971 to 1976, under the 1964-85 military dictatorship. He is currently the coordinator of the State of São Paulo Truth Commission, which was created at the same time as the national Truth Commission in May 2012. Access to state-held information has improved since the Lula presidency but getting access to the truth about repression under the military is still difficult.*

**RSF** What is the purpose of the Truth Commissions and can they replace the justice system?

Ivan Seixas No, the Truth Commissions don't have the power that the courts have. But unlike other Operation Condor<sup>1</sup> countries, Brazil let a great deal of time go by before starting to try former military officers for human rights violations under the dictatorship. There are still many obstacles. In the final years of the military regime, its leaders anticipated their departure from power by crafting a tailor-made amnesty law that was adopted in 1979.

This is one of the reasons for the Truth Commissions, which were created by a federal law and in which many journalists





are participating. The São Paulo Truth Commission has five parliamentarians and six advisers. We are going through archives, interviewing witnesses and holding hearings. We can summon former torturers to make a statement, as part of an open forum, once all the evidence has been gathered.

### **RSF Does Brazil still remember this era ?**

Ivan Seixas I was jailed from the age of 16 to the age of 22 and for me the memory is still vivid, as it is for all those who suffered directly during that time. But the country as a whole is taking its time. We weren't aware that we were experiencing a dictatorship until 10 years after the March 1964 coup. The memory process did not really get under way until the Lula and Dilma<sup>2</sup> presidencies.

A major step was taken in May 2009 with "Revealed Memories" (Memórias Reveladas), a federal project that allows members of the public to submit any document or archive to a database that can be consulted online. The previous year, in 2008, the São Paulo state prosecutor's office came out clearly in favour of punishing former torturers.

All this helped to create the conditions for the creation of the Truth Commissions, the principle of which was

proposed in 2010 by Lula's then human rights minister, Paulo Vannuchi. And the commissions finally saw the light of day, despite opposition from right-wing hardliners and despite the radical left's attempts to have them turned into tribunals or platforms.

### **RSF State agencies and entities are required by a 2010 federal law to hand over information of public interest. Are the armed forces complying ?**

Ivan Seixas Unfortunately not. The armed forces still retain much of the old Cold War ideology and continue to oppose any kind of opening or dialogue. This is our big problem. The armed forces claim that the archives from that period have disappeared or were burned. That said, the family of a former commander who died in 2011 has agreed to hand over documents to the National Commission. This is proof that such documents exist. The archives must be opened up to the media. We must demand an end to impunity in the name of the victims and their families. As regards journalists, the most famous case was that of Vladimir Herzog,<sup>3</sup> but he was not the only one.

We need support for this demand for truth and justice. Not just for yesterday but also for today. Do people remember that the military police force was created under the dictatorship as an auxiliary of the armed forces?

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A peanuts seller reads  
a newspaper  
in Rio de Janeiro.

Its methods have hardly changed. Its operational methods are still too similar to those used during the military repression, with too many cases of people "deceased during transfer to hospital" after a "pacification" operation. They are never explained.

1. A US-backed repressive military alliance between six South American military dictatorships – Argentina, Bolivia, Brazil, Chile, Paraguay and Uruguay – during the 1970s.

2. President Dilma Rousseff was jailed and tortured during the military dictatorship because of her involvement with urban guerrilla groups. Her predecessor as president, Lula, was jailed as an opposition union leader.

3. Vladimir "Vlado" Herzog, editor in chief of São Paulo-based *TV Cultura*, was detained and tortured to death on 25 October 1975 at the age of 38. The military police officers who killed him disguised his death as suicide by hanging. A prize and an institute opened in 2009 have been named after him.

## RECOMMENDATIONS

Given the situation described in this report and the calls from both journalists and civil society in Brazil for balance and diversity in the provision of news and information, Reporters Without Borders advocates:

- A complete overhaul of the current legislation governing the media, which is not fit for purpose. The new legislation should include strict clauses on media ownership and media funding through state advertising. A bill being discussed in the state of Rio Grande do Sul envisages setting aside at least 10 per cent of advertising for small and community media. This idea should be developed.
- The inclusion in this future legislation of provisions on the allocation of broadcast frequencies that create space for community broadcasters, until now under-represented in the field of legal frequencies. Newly-adopted legislation in Argentina and Uruguay could serve as example for defining community broadcasters, to avoid competition from those dedicated to religious proselytism.
- A range of penalties for media offences which excludes any criminalization of journalists and any closure of news media, news websites or blogs (except in extreme cases of inciting hatred, discrimination or criminal activity) and which places a strict ceiling on the amount of damages that a court can award.
- Adoption without more delay of the Marco Civil guaranteeing Net neutrality, protecting the individual data of Internet users and radically limiting censorship of the Internet, so that censorship requests by authorities can no longer prevent information from being broadcast, published or posted online when it is in the public interest.
- The granting of extensive legal powers to the new National Forum on the Judiciary and Media Freedom, so that it can provide real monitoring of judicial cases relating to freedom of information and serve as a body to which journalists threatened by censorship can quickly appeal.
- Federal-level legislation banning any form of censorship that contravenes the provisions of the 1988 constitution and banning any preventive censorship, which is in practice discriminatory.
- Precise account to be taken of the requests made by journalists, unions and organizations that defend freedom of information when drafting the security provisions for news providers envisaged by the Human Rights Secretariat.
- An equitable system of accreditation for the 2014 World Cup and the 2016 Olympic Games, designed in consultation with FIFA and the International Olympic Committee, allowing coverage of a wide range of sports events and related issues and, in particular, ensuring that alternative and regional community media and websites are also able to cover them.

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A boy showing a medal that says "challenge for peace" in Alemão favela on the second anniversary of its "pacification" by the police. Rio de Janeiro, 27 May 2012.





**REPORTERS WITHOUT BORDERS** is an international press freedom organisation. It monitors and reports violations of media freedom throughout the world. Reporters Without Borders analyses the information it obtains and uses press releases, letters, investigative reports and recommendations to alert public opinion to abuses against journalists and violations of free expression, and to put pressure on politicians and government officials.

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