

Online Mass Surveillance: Protecting Privacy and Human Rights on the Internet? Is Brazil taking the Lead?

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Global Research, April 29, 2014

Region: [Latin America & Caribbean](#)

Theme: [Intelligence](#), [Police State & Civil Rights](#)

Following the revelation of Edward Snowden of the global mass surveillance by the NSA, Brazil is the first to undertake great measures to govern their citizens' rights on the Internet. NET Mundial, The two-day conference on global Internet governance has just taken place in Sao Paulo Brazil. It opened with the historic signing of the Marco Civil by president Dilma Roussef, also dubbed "the first bill of internet rights".

Last year's online mass surveillance discovery done by the United States' National Security Agency (NSA) sparked a lot of anger worldwide. It broke for most the illusion that the Internet is an anonymous and free space. Particularly Brazilian President Dilma Rousseff was outraged. When she gave a passionate speech for the General Assembly of the United Nations last fall, she proposed a civilian multilateral framework for the governance and use of the Internet to ensure the effective protection of data that travels through the web.

Her words were put into action and NETMundial convened this April, mere months later, in Sao Paulo, Brazil. The conference brought together participants from not only governmental levels, but also academia, the technical community and the civil society, of which a quarter of participants was remote. A remarkable inclusion of every stakeholder in the field, eligible to add comments to the text through a comprehensive webtool (<http://document.netmundial.br>).

The highlight of the conference was definitely the signing of the [Marco Civil da Internet](#), a constitution of Internet rights. It was certainly no coincidence that the signing of the very first bill of Internet human rights was the opening ceremony of the conference, marking Brazil's chosen role to be on the forefront of Internet freedom and rights.

Most governments in the world by now have their [own cybersecurity policy to protect critical infrastructure](#) () but very little attention has been given to the rights of its citizens on the Internet. Violations which no one has been held accountable for. Under the predicament that human rights which people have offline must also be protected online, Brazil signed its own Internet bill of human rights after a lengthy and controversial process that had been ongoing since 2009.

The law is the first to explicitly protect the principle of freedom of expression online, uphold net neutrality, protect the right to privacy and the rights to connect.

The Marco Civil was applauded all throughout the international community. It received

particular praise from Sir Tim Berners Lee, the co-founder of the World Wide Web who was also present at the conference.

While praise is due, attempting to govern a free and open network is a two-edged blade.

[Brazil originally intended to force all network data and communications to be stored](#) within Brazil . An Internet completely on Brazilian territory and Brazilian rule would make it a lot harder for external surveillance. But keeping Internet traffic within the borders would have also significantly impeded the functioning of the Internet in Brazil.

Companies like Google complained they would have to make expensive investments in server centers on Brazilian territory and it would possibly have made other companies skip Brazil because of the investment. This could create a situation comparable to the virtual wall like China has put up. Policymakers eventually came to their senses after heavy protests and dropped the measure that would have actually restricted freedom on the Internet more. While Brazil reluctantly dropped the article, other countries like Russia are also considering such a move after the NSA scandals. Vladimir Putin even went as far as calling the Internet a CIA project.

The most controversial part of the Marco Civil that did pass is its article 16 on data retention. Pushed by the federal police (<http://infojustice.org/archives/32527>), a mandatory 1-year period of retaining personal data was included [in the bill, which some human rights groups point out as \(ironically\) similar to the NSA surveillance](#). It is argued that such data can now be used in court cases for criminal activities, but it also goes against privacy rights that prohibit private communication from being stored. Since the military dictatorship Brazil went through is still ingrained in the collective Brazilian memory, there is a legitimate fear that certain information can be held against individuals at a certain point when the rules change on what is a 'criminal act'.

There are however strict rules included in the bill on who can access this data. Court orders are required to actually obtain the data, and data is prohibited to be transferred to third parties. Yet retention still hampers with the anonymity on the web. As Nnenna Nwakamwa, the civil society keynote speaker to NETmundial said, the web that we can trust, that is the web we want, and we cannot trust a net that is spied on.

While the Marco Civil is full of good intentions, it has some weak points. The same mixed feeling of success goes for the conference, which failed to reach a strong consensus. It did not include net-neutrality as a principle and lacked a strong position on anonymity on the Internet. One commentator stated that, given that shocking revelations about mass surveillance sparked the NetMundial conference in the first place, the language agreed upon in the sole paragraph dedicated to the subject was unacceptably vague and weak.

Despite the fact that some in the civil society movement were disappointed with the outcome documents, the conference was quite a victory for Brazil, even if only reputation-wise. The efforts gave to Brazil a huge image boost within the international community, upholding Brazil as being an advocate of human rights, with global praise for its bill. A much needed diversion from the civilian protests in the run-up to the soccer world cup.

Just how much of an influence the Snowden leaks have had on how we perceive the Internet is noticeable from how governments are responding in the wake of them. The trust in the Internet as a free and anonymous place has gotten a serious dent.

Brazil's leading role in internet governance and the protection of human rights online is admirable but we're only halfway there. Even with its flaws, Brazil will serve as a test-lab for the rest of the world in protecting individuals online, ushering us "in a new era" as Tim Berners Lee said.

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