

Universal Periodic Review:

*Recommendations for the Brazilian State on human rights in digital environment.*¹

Derechos Digitales, together with APC, ARTIGO 19 and Intervozes, has prepared a series of recommendations to the Brazilian State, with the goal of strengthening the commitment to human rights, *including the guarantee of universal internet access; access to information, knowledge and culture; and the exercise of economic and social rights in a manner that is safe, respectful of privacy and autonomy, and free of any kind of discrimination.*

Facial recognition technology: the threat of biometric surveillance

The use of surveillance technology with facial recognition **has increased in both public and private spheres in Brazil.**

Endangering the exercise of fundamental rights such as privacy and autonomy, the right to protest and the right to freedom of expression, mainly of vulnerable people: women and Black, poor and trans people.² There is a widespread lack of transparency in the implementation of these systems, which inhibits adequate analysis of the technologies and evaluation of whether they meet minimum standards of legality, necessity and proportionality.³ Furthermore, the technology involved tends to reinforce different forms of social exclusion: despite the lack of official data on the use of biometric surveillance technology and its results, independent studies indicate that the vast majority of the population arrested based on facial recognition is Black.⁴

The Brazilian State must limit the use of biometric surveillance technologies such as facial recognition in public spaces until there is international consensus on the impact of this technology on the exercise of human rights. Its use for the purpose of public safety or controlling access to government spaces or services must be prohibited.

It is the government's job to guarantee that any surveillance technology strictly complies with the principles of legality, necessity and proportionality established by human rights standards. Furthermore, mechanisms must be created that ensure the approval, supervision and public and community oversight of the purchase of surveillance technology.

Internet access for the exercise of human rights

In Brazil, inequalities in internet access reproduce structural inequalities. Just **30% of Brazilians from the poorest sectors (Classes D/E) have used a computer**, while the numbers are **much higher for the richest classes: C (66%), B (91%) e A (88%).**

%). Inequalities in access are also geographic and are linked to the unequal distribution of infrastructure. In urban areas, 86% of homes have internet access, whereas in rural areas, only 65% of households have access.⁵ Thus, 2 million rural school students spent 2020 with no access to digital content⁶ and, according to official data, more than 70% of the student body lacking 3G/4G broadband internet access at home comprises Black and Indigenous children and youth in public schools.⁷

Internet access enables the exercise of fundamental rights. The Brazilian State must urgently create public policies for digital inclusion that contemplate the universalization of high-quality internet access, prioritizing vulnerable populations.

¹ https://www.derechosdigitales.org/wp-content/uploads/UPR_Brazil-PT2.pdf

² <https://revistas.ufg.br/lahrs/article/view/69423>

³ https://estudio.reconocimientofacial.info/reports/ALSUR-Reconocimiento_facial_en_Latam-ES.pdf

⁴ <https://www1.folha.uol.com.br/cotidiano/2019/11/151-pessoas-sao-presas-por-reconhecimento-facial-no-pais-90-sao-negras.shtml>

⁵ <https://cetic.br/pt/tics/domicilios/2020/domicilios/A4/>

⁶ <http://territorioslivres.online/>

⁷ http://repositorio.ipea.gov.br/bitstream/11058/10228/1/NT_88_Disoc_AcesDomInternEnsinoRemoPandemia.pdf

Privacy: the right to personal data protection

In Brazil, it is common for public entities and private companies to **collect, store and process personal data without meeting personal data protection standards.**

A clear example occurred during the COVID-19 pandemic, when various applications were created to access official information on measures for preventing and treating the novel coronavirus, without adequate guarantees for the protection of the highly sensitive data collected and its handling conditions. This example is paradigmatic of the lack of respect for the right to privacy.

It is urgent for the State to adopt measures favoring the right to privacy. For example, strengthening the independence of the national data protection authority, so that it may monitor compliance by public and private institutions with the established rules, presenting clear guidelines on the interpretation of provisions in the law.

Surveillance of and attacks on journalists and human rights defenders

Journalists and human rights defenders have been **exposed to State surveillance¹⁰** and various forms of violence.

During the 2018 election campaign, numerous online attacks against political groups and journalists were documented; on many occasions these also had overtones of gender-based, racist and LGBTQ-phobic violence. The posture of the President-elect on social media even included the exclusion and blocking of certain content published by the platforms themselves.¹¹ Debates around disinformation and violence in political discourse are also related to the role of social networks and the lack of transparency in the moderation and prioritization of content.

We demand of the Brazilian State the repeal, non-adoption or review of rules that enable online surveillance and the criminalization of human rights and information security activists. The adoption of government rules and practices respecting cryptography and online anonymity as important factors for the exercise of human rights is urgent, along with guaranteeing protection of human rights violations whistleblowers.

Online gender-based violence

Brazil is a country with high rates of **intrafamily violence and gender-based violence.**

This violence also occurs in digital environments, which have been used to attack women and LGBTQIA+ individuals. Forms of attack include racist photomontages, invasion of social media accounts with racist and misogynist intent, threats and slander.⁸ In 2021, the SaferNet National Cybercrime Reporting Portal [Central Nacional de Denúncias de Crimes Cibernéticos] in Brazil received 5,347 reports of LGBT-phobia; 6,888 reports of racism; and 8,174 reports of violence and discrimination against women.⁹ The Brazilian State has not been proactive in addressing the increase in cases.

It is urgent for the Brazilian State to work on creating public policies and adequate measures to fight all forms of gender-based violence, both on and off the internet.

Disinformation and violent political discourse

In recent years, various legislative initiatives have been proposed to respond to **the challenges wrought by the rapid digitalization of increasing numbers of life processes.**

These include questions such as the concentration of large digital platforms, abusive policies related to personal data mining, and the low capacity of these very platforms to respond to the proliferation of hate speech on their networks. However, many of these initiatives are neglected and, favoring easy solutions, they fail to consider the negative impact they could have on the exercise of rights on the internet.

It is a task of the State to reform and reject bills proposing abusive laws for the regulation of content on social media and messaging platforms that promote the liability of intermediaries, violating the principles set forth in international human rights documents and the Brazilian Civil Rights Framework for the Internet.

⁸ https://www.internetlab.org.br/wp-content/uploads/2017/11/Relatorio_ViolenciaGenero_ONU.pdf

⁹ https://brasil.elpais.com/brasil/2018/09/14/politica/1536941007_569454.html

¹⁰ <https://noticias.uol.com.br/politica/ultimas-noticias/2021/11/11/tcu-suspensao-compra-governo.html>

¹¹ <https://intervozes.org.br/violencia-e-divergencia-de-opiniao-e-desinformacao-e-liberdade-de-expressao-afirma-governo-na-cidh/>