

Brazilian Presidential Elections Results

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On the 30th of October 2022, Brazilian citizens typed the electronic ballots to choose the president for the next four years' term in the runoff between Jair Bolsonaro and Luís Inácio Lula da Silva. The very close results mirrored the radical polarization that has been haunting the country for at least the last ten years. Lula received 50.9% of the valid votes, whereas Bolsonaro was chosen by 49.1% of the electors. At the time of this writing, Bolsonaro has not conceded. Considering his past polemic behavior, President Bolsonaro's attitude is not at all a surprise. What was unexpected is that he is the first president that was not granted a second term after reelection was allowed. In any case, his political allies and members of the Federal Supreme Court are pressing him and conducting the transition of government.

The electoral process did not occur without significant disruption. Jair Bolsonaro and his supporters did everything to avoid Lula being elected. The legal and constitutional dimensions of their positions have important consequences to control the process of democratic and constitutional erosion that Brazil has been facing. Bolsonaro must be held accountable, and he will need to face [several lawsuits](#) that are currently in the Federal Supreme Court.

Social Benefits in Exchange for Votes

Throughout his career as a legislative representative, Jair Bolsonaro [criticized](#) social benefits provided by the federal government to Brazilian low-income people. In 2022, his position changed to oppose the popularity Lula has with the poorest social layers. His government and his campaign benefited from the enactment of [Constitutional Amendment 123](#) in July 2022. Right before the electoral process was ignited, the constitutional amendment created a state of emergency supposedly to respond to the high prices of oil and derivatives in the international market. The basic argument of the norm seemed strong. The [constitutional amendment](#) increased in one third the value of *auxílio Brasil*, a social benefit for extremely poor and poor families, created a voucher for truck drivers, defined a cooking gas benefit, helped states and municipalities granting free transport for elderly people, created benefits for taxi drivers and subsidized ethanol to compete with oil.

All those economic interventions boosted Bolsonaro's popularity and aimed at avoiding that one of the main problems of his government, the mismanagement of the economy, could be at the center of the electoral debates. It was hard for his opponents to vote against Constitutional Amendment 123. Nonetheless, the constitutional amendment can at least be seen as a form of [constitutional hardball](#). It is a violation of the fiscal responsibility his government claimed to have. Moreover, the constitutional amendment was adopted to avoid discussion on the legitimacy of expansion of social benefits during an electoral year, a practice that [Law 9.504 of 1997](#) prohibits and electoral courts always repealed.

Electronic Voting and Fake News

Even before being elected in 2018, Bolsonaro accused the electronic voting system of being frauded. As his numbers in polls were bad and the electoral process was about to start, President Bolsonaro made continuous public attacks on the system, joined by the armed forces. He also confronted the organ responsible for overseeing elections in Brazil, the Electoral Superior Court. The military, wrongly invited by former Electoral Superior Court Chief Justice Roberto Barroso to join a committee on the voting system, echoed his most unscientific and unsounded criticism to the system functioning in Brazil since 1996.

Studies on [illiberalism](#) have pointed out that one of its main features is opportunism in political choices. That is not different from the Brazilian version of illiberal politics: [Bolsonarism](#). As soon as Bolsonaro saw his successful numbers in the first round of the 2022 elections, which also provided large numbers of votes for conservative governors and legislative representatives, he backpedaled on the electoral system. The armed forces were supposed to deliver a report on the electronic ballot's security but, until this day, nothing has been done. All in all, when the voting system started to present good results for Bolsonaro, there would be no reason for attacking it.

The Electoral Superior Court was presided over during the elections by Justice Alexandre de Moraes. Moraes was also the rapporteur on the [fake news inquiry](#) in the Federal Supreme Court, which investigated digital attacks on the court and its members. The inquiry involved digital militias and the so-called "hate cabinet", a shadow office to disseminate disinformation on political opponents that was allegedly created inside the presidency. Jair Bolsonaro feared that Justice Moraes could imprison his son Carlos Bolsonaro, someone supposedly involved in the hate cabinet. President Bolsonaro accused Moraes of [benefitting](#) Lula.

According to the [Electoral Code](#), the Electoral Superior Court has a legal mandate to control public discourse during elections. The electoral courts always have controlled information that could harm or benefit candidates during the campaign and such jurisdiction needed expansion to cover internet social media. The Electoral Superior Court had already recognized the misuse of WhatsApp during the presidential campaigns in 2018. A whole new [legal and administrative structure](#) was created in the past four years to fight what was to come in the 2022 elections. The Electoral Superior Court, however, faced plenty of difficulties to deal with the deluge of disinformation. It needed to enhance its powers with a [fake news resolution](#) that included the responsibility of platforms to identify all information connected to an untruthful one and remove all of them.

Nonetheless, Bolsonaro and his supporters maintained their crusade to share disinformation. They complained, for instance, about the Electoral Superior Court suspending the launch of a [documentary film](#) that could impair the electoral competition, alleging this was an unfair restriction on freedom of expression when the court had always controlled content during elections. Bolsonaro also complained that the Electoral Superior Court did not investigate his accusations that radios

were not broadcasting his campaign's propaganda. The court [held](#) that overseeing such propaganda was the political parties' responsibility and that the unfounded accusations only aimed at disturbing the electoral process.

The body of these electoral crimes and violations leave a broad and solid basis for accusations against Jair Bolsonaro in the Electoral Superior Court. In addition to past [procedures](#) started against him, they can result in Bolsonaro's ineligibility.

Political Violence

Adherence to the Bolsonarist movement can hardly be explained with rational arguments. As a populist approach to politics, Bolsonarism depends on emotions and connections to a leader, and it despises institutions and the rule of law. Bolsonarism is heterogeneous, too. It complies with varied layers of the Brazilian civil society, including people living in and outside Brazil, involving different religions, and lacking a single substantive identity. As already mentioned, opportunism is a distinctive characteristic, to which one can add Mendes and Bustamante's feature of [freedom without responsibility](#). Plus, we can clearly see that political violence is a fascist attitude that this movement does not exclude.

Under those circumstances, Bolsonaro's supporters used a wide range of violent tools to amplify his number of votes. Employers relied upon coerced voting, threatening their employees with illegal dismissal: more than 1.200 companies were accused of these practices according to [labor prosecutors](#).

A university [observatory](#) showed that political violence has grown 335% in the past three years. A man was killed during his [birthday party](#) in which the main theme was Lula's campaign – he was a Workers' Party former member. Another [victim](#) was killed and almost beheaded in reason of political altercations. After the election results, a man shot two people to death who were [celebrating](#) Lula's victory. The killer was one of the thousands of collectors, sports, and hunt shooters that were benefitted from Bolsonaro's flexibilization of access to guns in Brazil. One week before the elections, a former legislative representative that was to be imprisoned for violating rules of house arrest received the Federal Police with rifle shootings and a [grenade](#). He supported Bolsonaro and was investigated for threatening with guns in videos the Justices of the Federal Supreme Court. Finally, on the day before the election, another legislative representative chased a Lula supporter with a gun in [her hand](#).

These and other cases give a glimpse not only of the level of radical polarization but also of the political violence that is part of Bolsonarism.

In addition, state capture was also an important feature of the last four years in the Brazilian Federal government. More recently, state capture can be exemplified by how police officers adhered to Bolsonaro's campaigns. The [Federal Road Police](#) (which is an organ apart from the Federal Police) was forbidden to execute any kind of police raid that could involve public transportation of voters on the day of the elections. The Director of the Federal Police Road explained that he would

comply with the order but would not exclude routine overseeing. On the same day, he posted a request for votes on Bolsonaro on [Instagram](#). On election day, a huge number of raids took place mainly in the Northeast region of Brazil, where Lula concentrates his voters. Thousands of videos showed that citizens were fearing vote suppression.

Crimes Against Democracy

The role of the state-captured Federal Road Police would not end on the day of the elections. After publication of the results that favored Lula, Bolsonaro's supporters started gathering on federal, regional, and local highways, blocking the traffic. At its peak, there were more than 200 [blockages](#) throughout Brazil. The protests included [Nazi salutes](#). In a lawsuit that discussed truck drivers' strikes, Justice Alexandre de Moraes (who happens to be the Justice rapporteur) decided that the blockages should immediately cease. He also threatened to imprison the Director of the Federal Road Police and set high rates on fines for truck drivers. The movements started to ease.

Most of the protestors argue that [Article 142](#) of the 1988 Constitution would allow for a military intervention in the branches of government. There is not a single line in the provision in that sense. Those who are protesting can be prosecuted for crimes against the democratic rule of law state. In 2021, an act repealed the former Nacional Security Act to add to the Criminal Code several crimes that aim at protecting the [democratic state](#), and also the electoral process, against attacks that are tantamount to a coup d'état. As Justice Alexandre de Moraes recognized in a Superior Electoral Court session, the anti-democracy protestors that defy the elections' results can be investigated as [criminals](#).

What to Hope for in the Future

Brazil has been stormed by the unsatisfied Bolsonaro's supporters. However, until this day, what we can see is that protests are cooling down and the President himself did not give them enough feedback for staying in the streets. On the contrary, he even recorded a video telling them to go home. Moreover, a staff for the government transition commanded by elected Vice-President Geraldo Alckmin was already organized by Bolsonaro's own Minister Chief of Staff (*Ministro da Casa Civil*), in the way provided by the specific [legislation](#).

The constitutional and legal lessons are important here. Brazil cannot embark again on a conciliation strategy. Bolsonaro must be held accountable, and he will need to face [several lawsuits](#) that are currently in the Federal Supreme Court. They can be important to show that aggressions to democracy are not tolerated, being them either committed by the president or his supporters. There is also the need for restricting the whole political movement. Bolsonaro exits, but Bolsonarism will not disappear so easily.

President-elected Lula is an apt politician. He can gather support for the most different political movements in Brazil, helping to curb the democratic and [constitutional erosion](#) already in movement when Bolsonaro reached power. However, institutions must be strengthened through clear responses to authoritarian attacks. The task is not easy and other political figures can possibly occupy the space left by Jair Bolsonaro. In this sense, both institutions and politicians committed to democracy cannot give way to authoritarian acts.

