

Democratic Backsliding in Brazil:

How are Institutions to Blame?

Mackenzie Simms

This paper investigates three causes of democratic backsliding from an institutional perspective. I first look at the role that the Brazilian Supreme Court has played in the impeachment of Dilma Rousseff following the corruption scandal Operation Car Wash. I discuss the institution of the Supreme Court and the checks it maintains on the executives in power, assuming Justices maintain an unbiased ruling, as explained in the Constitution. I then explain the electoral process in Brazil, the use of electronic or e-voting that allows citizens to vote regardless of their literacy skills, in an effort to increase voter participation. Former President Jair Bolsonaro uses populist rhetoric to spread misinformation of election fraud, which adds to the mistrust that Brazilian voters had in their government after corruption scandals. Finally I analyze political parties in Brazil, discussing the polarization that resulted after the 2022 election, where Luiz Inácio Lula da Silva succeeded Jair Bolsonaro. I talk about the transfers of power between the opposition and the role it plays in keeping democratic institutions intact. These three factors seek to explain Brazil's democratic backsliding by focusing less on the aspect of populism, as most scholars allude to, and focusing more on the weakness in institutions that allowed for the election of a populist. The paper concludes with findings about Brazil's weak institutions and suggests policy including fact checking on misinformation and spreading correct news to citizens, that would strengthen democracy in Brazil and across the region as a whole.

Democracy is not any easy title to obtain for any country in the world. Maintaining the status of democracy is not something that a country can act casually about, as they have to fight for that title and must protect it with all that they are. The region of Latin America is known to be one of the strongest democratic regions in the world. However, in recent years there have been trends of backsliding and overall unhappiness with the democracy's performance (Piccone, 2019). This paper adopts the Kendall-Taylor et al. (2019 p.273) definition of democratic backsliding, "the process of a democracy becoming increasingly less democratic, such as through the aggrandizement of the executive, the repression of civil liberties, and/or the refutation of the rule of law".

In Brazil specifically, there is concrete proof of democratic backsliding from the years 2015-2022. Taking a look at the rights of Indigenous groups in Brazil are one way we can tangibly see this democratic backsliding. The Brazilian government makes an effort to protect the Amazon rainforest, seeing as though it is home to 98% of indigenous groups in the country (Góngora 2023). The Brazilian Constitution is set to protect indigenous people and their land from those who may want to harm it, therefore ensuring the safety of the environment and groups that reside in the rainforest. Under President Jair Bolsonaro, the government ignored the regulations set in place to protect the rainforest. In the beginning of his presidency, Bolsonaro signed Provisional Measure 870, which transferred power from Fundação Nacional do Índio (FUNAI) to the Instituto Nacional de Colonização (INCRA). This meant that the organization in charge for upholding the Brazilian government to the Constitution and protecting Indigenous people's rights would be transferred to a group responsible for demarcating Indigenous lands (Neto and Moreira 2023). Using political leverage to undermine the civil liberties and targeting

specific groups for personal gain is one way that we can see the democratic institutions in Brazil backslide. My goal is to identify the factors that caused this backsliding, and focus on an underdeveloped theory that can be highlighted in future research.

Corruption is a commonly-known practice among Brazilian politicians, dating back before the country had gained the status of an electoral democracy. Although it is not uncommon in Brazil, a recent example of corruption played an important role in Brazil's democratic backsliding. A corruption scheme was uncovered in the Operação Lava Jato (Operation Car Wash) which was a unique case in Brazil's history, from the uncovering, prosecution of officials involved in the scandal. Following Operation Car Wash, over 61% or 276,000 of Petrobras employees lost their jobs (Watts 2016). This level of corruption, at the time at which it was exposed, left citizens with a mistrust in their current government. Additionally, the election of populist President Jair Bolsonaro, who has far right-winged beliefs added to the democratic backsliding in Brazil. Under President Bolsonaro, there was a significant amount of misinformation spread about election practices, an insurrection incited on the Nation's capital to protest the lack of military intervention in Brazil, and many policies in place for protecting human rights revoked (Ivanova 2022). With Bolsonaro as head of the state, Brazil faced significant democratic backsliding, as is documented extensively in research.

This paper addresses weak political institutions, specifically the Supreme Court, elections, and political parties as potential causes of democratic backsliding in Brazil. This paper will build off of previous research, by suggesting that specific political institutions allowed for democratic practices in Brazil to be unraveled. The significance of discovering the role that the Supreme Court, political parties, and elections have in democratic backsliding in Brazil will be

examining these institutions critically, on a regional scale, to discover how improvement can be made to strengthen existing democracies, and to create longer lasting democracies.

The Causal Factors in Eroding Brazilian Democracy

Previous literature had noted multiple causes for the democratic backsliding in Brazil. A causal factor of democratic backsliding in Brazil is their history of political corruption. The anti-corruption scheme called Operation Car Wash sought to uncover the illegal goings on of Brazilian company Petrobras and their relation to political actors. Operation Car Wash revealed bribery of Petrobras suppliers, as these bribes were used in election campaigns, and were used for criminal enrichment of executives and politicians (Moro 2018). A key factor in this case was that Petrobras is a state-owned company involved in federal corruption. Additionally, it is important to note that the operators and fixers were prosecuted, but the political and economic elites were not, due to their protection under Brazilian law (Ros and Taylor 2022)

Another factor that Brazil faced before the timeline of their substantial backsliding is a financial crisis. As Marquetti et al. (2020) explains, in the creation of Brazil's democracy, the country adopted a neoliberal economic approach. This served the country well, promoting the free-market, capitalistic economy. In 2008, the Global Financial Crisis hit, impacting Brazil's previously stable, and booming economy. The president at the time, Luiz Inácio Lula da Silva, said that the financial crisis hit Brazil like a "little wave", saying that the country would recover smoothly. And although the country did recover, maintaining growth in 2010, post-financial crisis there was a decline in profit rate.

This financial crisis led Brazil toward a more neoliberalism approach to the economy, in order to survive (Saad-Filho and Boffo 2020). This approach to the economy created a shift in ideals that were once held in government officials, making the right-wing parties in Brazil much

more prominent than they were pre-financial crisis (Marquetti et al. 2020). Under Lula's administration, two central components of neoliberalism were broken. The first component was the income transfer from capital to labor, meaning that there was a strengthening of workers' bargaining power, the second component was the government's adoption of a developmentalist policy (Marquetti et al. 2020). These two components being ignored in Brazil's economy caused a shifted perception of the actual economic growth, post-financial crisis. Additionally, it allowed governments after Lula to take a more developmentalist and redistributive approach to their economic choices (Marquetti et al. 2020). A few years after this shift in economic approach, Dilma Rousseff built a political platform on reinstating the neoliberal hegemony that was once held in the government, bringing back the economic success of 2003. Changes to social security and unemployment insurance coupled with a decline in fiscal spending, leaving government investment low, left the country in another economic crisis (Marquetti et al. 2020). As Marquetti et al. (2020) summarizes, "In 2015, there was a 14 percent decline in investment and a 3.8 percent decline in the GDP. The unemployment rate rose to 6.8 percent and the average real wage declined" (Marquetti et al. 2020). With this type of economic crisis, citizens were left holding the current government, the Rousseff administration, to blame.

The impeachment of Dilma Rousseff created a divide amongst Brazilians. After President Rousseff's regime, Brazilian citizens felt that they could not trust politicians. In 2016, when asked what kind of government they preferred, 62% of Brazilian citizens selected the answer "For people like me, it does not matter whether we have a democratic or non-democratic regime" (Ivanova 2022). This shows that, leading up to the election of Jair Bolsonaro, more than half of the population did not feel that democracy was benefiting them personally. Looking at data from V-Dem, on the scale of political polarization, Brazil has moved from 0.33 in 2014 to 2.62 in

2022 (V-Dem 2023). Additionally with the V-Dem data, it is important to note that as political polarization increased, liberal democracy decreased, at nearly the same pace. The years 2010 to 2023 were significant because they encapsulated Dilma Rousseff's regime, her impeachment, the election of Jair Bolsonaro, and his regime where it came to an end. The data comparing the factors of political polarization and liberal democracy index mean much more when we know the key details of what occurred in that timeframe. Political polarization in Brazil was said to have ramped up after the impeachment of Dilma Rousseff, as Michael Temer was unable to turn around Brazil's economy, creating unhappiness in citizens (Hunter and Power 2019). With this, the emergence of a new, far-right angle of Jair Bolsonaro came to the forefront.

Bolsonaro grew his platform and increased his credibility by intentionally reminding citizens of his role in the Brazilian army, prior to Brazil's democratization (Hunter and Power 2019). This rhetoric reminded citizens of a time when Brazil was controlled by a military, where the government was harsh and clean. Although a large number of citizens began to listen to this far right-wing rhetoric, a large number of the population also believed in the left-wing Workers Party (Garcia 2022). The polarization that spiked after the impeachment of Dilma Rousseff can be attributed to the difference in opinion among citizens on how corruption was handled in Brazil.

Brazilian Supreme Court: Role in Democratic Backsliding

Focusing on the foundations that make Brazilian governments operate, I first examine the role that the Supreme Court has on the country. Brazil's Supreme Federal Court is the highest court in the country. The Supreme Federal Court (STF) is responsible for the compliance of the Constitution, or the Guardian of the Constitution as defined in its article 102 ("STJ" n.d.). Justices must be natural born Brazilian citizens and have to be at least thirty-five years of age to

serve, and Justices have a mandatory requirement age of seventy-five to retire (Federal Judicial Center n.d.). With this, it can be concluded that Brazil has strict laws in place for the Supreme Court to uphold. There are term limits and requirements for those serving on the Courts and these systems are set up appropriately to meet the needs of the country. Knowing this, it is important to look deeper into how these systems can be manipulated, undermined, and ignored all together.

When discussing former President Bolsonaro's involvement with the courts in Brazil, it is necessary to allude to one particular instance. In 2019, Bolsonaro's administration brought an idea to the table to lower the retirement age requirements for the Supreme Court Justices. This proposal targeted two Supreme Court Justices, Ricardo Lewandowski and Rosa Weber, who would have been forced to retire if the proposal passed, which would have doubled the number of Bolsonaro's appointments during his time in office (Kozicki and Pianaro 2020 p. 59-62). This proposal is a prime example of the harm that Bolsonaro inflicted on the courts through policy proposals in an attempt to gain more power. Focusing on the harm that this specifically caused Brazil's courts as an institution, it goes against the Constitution for a President to overturn a set policy to appoint those who better align with his ideology (Kozicki and Pianaro 2020 p. 59-62). Attempts to co-opt the Supreme Court are an attempt to undermine horizontal accountability, as shown by former President Bolsonaro.

Prior to the Bolsonaro regime in Brazil, we must look at the specific case of the impeachment of President Dilma Rousseff. As explained in *Democracy Decline and the Case of Brazil*, "The addressing of Rousseff's impeachment as a coup is technically an inaccurate definition, as it has not involved any illegality in the process, however, considering the arguments that it was an effort of an opposite political elite group to exploit the law and subvert

democracy to their goals” (Garcia 2022 p.52). This means that although there was no illegal action, her impeachment was rather motivated by the system’s desire for a change in power, rather than Rousseff’s actual corruption. Dilma Rousseff aligned herself with the Workers Party, who, at the time of her impeachment, had been in office for three presidential terms. Seeing an opportunity to weaken the current system, the Congress used Rousseff’s debatable illegal action to impeach her, leaving the party to nominate someone else for reelection for another term, after her Vice President, Michel Temer, served for the rest of the term. Unable to get the country’s financial crisis under control in his short time as president, Temer was seen as weak by those who disliked Rousseff’s administration (Hunter and Power 2019). The general public dislike for the Workers Party allowed for the right-winged opposition to win the 2018 election, as Jair Bolsonaro became president of Brazil and took office in January of 2019.

Electoral Process in Brazil: Importance of E-Voting

In order for a democracy to maintain its title, it must allow its citizens to exercise the right to vote in free and fair elections. While this is a component of any electoral democracy, it is easier said than done. Taking a look at election processes, Brazil uniquely uses an electronic system for voting in their election. This process was implemented country-wide in 2000, where all voters became accustomed to using the electronic machines while voting rather than a paper ballot. E-voting was implemented to reduce fraud in elections as well as increase the inclusivity of voters and to bridge the gap between class groups, increasing voter turnout (Veciana 2023). Before e-voting, some Brazilians, especially those in poorer areas, did not have valid votes, due to spelling errors or the inability to follow complicated ballot instructions (Schneider 2020). As a result, literacy was no longer a drawback to Brazil’s election process. Although there have been successes with e-voting, there are still many criticisms surrounding the process. As e-voting was

introduced to reduce fraudulent elections, it increased the attractiveness of ballot stuffing, or having citizens vote more than once (Schneider 2020). With e-voting, citizens are given a voter ID card that allows them to cast their ballots. Election officials do not require a photo ID for voting, and with that, the use of extra voter ID cards was present in the first year of electronic voting (Schneider 2020). The election process was found to have minimal fraud as the years went on, however, the unique voting process left some voters skeptical of the weight of their vote.

The rhetoric that Jair Bolsonaro used surrounding voting, at the time in which he used it, left voters uneasy about their country's voting process. After the impeachment and corruption uncoverage in Operation Car Wash, the public's faith in Brazil's democracy and those who led it were weak. For three different election cycles, where Jair Bolsonaro came out victorious, he claimed that voter fraud had taken place. In the 2022 election, where Bolsonaro was defeated for reelection, he said he would not accept the outcome of the election (Otis 2022). Bolsonaro has outwardly criticized the process of digital voting in Brazil, claiming that it could be manipulated to show bias for one party over the other. As the New York Times explains, every piece of Bolsonaro's evidence for voter fraud has been debunked by election officials. One example says that "He showed a local newscast from 2008 that said that some voters in one rural area claimed their votes were not counted correctly. (The federal police investigated and said there was no fraud.) (Nicas et al. 2022). Another example says that Bolsonaro claimed that there was an algorithmic sequence to voter results that, he claimed, were statistically impossible (Nicas et al. 2022). Brazilians were more apt to listen to Bolsonaro's claims due to their lack of faith in the system. Coming at a time after uncoverage, it felt more believable that the electoral process itself was corrupt.

Blaming the Opposition: Political Parties in Brazil

In 2023, there were 30 registered political parties in Brazil, according to the Tribunal Superior Eleitoral (“Partidos políticos registrados no TSE” n.d.). Compared to other electoral democracies in Latin America, Mexico has only seven registered political parties, according to Mexico Daily News in 2023 (M. N. D. Staff 2023). With this, there are more party choices for voters, as each party separates itself from the other. In recent years, polarization has grown between two main political groups where the ‘bolsominions’ (Bolsonaro’s supporters) and ‘petralhas’ (Workers Party or PT supporters) are separated vastly in terms of support and ideals. Though these two groups are significantly polarized, it is important to note the election history, and what it means for Brazilian democracy.

The results for the 2022 election in Brazil declared that Luiz Inácio Lula da Silva would become the next president of Brazil with 50.9% of the votes in his favor, compared to 49.1% for Jair Bolsonaro (Otis 2022). This shows that the election results were very narrow, further emphasizing the polarization between supporters in Brazil. Remembering what was noted in earlier sections, Bolsonaro’s rhetoric suggested that the voting system was fraudulent and he would have won the election if it weren’t for alleged voter fraud. For any successful change in government the predecessor must admit defeat and transfer power smoothly to unify the country. Bolsonaro’s unacceptance for the results of the 2022 election further extended the misinformation surrounding corruption and fraud in Brazil, leading to further polarization and not unifying the country when Brazilians needed it most.

The elimination of political competition is something that Jair Bolsonaro may not have created intentionally or solely, however it is something that he benefited from. As summarized in Garcia (2022 p.112), a series of events played a crucial role in the stance Bolsonaro was able to

take regarding democracy and maintaining the trust of the public. After Operation Car Wash in 2018, Federal Judge Sérgio Moro tried former President Luiz Inácio Lula da Silva for unlawful actions. After this sentencing, Moro was promoted to Minister of Justice under the Bolsonaro administration. Because of this transition, the question of impartiality for judges in upholding the law was brought into question. Later, the decision of Lula's conviction was overturned in the Supreme Court, which further emphasized the lack of impartiality in the courts (Garcia 2022). All of this is relevant in discussion of eliminating political competition because of the polarization it created surrounding Lula taking office again in 2023. The importance here is that the bias from a federal judge influenced the lawful practices of democracy, undermining the legal system put into place.

After his defeat in 2022, Jair Bolsonaro refused to accept the outcome of the election, as did his supporters. There were attacks on police headquarters, blockage of highways, and there was even an implication of a bomb threat that would target Bolsonaro's successor (Al Jazeera 2024). In refusing to accept defeat, Bolsonaro went as far as to take criminal action in hopes to overturn the election results. The report was 884 pages and included alleged evidence that Bolsonaro took a meeting with Brazilian armed forces in an attempt to plan a coup (Al Jazeera 2024). The rule of law in Brazil was undermined in this situation because of Bolsonaro's attempt to put citizens in harm's way over a refusal to admit that the country's judicial system was credible. As of November 2024, Bolsonaro has been indicted on account of an attempt to "violently dismantle the constitutional state". Those involved have yet to be charged, however 36 individuals have been indicted (Kahn 2024). Conspiring against the opposition in an attempt to cause harm undermines vertical accountability by ignoring the outcome of a fair and free election.

Conclusions

In conclusion, the weakness in institutions, including the Supreme Court, elections, and political parties are potential factors when explaining the democratic backsliding that occurred in Brazil. The populist President Jair Bolsonaro was able to identify these weaknesses and use them to his advantage while gaining support and leading Brazil. Corruption has been a part of Brazilian democracy since it began, however the uncovering of bribery and corruption amongst political officials in Operation Car Wash allowed citizens to see just how deeply rooted corruption was in their government. The scandal left Brazilians with a low support for democracy and low faith in public officials.

The Supreme Court used their power to oust the current President, Dilma Rousseff, who did not commit to the budgetary guidelines of the government. With this, the consecutive reign of the Workers Party came to an end, with Jair Bolsonaro's election. Under the Bolsonaro regime, there were many claims of fraud. The electronic voting system was claimed to be invalid, undermining vertical accountability due to the lack of trust in the country's fair and free election system. With political parties, Brazil was so polarized due to all of the corruption that was revealed. Bolsonaro refused to validate the 2022 election, where he lost to President Luiz Inácio Lula da Silva. With this, the democratic values of the rule of law were infringed upon when Bolsonaro claimed that he would overturn the election results to stay in power. These three factors coupled together show that the democratic backsliding in Brazil was not due to one person or group, but rather the standards that public officials were not held to.

For policy, what happened in Brazil is not unheard of on a regional scale. Other countries in the region have experienced or are experiencing some version of democratic backsliding. It is crucial in this age to create avenues for faster fact checking. Holding political officials to a high

standard and uncovering real corruption in the media, allowing citizens to make informed decisions about who they are electing. Protecting voting rights from the spread of misinformation is crucial to maintaining strong democracies, with the promotion of free and fair elections. The title of a democracy is more complicated than governing based on the will of the people. Although the will of the people is important, the institutions of accountability are just as important in holding a standard for democracies around the world.

References

- Al Jazeera. 2024. "Brazil ex-President Bolsonaro plotted election coup: Police report." *Al Jazeera*.
<https://www.aljazeera.com/news/2024/11/26/brazil-ex-president-bolsonaro-plotted-election-coup-police-report>.
- Federal Judicial Center. "Brazil | Judiciaries Worldwide." *judiciariesworldwide.fjc.gov*.
<https://judiciariesworldwide.fjc.gov/country-profile/brazil>.
- Garcia, Julia Galbiati . 2022. *Università Degli Studi Di Padova Department of Political Science, Law, and International Studies Democracy Decline and the Case of Brazil*.
https://thesis.unipd.it/retrieve/011cab11-0850-48d4-960e-d68d82a01fa1/Julia_Galbiati_Garcia.pdf.
- Góngora, Leonardo. 2023. 37–45 *El Paradigma sur*.
<https://www.spanport.utoronto.ca/sites/www.spanport.utoronto.ca/files/El%20Paradigma%20Sur%20Vol%201%20%282024%29%20P1%2B2%20Op.pdf#page=46> (Accessed December 1, 2024).
- Hunter, Wendy, and Timothy J. Power. 2019. "Bolsonaro and Brazil's Illiberal Backlash." *Journal of Democracy* 30(1): 68–82.
- Ivanova, Gabriela. 2022. "Brazil's Systemic Mistrust of Elections and Democracy." *globalaffairs.org*.
<https://globalaffairs.org/commentary-and-analysis/blogs/brazils-systemic-mistrust-elections-and-democracy>.
- Kahn, Carrie. 2024. "Former Brazilian president indicted over alleged coup plot." *NPR*.
<https://www.npr.org/2024/11/21/nx-s1-5199910/brazil-police-indict-former-president-jair-bolsonaro-coup>.
- Kendall-Taylor, A., Lindstaedt, N., & Frantz, E. (2019). *Democracies and Authoritarian Regimes*. Oxford University Press Academic UK.
<https://gvsu.vitalsource.com/books/9780192552808>
- Kozicki, Katya , and Rick Pianaro. 2020. ROUNDTABLE 59–62 *Democracy 2020 Assessing Constitutional Decay, Breakdown, and Renewal Worldwide*. eds. Tom Gerald Daly and

- Wojciech Sadurski. Global Roundtable. <https://www.iacl-democracy-2020.org/ebook> (Accessed December 6, 2024).
- M. N. D. Staff. 2023. "Mexico in Numbers: Political parties." *Mexico News Daily*.
<https://mexiconewsdaily.com/politics/mexico-in-numbers-political-parties/>.
- Marquetti, Adalmir Antonio, Cecilia Hoff, and Alessandro Miebach. 2019. "Profitability and Distribution: The Origin of the Brazilian Economic and Political Crisis." *Latin American Perspectives* 47(1): 115–133.
- Moro, Sérgio Fernando. 2018. "Preventing Systemic Corruption in Brazil." *Daedalus* 147(3): 157–168.
- Neto, Manuel Domingos, and Luis Gustavo Guerreiro Moreira. 2023. "Bolsonaro, the Last Colonizer." *Latin American Perspectives* 50(1): 0094582X2211475.
- Nicas, Jack, Flávia Milhorange, and Ana Ionova. 2022. "How Bolsonaro Built the Myth of Stolen Elections in Brazil." *The New York Times*.
<https://www.nytimes.com/interactive/2022/10/25/world/americas/brazil-bolsonaro-misinformation.html>.
- Otis, John. 2022. "Lula beats far-right President Bolsonaro to win Brazil election." *NPR*.
<https://www.npr.org/2022/10/30/1132561987/brazil-election-lula-da-silva>.
- "Partidos políticos registrados no TSE." *Justiça Eleitoral*.
<https://www.tse.jus.br/partidos/partidos-registrados-no-tse>.
- Piccone, Ted. 2019. *Latin America's Struggle with Democratic Backsliding*.
https://www.brookings.edu/wp-content/uploads/2019/01/FP_20190226_latin_america_piccone.pdf.
- Ros, Luciano da , and Matthew M. Taylor. 2022. *Revista De Direito Economia*.
https://journals.ual.pt/galileu/wp-content/uploads/2023/02/Galileu_XXIII_1-2_2022.pdf#page=124. (Accessed December 7, 2024).
- Saad-Filho, Alfredo, and Marco Boffo. 2020. "The corruption of democracy: Corruption scandals, class alliances, and political authoritarianism in Brazil." *Geoforum* 124.
- Schneider, Rodrigo. 2020. "Free or Fair Elections? The Introduction of Electronic Voting in Brazil." *Economía* 21(1): 73–100. <https://www.jstor.org/stable/27031054>.
- "STJ." *international.stj.jus.br*.
<https://international.stj.jus.br/en/Brazilian-Judicial-Branch/Supreme-Federal-Court>.

V-Dem. 2023. "Country Graph." *v-dem.net*. https://v-dem.net/data_analysis/CountryGraph/.

Veciana, Eduardo. 2023. "How E-Voting Can Boost Political Responsiveness." *Democracy Technologies*.

<https://democracy-technologies.org/voting/how-e-voting-can-boost-political-responsiveness/> (Accessed December 8, 2024).

Watts, Jonathan. 2016. "Dilma Rousseff impeachment: what you need to know – the Guardian briefing." *the Guardian*.

<https://www.theguardian.com/news/2016/aug/31/dilma-rousseff-impeachment-brazil-what-you-need-to-know>.

Zieganhein, Patrick , and Nyi Mas Laras Nur Inten Kemalasari. 2024. "View of Democratic Regression in Brazil under the Bolsonaro Presidency." *Unand.ac.id*.

<http://jdpl.fisip.unand.ac.id/index.php/jdpl/article/view/406/82> (Accessed December 4, 2024).