

Opinion – Brazil 2022: A Constitutional Election in Disguise

Written by Felipe Antunes de Oliveira

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The 2022 elections in Brazil are much more than a regular exercise in liberal democracy. On the surface, the 156 million Brazilians registered to vote are choosing their candidates for state congresses, both houses of the Brazilian national congress, governors of all the 27 federative units, and, of course, the president of the republic. Similar national elections have been happening regularly since 1989. A few candidates win, many lose, some are happy, and some are disappointed. This is liberal democracy working; you would be excused to think. Underneath the surface of a functioning liberal democracy with representation challenges and bitter political disputes like any other, a seismic change is happening. We Brazilians are not simply deciding between alternative political platforms or voting for our favourite candidates. We are choosing between two irreconcilable ways of doing politics. We are deciding on what to expect from the state. And, crucially, we are voting over conflicting views of the Brazilian identity. This is a constitutional election in disguise. We are deciding whether to keep trying to fulfil the promises of the 1988 Constitution, or to empty it to the point of unrecognition, and eventually ditch it altogether.

The constitutional order inaugurated in 1988 has slowly crumbled over the last six years. The protracted political and economic crisis included dramatic moments such as the betrayal of the former vice-President Michel Temer, who openly plotted to remove the then President Dilma Rousseff from power; a concerted media campaign to destroy the Worker's Party (PT) and its leadership; and the fraudulent conviction of Lula by a judge later found to be biased by the Supreme Court for colluding with the prosecution. Under Bolsonaro's administration, constitutional principles such as public transparency, efficiency, and the impersonal rule of law have been attacked. The federation has been weakened by the active sabotage of the president of the republic against common sense public health measures put in place by state and local authorities to fight covid-19. Even the voting system itself has been subject to constant attacks by Bolsonaro, who took a page directly from Trump's playbook and repeatedly undermined the elections with unsubstantiated fraud allegations as insurance against possible electoral defeat.

Unfortunately, the roots of the fragility of the Brazilian constitutional order are much deeper than the contemporary crisis. Emerging out of the trauma of a capitalist dictatorship that in its heyday delivered some economic growth at the cost of violent repression of dissent, the genocide of indigenous peoples, wage compression, and galloping debt – the 1988 Constitution is a generous letter of intent. It dares to propose a welfare state in a dependent country, at the periphery of global capitalism. It recognises indigenous rights. It sets a vision for Latin American integration and an independent international role for Brazil as a bridge between the former Third World and the Global North. It establishes the institutional basis for an idealised state at the service of a fair society.

The problem is that the real Brazilian state is far from ideal, and the underlying Brazilian society is even further from being fair. The contradiction between entrenched social inequalities and the constitutional promise to provide health, education, food, and housing as rights for all led liberal economists to publicly declare that the state envisioned by the Constitution does not fit within the GDP. Even during the prosperous years of PT's administration, disillusionment with the poor quality of public services and continued violent repression of the majority black populations at the peripheries of large cities undermined the faith in deeper and more meaningful views of democracy beyond regular elections and basic political rights. Furthermore, the armed forces continued to be a shadow looming over the Brazilian state, vigorously opposing any attempts to investigate and punish human rights violations perpetrated

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during the dictatorship.

Still, despite three decades of disputes between neoliberals led by the Brazilian Social-Democratic Party (PSDB) and the neodevelopmentalists of the PT, the 1988 Constitution continued to be a common ground. The bone of contention has been how to best interpret and implement it. At worst, it involved hierarchising its many promises, with neoliberals claiming that their specific vision of state and macroeconomic efficiency should take priority over social rights, while neodevelopmentalists insisted on the original welfare state character of the Constitution. Although President Fernando Henrique Cardoso did change the rules to run for a second term in 1998, there was a general commitment to basic liberal democratic norms, including the independence of powers and alteration in power.

Bolsonaro represents a dramatic rupture with the bounded and relatively predictable dispute between neoliberals and neodevelopmentalists that has characterised Brazilian politics since the 1990s. Contrary to his adversaries, he has no commitment to the rules of the liberal democratic game, claiming or challenging them according to his political convenience. Instead of placing himself as a post-dictatorship politician, Bolsonaro openly praises the dictatorship and its never-punished torturers. His ongoing war against the 1988 Constitution explains how Bolsonaro manages to keep presenting himself as an anti-systemic, opposition candidate, despite being in power for four years. From a certain vantage point, he is indeed the opposition candidate. Bolsonaro opposes the whole liberal democratic order built after 1988.

In place of the idealised welfare state envisioned by the 1988 Constitution and never fully delivered by the PT or the PSDB, Bolsonaro puts forward a cruder vision for the state as the guarantor of a profoundly unfair social hierarchy, whose roots can be traced back to colonial slavery. His political discourse emphasises the fight against anything remotely associated with social justice and the role of the state's security apparatus in keeping social order, often glorifying horrific cases of police violence against working class and black communities. In practice, Bolsonaro is slowly creating a new constitutional order. The state shrinks as a provider of basic public services but grows large as a repressive machine. By doing so, Bolsonaro operated the miracle of revitalising Brazilian neoliberalism by marrying it with a peculiar form of peripheral fascism, which frees the state and capital from the constraints of the 1988 Constitution. If re-elected, he will be in the position to pack the Supreme Court and finally change the actual text of the Constitution. The government leader in Congress already declared the intention to redo the Constitution to 'write in it many times the word duties', because it supposedly 'has only rights'.

This blatant attack against the 1988 constitutional order sets the whole Brazilian political system in disarray. All political forces committed to minimal standards of democracy are rallying behind former President Lula da Silva, including a handful of democratic neoliberals who until recently used to denounce the PT as a dangerous incarnation of macroeconomic populism. Defending what is left of the 1988 Constitution understandably became the top political priority.

Despite having formed the largest broad front in Brazilian contemporary political history around his candidacy, Lula's victory is not guaranteed. Bolsonaro has an extremely loyal political base among evangelicals, agrarian producers, and the white middle class in the richest, southern parts of the country. His advisors became masters of cultural warfare. They proved several times their capacity to spread fake news and misinformation across the country in a matter of hours using messaging apps. Having won the first round with almost 48.5% of the votes, Lula remains the favourite to become the next president. But Bolsonaro's willingness to pull every dirty trick from his fascist toolbox in the weeks leading up to the elections should not be underestimated.

About the author:

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