

Brazi





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stations to observe the conduct of the “integrity test” of the voting machines, including some machines pilot testing the use of biometrics to identify voters in a small percentage of polling stations. The Carter Center expert team also observed the standard integrity test (without biometrics), which takes place in Regional Electoral Court (known by its Portuguese acronym TRE) buildings or warehouses during election day and has been conducted in Brazil since 2002. Additionally, the team visited a small number of polling stations in a few neighboring localities to become familiar with the broader context in which the integrity tests were being implemented.

This report summarizes the expert mission’s main activities and findings and includes a series of recommendations for improving future elections, including regarding the electronic voting system. The Center’s mission was conducted in accordance with the Declaration of Principles for International Observation, as signed by intergovernmental and international nongovernmental organizations at the United Nations in 2005.

The main findings of the Center’s mission include:

- **Context**: The spread of fake news and partisan narratives attacking the electoral authorities created great pressure on the electoral system in the 2022 election. Many actors, including elected officials and the armed forces, alleged that the system had flaws, which generated distrust. Key stakeholders with whom The Carter Center met agreed that there used to be high levels of overall trust in the electoral process based on several decades of electronic voting without significant problems. But in recent years, attacks on the electronic voting system have led growing sections of the public to question it. However, almost all political actors and a considerable portion of the population perceived the electoral technology as safe and trustworthy.
- **Institutional Design**: The electoral administration’s institutional design concentrates on the TSE administrative and judicial responsibilities, while TREs are responsible for implementation at the state level. While both bodies are perceived as highly capable, the

institutional design creates a concentration of different functional responsibilities in the same body. In times of turbulence, such as the 2022 presidential election, these features contribute to the targeting of TSE by partisan critiques and disinformation narratives.

- **Response to Distrust**: Considering the context of rising distrust, the TSE moved toward greater participation and inclusion of stakeholder interests in the electoral process by adopting regulations not explicitly included in the legal framework. For example, the TSE created the Electoral Transparency Commission, which increased the number of oversight entities (*entidades fiscalizadoras*). It also piloted the use of biometrics in the integrity test suggested by the armed forces and the federal police.
- **Military Involvement**: While the involvement of the military may have helped to counter heightened public doubts about the voting machines, the military assumed a prominent role in several key aspects of the election, which undermined the independence of the election authorities and was

security, transparency, and trust in the electronic voting system.

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Political Parties of Latin America (COPPAL), the Global Network of Electoral Justice (RMJE), and Mercosur Parliament (ParlaSur), among others.



The 2022 presidential election pitted the two most important political movements in Brazil's recent democratic history, "petism" (i.e., "PT-ism") and "bolsonarism." Petism can be described as the positive sentiment that a portion of Brazilian voters have toward the PT (Workers Party), which ruled from 2003 to 2016 in two Lula da Silva governments, until Dilma Rousseff's impeachment on her second term in 2016. Lula da Silva left office with a record 87% approval rating,⁷ and while this opened the door for Rousseff's election in 2014, Lula is largely responsible for the rise of Petism. On the other hand, there has also been a rise of "anti-petism," i.e., negative public opinion toward the PT, mostly following the economic downturn during Rousseff's administration and the corruption scandals involving government personnel, especially the so-called "Lava-Jato" (Car Wash) operation.⁸

Anti-petism grew considerably during Rousseff's impeachment trial, which took place in a context marked by deteriorating macroeconomic conditions, increasing popular protests, and dwindling political support. The national legislature's lower house (*Câmara dos Deputados*) opened the impeachment process in 2016 and charged her with administrative malfeasance. Both legislative houses eventually voted to impeach, which several sectors of society, ranging from the business sector to the middle class, widely accepted. The anti-petism movement reflected Brazilians' high levels of discontent with the political class, but especially the PT, which had ruled for the last 13 years.

7. [https://www.folha.uol.com.br/brasil/2010/12/pt-tem-87-porcento-de-credibilidade-entre-os-brasileiros/](#).
 8. [https://www.folha.uol.com.br/brasil/2014/08/pt-tem-87-porcento-de-credibilidade-entre-os-brasileiros/](#).
 B. [https://www.folha.uol.com.br/brasil/2014/08/pt-tem-87-porcento-de-credibilidade-entre-os-brasileiros/](#).
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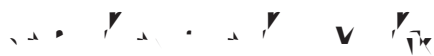
Paulo Mayor Fernando Haddad, who ran trying to associate himself with Lula, who was originally the PT candidate but was jailed six months before the election as part of the Lava-Jato operation. In addition to the election of Bolsonaro as president, Bolsonaro-aligned governors were elected throughout the country, further demonstrating the strength of the movement.

In what proved to be a foreshadowing of 2022, the 2018 election was marked by misinformation on social networks, most notably Whatsapp. Bolsonaro campaign staff, including one of his sons, were accused of operating a scheme to spread false content and hateful messages.¹¹

Hamilton Mourão.²¹ At several points he also suggested the possibility a self-coup (“autogolpe”) to maintain power.²²

While Bolsonaro ran for reelection, Lula da Silva, released from prison in 2019, had his convictions overturned in 2021²³ and was able to run for office again. Lula da Silva focused his 2022 campaign messaging on recalling the better economic times

Electoral Legal Framework and Election Administration



International standards indicate that elections should be administered by impartial and independent election management bodies.²⁵ Further, electoral management bodies should establish transparent, equitable, and efficient internal policies across a wide range of responsibilities, e.g., staff recruitment, appointment, and decision-making.²⁶ In addition, international obligations relevant to electoral dispute resolution indicate that a competent and unbiased tribunal should be in charge of resolving electoral conflicts to ensure citizens' rights to a fair and public hearing.²⁷

The core elements of Brazil's electoral system are established in the Federal Constitution, together with the electoral code (Law No. 4.737, June 1956) and the elections law (Law No. 9.504, September 1997 – *Lei das Eleições*), among other legal instruments. The electoral administration in Brazil is composed of the Supreme Electoral Tribunal (Tribunal Superior Eleitoral, TSE) at the national level and Regional Electoral Tribunals (Tribunal Regional Eleitoral, TREs) in each state. The TSE has administrative authority and the power to issue regulatory rules (*Portarias and Resoluções*) on specific issues. These can be supplemented by the regional TREs to implement the TSE provisions.

There are several nebulous areas where TSE rules and authority do not provide

25 . (CC), G C 25, . 24; . (CC), G C 25, . 20; C , C D E , A 19(); A , ACDEG, A 17(1); EC A , D G G , A 3.
26 , CAC, A 7(1)(), A 13(1)(); A , -A C A C , A (4).
27 . , CC , 14(1); A , ACH , 8(1)

Moraes'. Barroso invited the armed forces to join the Electoral Transparency Commission,²⁹ while Fachin dismissed it, calling elections a subject of "dis-armed forces."³⁰ Then, when Moraes assumed the role of TSE president, he agreed to accept one of the military's key proposals regarding the pilot test of biometrics in the integrity test (see below).³¹

as providing a way to negotiate across the polarized divide between the TSE and military, by bringing the armed forces into an oversight role on the electoral process. Several stakeholders specifically highlighted the openness generated by these measures. Others cited the desirability of having the military involved in such electoral roles, noting that the military holds prestige for much of the public.

44 suggestions were made by different actors at six meetings of the commission. Of these, 32 were fully or partially accepted (73%), 11 were to be studied in advance of the following electoral cycle (25%), and one was rejected (2.2%). The TSE provided the reasons for not accepting the various suggestions.

The military proposed 15 of the 44 suggestions, and three of these 15 were also made by other actors (two by the federal police criminal expert and one by a University of São Paulo professor). The rest of the proposals were made by civil society organizations, academics, and the federal police. Ten of these were totally or partially accepted, four were considered “to be studied in the next electoral cycle,” and one was rejected.³⁷ These numbers reveal the significant involvement of the military in the Transparency Commission, which did not always operate in a constructive spirit, according to other members of the commission that The Carter Center met.

Given the challenging context of the 2022 election, most notably the rising distrust regarding the voting system and the spread of disinformation narratives, the TSE adopted an approach of increasing transparency and participation of diverse entities in the decision-making process to counterbalance the challenges. This is a commendable approach in line with international best practices.

That said, the inclusion of the military in the Transparency Commission raised important questions and concerns in the context of Brazil’s legal framework, even if justified by the exceptional circumstances around the 2022 elections. First, by including the armed forces, the Transparency Commission may have contributed to a relative weakening of the role played by political parties, the OAB and the public prosecutor (MP), even though the political parties have generally not filled their role to the full potential allowed by law as a supervision entity. Second, and more importantly, given the political tensions throughout the pre-electoral period, the expanded role for the armed forces put it in position to pressure the TSE to the electoral advantage of the executive. Lastly, the legal basis for including the military is not clear. Several TSE regulations do not indicate a specific and clear legal basis underlying them, either constitutional, ordinary law, or other. The inclusion of the armed forces in this commission is an example. Related points are discussed in the section below on the role of the armed forces.

Regarding the work of the Electoral Transparency Commission, by June 2022 the TSE reported that



As noted, the armed forces (*Forças Armadas*) are one of the oversight entities (*entidades fiscalizadoras*) foreseen in TSE Resolution No. 23.673 of December 2021, which authorized the creation of the Commission for the Audit of the Electronic Voting Machine (*Comissão de Auditoria da Votação Eletrônica – CAVE*) and other entities. However, there does not appear to be any higher-level legal provision for the direct involvement of the armed forces in the elections, which seems to run counter to other provisions in the Brazilian legal framework.

Article 142 of the Federal Constitution prohibits the military, while active in service, from being affiliated with political parties. Article 154 of the electoral code forbids the presence of armed forces in voting places except when the president of the polling station requests the armed forces. Resolution

tests as members of the oversight entities (*entidades fiscalizadoras*).

The TSE reported that there were no differences between the results on the poll tapes recording the vote totals (the “BU” or *boletim de urna*) and the votes cast on paper. However, the number of people who participated in the test was consistently low throughout the country. This was likely because voters had to agree to take part in the test and share their biometric information. There was no legal regulation detailing how the test should take place, nor specifying any turnout requirement or a minimum sample size. See the section below, under “Electoral Technology,” on integrity tests with biometric pilot for additional analysis of the integrity tests and the pilot biometric tests.

The Carter Center mission asked a range of polit-

Although the general public prosecutor has the power to pursue various legal actions, several stake-

above, used the national colors and flag. The cards were distributed to at least 6 million people.⁶² The use of the cards linked to the Bolsonaro campaign was widely reported in the media.⁶³

Although clearly raising questions regarding the misuse of public resources, legislation authorizing such steps was approved by the major political parties. Brazilian interlocutors explained to the Carter Center mission that this was due to the high political cost of refusing to support measures that distribute economic support to the most vulnerable. And, as noted above, the general public prosecutor did not challenge these measures, nor was there any legal action against them, even though the legal framework seems to prohibit such measures.

A particularly remarkable case of misuse of public resources concerns the regulation approved by the National Institute of Social Insurance (*Instituto Nacional do Seguro Social* – INSS) regarding “proof of life”

that voters can have access to the polls. Depending on the local context, this can entail being able to access transit without any obstacles or coercions of any kind, including physical and emotional violence.⁶⁹ A related right is the right to personal security, with security forces potentially playing an

International treaties state that elections must be held by universal suffrage. Interpretive sources indicate that any limits placed on universal suffrage in the context of voter registration must be based on objective and reasonable criteria. These include residency, citizenship, criminal conviction, and a minimum age requirement. Where voter registration is conducted to determine eligibility, universal suffrage requires that broad participation be promoted. Further, participation of eligible voters in the registration process should not be inhibited, and unnecessary technical barriers, including overly short timeframes, to participation by otherwise qualified eligible voters should be removed. In addition, there should be no fee charged for registering as a voter. State practice sources indicate that the state may facilitate voting through a variety of methods, including absentee and early voting.

from the voter registry may pose significant difficulties for vulnerable groups.

Brazil does not have legal provisions that allow for early voting. The lack of early voting, as well as the lack of free public transport networks, can hinder voting and accessibility. Voters who are not in their usual voting place on election day can request their polling place to be changed to another location, but do not have the option of early voting. In a country where voting is mandatory, to have extra days where voters can exercise their right could lead to higher levels of participation, as it would help overcome various impediments to the right to vote.

Brazil should consider implementing steps to end the removal of voters from the voter roll after three sequential abstentions, as the penalties existing in the electoral code are a sufficient penalty. Brazil also should consider whether options for early voting might be used or at least piloted.

Voting is mandatory in Brazil. Voters who do not vote for three elections in a row are removed from the voter registry, requiring them to register again. The electoral code includes a series of penalties in case a voter does not vote and fails to provide a justification. While removing a voter from the voter roll seems to run counter to ensuring the universal right to vote, it is also a commonly used practice of “list maintenance” in election administration, to ensure that various groups of nonvoters (deceased, moved away, etc.) are removed from voter lists. Nonetheless, in a country like Brazil where there can be substantial obstacles that prevent access to the vote and other public services (remote areas, fragile communities, and others), being removed

International and regional treaties indicate that women should enjoy equal civil and political rights as men,⁷⁴ and that marginalized groups that have faced barriers or suffered discrimination should enjoy temporary special measures aimed at promoting equality of civil and political rights.⁷⁵

The Carter Center’s expert mission noted that the TSE created a special advisory unit for inclusion and diversity to help address multiple forms of discrimination, including that based on ethnic and racial origin, e.g., indigenous peoples, people of African descent, and the *quilombolas* population. In addition, the unit focused on women, LGBTQI+, and persons with disabilities. It should be noted, however, that similar units are not yet present in all TREs. The TSE also is using new technologies to foster inclusion. As one example, the TSE allows transgender candidates to change their gender in the voter registration database.

While these steps by the TSE are to be commended, there are challenges that still must be

74 . . . CC , A 23; A , ACH , A 2(1)(); A , A C , A 23(1) ; A , ACH , A 8; C E, ECH , A 23; E , C F , A 23; C , C H , A 20(1)
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addressed. For example, it is difficult for people who are unhoused to access the vote. The political rights of indigenous communities and people of African descent also deserve greater attention. For example, voter registration forms and data do not capture information regarding ethnicity and language. In addition, while the TSE started updating the entire

Several versions of the voting machine are in concurrent use,⁷⁹ but all share the same two-module design. A small terminal operated by a poll worker is used to identify the voter⁸⁰ and is connected through a cable to the main voting machine, which is mounted behind a privacy screen in the polling booth. After verifying voter identity on the small terminal, the poll worker enables voting on the voting machine. There the voter is presented with the races being contested, in order, and asked to key in the numerical code of their chosen candidate for each race. After entering the number, a picture of the candidate and their description is shown. If correct, the voter then confirms the vote and moves on to the next race. If not, they can correct their input. After the last choice is confirmed, “End” is displayed, and the process has finished.



The TSE claims that the key reasons for adopting the electronic voting system in Brazil were to put in place safeguards to prevent fraud,⁸¹ which had become a widespread concern and problem in the old paper-based system in place until the mid-1990s.⁸² While fraud had been prevalent for many years, a particularly significant case that was discovered in Rio de Janeiro during the 1994 presidential elections triggered the transition away from paper ballots. The new voting machines eliminated paper from the casting and tallying process, and with it many of the “conventional” fraud schemes. Following the adoption of electronic voting, fraud incidents dropped significantly. It also facilitated participation.

As there are no party lists in Brazil, races for federal and state deputies can have hundreds, or even thousands, of candidates, which made printing all their names on a ballot impossible. In the old paper system, only candidates for president, governor, and senator were printed on ballots and selected by marking a box. To vote for one of the

In the absence of international treaties that clearly state the acceptable bounds and requirements for the regulation and design of an electronic voting system, the international electoral community relies on a set of international best practices built over years of technical and managerial expertise on the matter, which provide subhe aberiaguidasencs fo, the

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presidential elections – a very short lead time for implementation.⁹⁰ The printers were pronounced a failure by the TSE, which claimed that they “added nothing in terms of security or transparency” yet caused numerous problems. Some of the key problems included: mechanical failures leading to machine replacement and contingency voting on paper ballots; voters needing assistance because of

to take part in the process and aiming at the transparency of the software development process. Transparency in the decision-making process with regard to technology is one of the overarching principles of international obligations of electronic voting systems.⁹⁷

The main components of the TSE's audit scheme are:

97 C. C. H. E. , 2012, .11; C. C. A. 25(); CE
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98 C. E. , G. - , 2011, .

the auditability of the system by key political stakeholders and observers in general.⁹⁹

In Brazil, the TSE puts source code inspection and testing at the core of the auditability scheme of its voting system and machines, including through a series of procedures ranging from source code inspection by stakeholders and experts, to public penetration tests and election-day testing of a random sample of machines.

The source code review for non-TSE actors was first instated after the 2000 elections. Since its inception, and in response to criticism that access was too limited for meaningful review, the time available for reviewers to look at the code has steadily increased.

Currently, reviewers have 12 months before the elections to review code and have the option to consult TSE programmers in order to understand the code and its structure. Reviewers are nominated by the “oversight entities” – mainly political parties, the Brazilian Bar Association, the public prosecutor, the police, and the armed forces, as well as public universities.¹⁰⁰ However, access by the oversight entities is restricted as individual reviewers must be approved by the TSE, and those approved can only examine the source code in a special secured room in the TSE building. Software tools available to the reviewers are limited to static analysis packages and must be approved by the TSE beforehand; source code may not be compiled and executed. Only handwritten notes are allowed, and all reviewers must sign nondisclosure agreements limiting their ability to share their findings outside the TSE. Recognizing that these audit rules limit effective review, the TSE in 2022 entered into special cooperation agreements with three universities, allowing them to examine the source code on their own premises, on their own terms, and using the tools they chose (more details below).

Auditors are requested to report any findings to the TSE before the source code sealing ceremony,

and the TSE is obliged to respond to any reported findings within 10 days. The TSE has sole discretion as to modifying the system in response to reported findings.

As noted above, the 2021–2022 edition of the source code review was marked by significant political tension over the inclusion of the military as a participant. Political parties commenced their source code analysis late in the process and usually limited auditor deployment to just a few days.

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with voting machines on university premises,
allowing it to look at both software and hardware.

are taken to the TREs, where votes are entered in a public ceremony held on election day during regular voting hours. The tests are filmed and observed by non-TRE actors and a TRE-contracted audit company. If the known tally matches the tally produced by the machines, the machines are considered to have passed the test.

a subsample of the machines were not brought back to the TREs, but instead were parallel tested on site at the polling places where they were meant to be used. This allowed real voter biometrics to be used during parallel voting. (The remainder of the machines were tested as usual, at the TREs without voter biometrics.) Voters were invited to “volunteer their fingerprint” to operate the tested machines,

In response to criticism that the procedure was vulnerable to “defeat device mechanisms,” in 2022

(8.74% of the 641 sampled) were tested under this methodology.¹⁰⁵

As noted above, members of the Carter Center expert mission visited a small number of locations to observe the integrity testing. This included seeing both the traditional integrity tests at the TREs as well as the “pilot biometric test” modality using real

The Center also observed “pilot” testing with real voter biometrics. Participation was very low in the first round,¹⁰⁶ as many voters invited to participate

publishing on the website happens in real time on election night.

Any interested party can compare the printed poll tapes with the digital versions published online. This can be done for individual polling stations or used for verifying larger samples for nationwide parallel tally exercises. The armed forces organized such an exercise in 2022, auditing a sample of 385 poll tapes. The TCU also performed a similar audit, using a larger sample size of 4,161 poll tapes. Neither the armed forces nor the TCU discovered discrepancies during their audits of the poll tapes.

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In marked contrast to the extensive set of pre-election and election day procedures described above, the TSE has established very little in terms of

| Social Media

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However, electoral authorities are no longer the only actors accountable for the integrity of electoral information. Social media platforms now hold great power over what discussions are put forward in their domains, and hence, electoral contests can be significantly influenced by their action or inaction. For this reason, international best practices indicate that the platforms should be transparent in their policies and practices on content management,¹²² and should provide access to their content management, distribution, and automated processing policies,¹²³ all of which should be guided by core international human rights principles.¹²⁴ In short, as with any other business enterprise, tech platforms' policies and practices should embrace human rights commitments, including by making available to users accessible and effective complaint mechanisms.¹²⁵

In Brazil, disinformation and false content are regulated by the election law (*Lei das Eleições*) of 1997, but the article that regulates political campaigning on the internet was added by Law No. 13.488/2017.¹²⁶ The law gives the TSE power to regulate false content and disinformation based on state-of-the-art technological tools available in each electoral cycle. It includes detailed provisions that seem to embrace a wide range of online political activities.

Brazil is the most connected country in Latin America and one of the most connected countries in the world, with more than 165 million people with internet access (73% of the total population). The leading digital platforms have a solid adoption among citizens, who mainly use messaging services. (WhatsApp and Telegram are used by more than 80% of internet users.) Facebook, Instagram, and Twitter are also widely used by Brazilian internet users. In recent years, the Chinese short-form video

track, which is slower and can only proceed if the content violates the platform's internal policies.

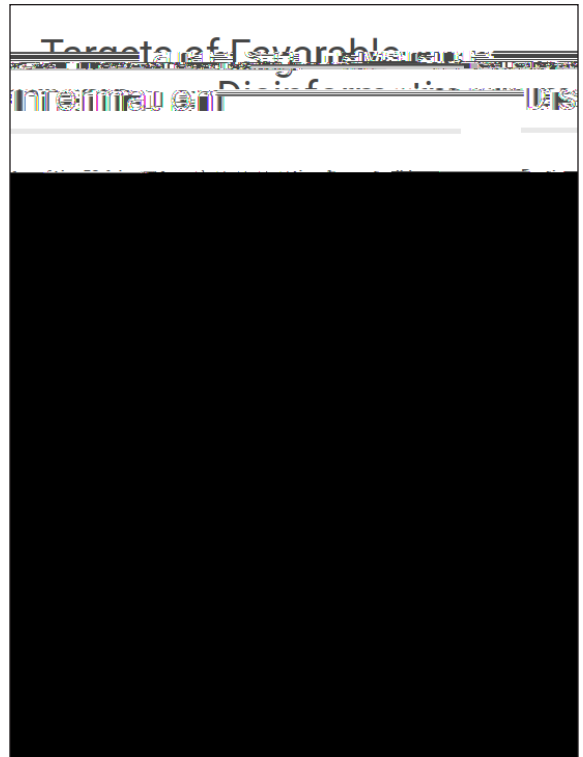
In addition, the TSE engaged with specialized civil society groups, including fact-checking agencies, and with the public at large. One example of such cooperation was the creation of channels for public reporting of false and harmful content.¹²⁸

For the 2022 election, overwhelmed by an avalanche of misinformation and what the TSE viewed as a lack of cooperation from some social media platforms, the TSE decided in the campaign's final stretch to further increase its autonomy in determining what content should be removed and to require shorter removal deadlines, through Resolution No. 23.714/2022.¹²⁹ Companies that failed to comply with content removal orders within two hours (and just one hour on election day) faced fines of 150,000 Brazilian reais for each hour of noncompliance and up to 24 hours of suspension of service. Previously, the TSE had already ordered

content targeted electronic voting machines and attacks on them, which were also the main targets in 2018.



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of the TSE, who was accused of partisanship and censoring Bolsonaro's campaign to favor Lula (see Figure 2).

Disinformation aimed at favoring one candidate was almost entirely focused on Bolsonaro, with 90% of the messages seeking to place him in a position of advantage, either through favorable polls or showing him as a victim of those in power (see Figure 3).

The main disinformation narratives differed significantly across the two rounds of the presidential election. In general, disinformation messages tried to derail the process by focusing on the following themes:

- Distrust of the TSE and electoral machinery, with messages denouncing the malfunctioning of the electronic ballot boxes or their transport by unauthorized personnel who could have manipulated

their operation (24.39% of all the disinformation messages).

- Partisanship of the electoral authority portrayed as unfairly censoring Bolsonaro's campaign and explicitly supporting his opponent (23.58%).
- Photos of voting records to justify an alleged victory stolen from Bolsonaro or to claim that there were more voters than those assigned to the polling stations (17.07%).
- The intervention of the armed forces in the process, either as a denouncer of fraud or as an instigator of an ongoing coup d'état (13.01%).
- Polls manipulated to favor the perception of victory of a candidate (10.57%).
- Messages to denounce vote buying or to dissuade voters from voting (6.50%).
- Other messages, such as foreign interference in the process, were barely mentioned in the election (4.88%) (see Figure 4).

During the first round of the presidential elections, the main disinformation narratives aimed at discrediting the TSE and the electoral machinery included:

- More than 40% of these messages portrayed ballot boxes as incapable of recording votes or susceptible to being hacked through the internet.
- The partisanship of the TSE and electoral authorities and fake polls accounted for 40% of the disinformation messages intended to derail the electoral processinternet.

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video taken out of context. More than half the samples analyzed by The Carter Center had these characteristics.

Although nine independent pollsters had anticipated that Lula would win the election in one round, he failed to win in the first round, finishing only 5 percentage points ahead of Bolsonaro. This miscalculation by pollsters fueled social media narratives that suggested collusion between the pollsters and Lula's campaign. It also reinforced Bolsonaro's image as a victim of those in power who wanted to remove him from government.

The Carter Center expert team analyzed candidate activity on Facebook to discern who appeared to be responsible for the production and amplification of disinformation narratives. Such accounts usually disseminated false information to people.¹

Electoral Observation

Electoral observation is relatively new in Brazil and was regulated for the first time in 2021,¹³⁰ with the TSE launching a public call for electoral observers in 2022.¹³¹

The Carter Center's electoral expert mission noted the presence of several other election observation missions, both international and domestic. The observer missions were unanimous in highlighting the high degree of access to information granted by the TSE and other key electoral stakeholders. In particular, Brazilian civil society observers highlighted the novelty of domestic citizen electoral observation in Brazil, and emphasized that these efforts mobilized civil society, including a very knowledgeable audience among Brazilian youth.

Electoral observation is widely recognized internationally as playing an important role in strengthening democracy.¹³² It can become even more important in a context such as Brazil, where there is widespread false content regarding the electronic voting system and credible election observation can reinforce the participation of civil society in the electoral process.

The Carter Center recommends that Brazilian authorities continue to allow and encourage the presence of election observation efforts for future elections. Looking forward, The Carter Center recommends that Brazilian authorities reconsider

the criteria for electoral observation missions to ensure an enabling environment that encourages election observation. For example, the current requirement that organizations be established for more than one year may be too burdensome and could hinder the participation of newly emerging civil society organizations focused on elections. The requirement for observers to be 18 years old, especially when in Brazil the voting age is 16 years old, could also be revisited to allow electoral observer requirements to follow the same criteria as those to

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131 E . 1/2022 (E, 2022), E C 01/2022 (E, 2022).

132 C C E B D E 2005.

Carter Center recommends that the TSE reconsider including the names of individual observers to ensure the protection of data privacy of individual observers. For example, the TSE could require that election observation organizations submit the lists of individual observers to the TSE without making the information public on its website.

The Carter Center mission also found that the TSE's timeframe for accrediting domestic observers was too short, as several other stakeholders also noted. The deadline for accreditation was several

months before the beginning of the electoral period, and many organizations were not even aware of the possibility to seek accreditation. It was also not possible to replace electoral observers within the same organization, which meant some electoral observation missions could not replace observers who were unable to take part in the second round. International observers do not seem to have been subject to these requirements, nor to the extensive requirements that domestic observers had to comply with.

I Recommendations

The Carter Center's electoral expert team assessed key aspects of the 2022 Brazilian electoral process, namely the function and transparency of the voting

peoples. It would be commendable for the TSE to establish a national norm for TREs to foster the inclusion and participation of historically excluded groups, such as indigenous people, people of African descent, quilombolas and ribeirinhos.



- **Transparency**: Legal information regarding the audit mechanisms for the electronic voting system should be publicly available and easily accessible, similar to other areas of the electoral process. Electoral stakeholders and the public in general should have access to primary sources of information, including the relevant legal instruments, to allow interested stakeholders to analyze key information.
- **Post-election audits**: The Carter Center recommends that the TSE develop and publish, in consultation with key stakeholders, a specific set of rules and regulations for post-election audits of the system, including access to the voting machines and the software, after they have been used during the elections.
- **Partnerships**: While the TSE is to be commended for its partnership with Brazilian universities regarding improvements in its electronic voting system, particularly options considering end-to-end verifiability of the vote and the publication of the entire source code on the internet, available for all to examine, The Carter Center recommends maintaining and possibly increasing investments in these directions to allow more safety, transparency, and trust in the electronic voting system.
- **Funding**: To ensure that the universities can mobilize large enough teams over longer periods to conduct the audits as effectively as possible, The Carter Center recommends that consideration be given to establishing specific, independently administered state grants to provide funding for the audits.

- **Integrity testing**: The Carter Center recommends that specific procedures for failures during the integrity test (i.e., the machine is to be blamed for the non-match) should be emphasized during the training of testing center staff. If such procedures do not exist, they must be developed. Integrity testing should not simply confirm the expected absence of problems but rather be an open-ended evaluation of system performance.

- **Mandatory participation**: The Carter Center recommends that consideration be given to evaluating whether requiring mandatory participation in the biometric testing methodology might be feasible. After all, citizens may be required to provide other services on election day (e.g., poll workers), and voting itself is mandatory. Including integrity test participation as mandatory would solve the abstention issue and increase the utility of the test.



- **Disinformation**: The Carter Center recommends that the TSE continue its approach to fight disinformation and fake news through multiple strategies and with strong engagement of varied actors, including civil society and the public at large. However, given that the context surrounding these issues is rapidly changing, and the issues are growing in both importance and complexity, it is important to recognize that legislation can rarely keep up with new developments regarding mis/disinformation. The proper legal and regulatory structure to balance freedom of expression and state interference on false content and hate speech is yet to be found. Any decision about content removal should not make the intermediaries liable for any third-party content relating to those services unless they specifically intervene in that content or refuse to obey an order within a specified timeframe. The Carter

Center recommends initiating this debate with all stakeholders well in advance of the next elections.

The Carter Center recommends that Brazilian authorities continue to allow and encourage the presence of election observation efforts for future elections. Looking forward, The Carter Center recommends that Brazilian authorities reconsider the criteria for electoral observation missions to ensure that they provide an enabling environment that encourages election observation. For example, the current requirement that organizations be established for more than one year may be too burdensome and could hinder the participation of newly emerging civil society organizations focused on elections. The requirement for

observers to be 18 years old, especially when in Brazil the voting age is 16, also could be revisited to allow electoral observer requirements to follow the same criteria as those to be a voter.

The Carter Center mission noted that the TSE has a dedicated section on its website where national citizen observer organizations are mentioned

Key Electoral Terms and Abbreviations

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I The Carter Center at a Glance

The Carter Center was founded in 1982 by former



