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Covid-19 and the Brazilian 2020 Municipal Elections

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Covid-19 and the Brazilian 2020 Municipal Elections

Gabriela Tarouco

1. Introduction

Brazil's municipal elections for mayors, vice-mayors and local councillors took place on 15 and 29 November 2020 across 5,567 municipalities, after being postponed from 4 October 2020. As in many other countries, the postponement was intended to reduce the risks of Covid-19 spreading while ensuring citizens could exercise their political rights.

Local elections in Brazil are held every four years and do not coincide with general elections (for national and state legislatures, state governors, and presidents). Municipal legislatures are elected through an open-list proportional system; municipal executives are elected through a direct vote, under the majoritarian rule. Cities with more than 200,000 voters (95 cities in 2020) are eligible for runoff elections. Under a system of compulsory voting, just under 148 million registered voters across the country were expected to go to polling stations to cast their vote.

Beyond the vast challenges of holding clean elections in a large and heterogeneous country like Brazil, the Covid-19 pandemic posed new challenges to electoral managers. Surges in infections varied in pace, timing and severity across the territory, and public health measures were not at all coordinated. Special voting arrangements adopted in other countries, such as postal, early or online voting, were not practicable in the short term. A proposal to extend voting days was quickly discarded, and the other options were not even debated (Lemos and Brant 2020).

In the event, the elections were conducted with some operational adaptations, with no significant problems on voting day, but under increased risks of infection during the campaign. The lesson learned is that even a professional and independent electoral management body (EMB) cannot by itself assure public health and safety during the entire election cycle. Safe campaigning behaviour requires that unpopular measures be taken by governments, that are themselves stakeholders in the electoral process.

2. Institutional, social and health context

The pandemic evidenced (and no doubt exacerbated) the severe poverty and social inequality already present in Brazilian society. Access to voting, however, is widely and equally assured in Brazil. As the vote is compulsory, average turnout stands at 80 per cent of registered

voters, and polling stations are available in every community across the country. Accessibility is provided in designated polling stations for voters who declare any disability (Superior Electoral Court 2012, 2020a).

Rather, prior speculation and anxiety about possible surprises during the 2020 elections centred on two political factors. First, a reform that had forbidden electoral coalitions for proportional elections was in effect for the first time in the 2020 local election (Brazil, Presidency of the Republic 2017). Second, the political system had been shaken by Jair Bolsonaro—a backbencher from a small party—winning the presidency two years earlier, after many years of stable competition between the major parties.

After the presidential election in 2018, Brazilian politics became tensely polarized between supporters and opponents of the Bolsonaro government. The Brazilian president started 2020 bargaining for legislative support, and dealing with judicial interventions, internal dissent, and international criticism. The Covid-19 pandemic fuelled the crisis as the president refused to follow World Health Organization (WHO) sanitary recommendations, while state governors adopted more cautious policies (Arnholz 2020). By the time of the 2020 municipal elections, the country was already dealing with the spread of misinformation through social media on many subjects, including alleged suspicions about the new virus but also about the integrity of the voting system (Ruediger et al. 2020).

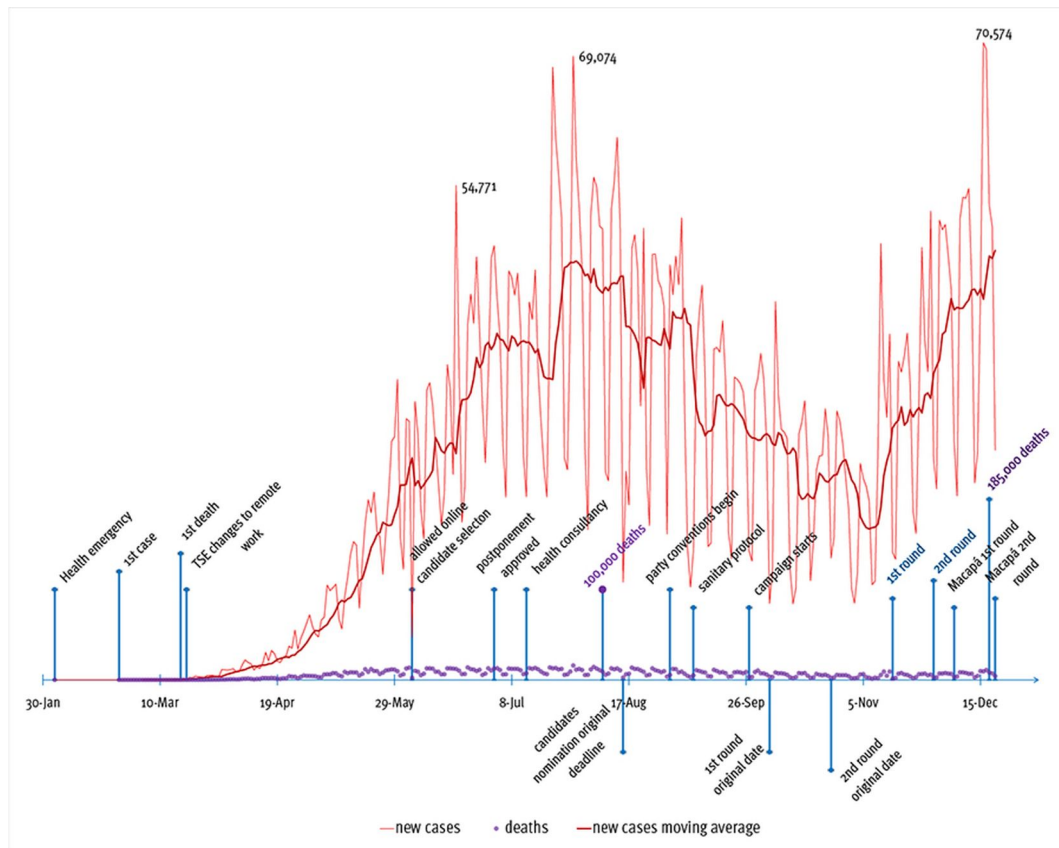
As the Brazilian federation gives subnational governments autonomy to decide on health measures (ADPF 2020), each state had issued its own decrees somewhat following WHO isolation recommendations (Barberia et al. 2020; Petherick et al. 2020). Without any active coordination or support from the federal government, each state faced enormous logistical challenges in fighting the disease's spread in their respective jurisdictions and providing intensive medical care to their citizens. Manaus, the state capital of Amazonas, experienced a huge spike in Covid cases and deaths in April, leading to a lack of hospital beds and the digging of mass graves (Albuquerque 2020).

State governors had to compete with each other—and with other countries in the international market—for supplies and equipment. City mayors also adopted discretionary measures according to the severity of the pandemic in each locality, which meant that some electoral campaign activities, such as in-person rallies, followed distinct rules in different cities. While some cities locked down, others began loosening restrictions (Oliveira and Mello 2020; Paraguassu 2020).

The pandemic had also worsened pre-existing problems such as drug trafficking and the domination exerted by militias in Rio de Janeiro and São Paulo. In poor neighbourhoods, the usual violence perpetrated by organized crime and paramilitary gangs was now directed against their local political adversaries; several candidates were threatened, shot or murdered during the campaign (Lima 2020; Cariello 2020; Nunes 2020).

Beyond all those problems, two more incidents unrelated to the pandemic raised concerns about these elections less than two weeks prior. Hackers had penetrated the ICT systems of the Superior Court of Justice and of the Ministry of Health, increasing security concerns about all public systems, including that of the EMB. The day before, 3 November, a fire in a power station had caused a blackout in the state of Amapá. Around 780,000 people in 13 municipalities ran out of electricity for many days and hence, out of treated piped water. Because of the health and safety risks associated with the blackout and associated street protests, on 12 November the EMB decided to postpone the election in the state capital, Macapá, until December. Figure 1 shows official data (Ministry of Health 2020) on how the pandemic advanced during the electoral process.

Figure 1. Timeline of Brazil's 2020 electoral process, with Covid-19 statistics



Source: Author's graph based on data from the Ministry of Health (Brazil), 'Painel Coronavírus [Coronavirus Panel]', <<https://covid.saude.gov.br/>>, accessed 5 February 2021.

2.1. The Brazilian EMB

In Brazil, both electoral management and electoral justice roles are under the responsibility of a same institution: the Superior Electoral Court (Tribunal Superior Eleitoral, TSE), which is part of the judicial branch. TSE is an independent, non-partisan, and highly professionalized EMB. In its management role, TSE issues procedural rules for electoral processes. It also dictates regulations, mostly by answering political actors' queries on electoral law through consultations, which are sometimes criticized as judicial activism and judicialization. In its adjudication role, TSE arbitrates disputes on electoral matters at the federal level and works as an appeal instance court for electoral disputes from the state-level electoral courts. At the state level, Regional Electoral Courts (Tribunais Regionais Eleitorais, TREs) register voters and candidates, manage elections and adjudicate local disputes (Marchetti 2012).

The seven TSE members—five of whom are members of other superior judicial courts—hold two-year terms of office, which may be extended for two additional years. Meanwhile the bureaucratic structure is stable, staffed with tenured civil servants. Seasonally, to meet the operational demands of elections, the EMB recruits temporary polling station officials (*mesários*) who are citizens summoned to render service as a civic duty. In 2020, anticipating that many could refuse to attend, discouraged by Covid-19 concerns, the TSE launched a broad volunteer recruitment campaign on TV and the Internet. The campaign's message that the election would be safe was supported by health experts (Superior Electoral Court 2020e) and was ultimately successful, with all polling stations recruiting enough staff (Henrique

2020). Because of the pandemic, the training was online this time, and that was emphasized in the volunteer recruiting campaign.

3. The decision to postpone

In the face of the pandemic challenges, three choices were on the table: (a) keep the original electoral schedule; (b) postpone the election to a new date but still in 2020, maintaining term limits; or (c) postpone the municipal elections to 2022, making them coincide with the federal elections and extending municipal mandates by two years. Experts from several fields supported the second option, while the third one was disputed among politicians. The TSE has the initiative in most electoral management decisions, but as the election date is regulated by the Constitution, any postponement is a Congressional prerogative.

A first legislative bill regarding postponement was presented to the Senate in March. It proposed option (c) i.e., to postpone local elections to 2022, concomitantly with national polls. That proposal was not voted upon and was widely rejected on grounds that extending electoral mandates was unacceptable (Amaral 2020; Lemos and Brant 2020)—but not before its having aroused some controversy and political pressure on Congress from mayors.

Positions taken on that proposal—of option (c)—were determined by electoral interests and the prospects of municipal candidates. Mayors running for a second term who had good chances of re-election tended to advocate keeping the election sooner, while those who were predicted to lose defended postponement. Depending on each city's public health situation, maintaining the election date would give incumbents either the advantage of claiming credit for fighting the virus, or the risk of being punished for its consequences (Barreto 2020; Brant et al. 2020; Marques 2020; Mattoso 2020a; Shalders 2020). The challengers positioned themselves accordingly. In a further twist, incumbents could limit opposition chances by forbidding in-person gatherings—which is how challengers usually make themselves known among the voters during electoral campaigns.

From May to June, the TSE asked reputed health experts for advice on holding elections during the pandemic. Epidemiologists and other scientists predicted that in the second half of November, the number of cases would have decreased and that the second wave of infection, were it to happen, would not then be high (Superior Electoral Court 2020d). Following those recommendations, Congress promptly issued and approved a constitutional amendment (Brazil, Presidency of the Republic 2020) in pursuit of option (b), that is, to postpone the election dates to later in 2020 (November, and with the TSE authorized to make further adjustments to the electoral regulations and calendar if needed).

4. Electoral and campaign technologies

For good and for bad, technology was at the centre of attention in this election. As social distancing measures came into use, citizens could register themselves as voters through an online procedure (Superior Electoral Court 2020f). New counting procedures, installed to ensure safety, caused an unexpected delay in the announcement of results. Cyber-attacks raised suspicions about the EMB's system. Finally, voter identification moved from high to low-tech (of which more below). Even though none of these problems affected the election's integrity, they were the target of criticism by the press and distorted in misinformation campaigns through social networks.

Brazilian voter ID has, beyond its print version, also a digital version called *e-título*, which works as an application for mobile phones. It is supposed to substitute for print ID for all occasions when voter identification is required and to provide information such as polling station addresses. For the 2020 elections onward, the application has acquired new functionality: voters can use it to justify their abstention when they are far from their place of

residence. As the vote is mandatory in Brazil, when voters are not in the town where they are registered and assigned to vote, they must justify not voting. Until the 2020 election, such justification had to be done in person by filling in a form at any nearby polling. The option of justifying absence through the *e-título* application was supposed to reduce crowding in polling stations. However, since many voters downloaded and accessed it simultaneously, the new function did not work during the first round. It was working again by the second round.

As for voter identification at polling stations, the novelty at this election was the suspension of biometric identification. For years, TSE has been updating the voter registration process by implementing this method progressively throughout the country to combat fraud and avoid multiple registrations. (Region by region, voters that were already registered have been called to scan their fingerprints. By July 2020, around 2.5 million voters had not yet attended that call and were set to have their registration cancelled.) The pandemic, however, interrupted biometric identification. Technicians warned that the fingerprint scanner lens would not work properly on election day if it had to be disinfected at each use. The procedure also makes voting take longer to complete, increasing queues and crowding around polling stations. Because of the health risks implied, from April biometric registration was temporarily waived for both new and old registrants. Voter identification on election days was made through official photo-ID documents.

4.1. Cybersecurity—and unintended consequences

The counting process was slightly delayed by a recent innovation. In 2019, the TSE adopted a new counting system, following advice from the Federal Police concerning data safety. In previous elections, each state EMB (the TREs) summed their votes and then sent the totals to be collated by the TSE. In 2020, for the first time, a new supercomputer in Brasilia received the data from states directly. This innovation was supposed to close a cyber vulnerability. However, the new system took more time than expected to do the job, and the first-round results were announced around three hours later than expected, albeit still on the same day. This problem did not occur in the second round.

The 2020 election was also disrupted by hacking. On the first-round polling day, there were two cyber-attacks against the EMB's website. The first one was successfully repelled. The second leaked data on former EMB employees, namely their salaries. Neither of these cyber-attacks affected the voting or the counting system, as the voting machines (*urnas eletrônicas*) are not connected to the Internet or any network (Superior Electoral Court 2016). These attacks nevertheless highlighted cybersecurity concerns. This is especially worrying, given that the TSE had recently (September 2020) launched a project to adopt online voting in the future (Superior Electoral Court 2020c). There had been expectations that electoral campaigning in 2020 would move online, because of both the pandemic and the success of online strategies in the 2018 election. However, a prior decision of the TSE in 2019 had banned mass messaging through social networks for political purposes, to stem the dissemination of fake news and to protect voters' data. Even though that policy was not entirely effective in 2020 (Mello 2020), it may have been a factor in contestants maintaining widespread in-person campaigning in defiance of the health risks (Mattoso 2020b). Decisions from some TREs, state governors and city mayors forbidding or restricting face-to-face campaign activities were ineffective. An example is São Paulo, Brazil's biggest city, where candidates campaigned through the crowded streets, frequently without face masks (Morales 2020).

5. Special voting arrangements

There were concerns from the general public about how political polarization would affect the plans to conduct safe elections during the pandemic. Health experts advised the TSE on

protecting health during campaign and voting periods, but the federal government consistently opposed social distancing measures.

Before the postponement, the TSE had taken several actions to address the new health and safety circumstances. The first was to close TSE offices from 12 March onward and to introduce online remote working, including for polling station staff training. In its turn, this training now involved instructions on distancing, face masks and disinfection procedures on election day. Several judicial and administrative deadlines were suspended, and internal procedures were adapted. The main change was not in voting but in the voter registration process, as mentioned.

On 6 April 2020, the TSE's second measure was to install a committee charged with evaluating risks of keeping the election on the scheduled date (October). The committee issued weekly reports on the preparations and published them on the TSE website. The last report, issued on 28 May, describes difficulties regarding equipment maintenance and transportation, identifies health risks for the voting day, and mentions the postponement as a possibility but still concludes that the election could be kept on the original schedule (Superior Electoral Court 2020g).

After the decision on the postponement, which took the entire month of June, the TSE signed an agreement with prestigious health institutions, public and private, for a consultancy about health safety measures to be adopted (Superior Electoral Court 2020h). The consultant's recommendations resulted in a health safety plan issued in early September, setting rules to be followed in every polling station across the country (Oliveira et al. 2020). The measures prescribed that:

1. Polling stations should open one hour earlier, and the additional time would be preferential for the elderly.
2. Hand sanitizer should be available for voters and poll workers.
3. Alcohol should be available to disinfect surfaces and voting materials.
4. Face masks should be available for poll workers in sufficient quantity to be replaced every four hours.
5. Voters and polling clerks should wear face masks, keep at least one metre away from everybody, and regularly sanitize hands and materials.
6. Social distancing among voters in poll queues should be maintained by signs on the floor.
7. Campaigns on TV and the Internet publicized the mandatory use of face masks in polling stations and encouraged voters to bring their own pens for signing in. Voters with symptoms of Covid-19 were recommended to stay at home.

The adoption of this protocol faced no resistance. A wide campaign warned that voters not wearing face masks, either of their own or provided in polling stations, would be prevented from voting. Unfortunately, poll workers did not have the authority to enforce this rule outside the polling stations. Voters with Covid-19 symptoms who followed the recommendation to stay at home could have their absence fine waived.

The measures necessary to keep elections safe during the pandemic would add new expenses to the TSE budget. The Annual Budget Law had already provided BRL 1.28 billion (around USD 241 million) for the 2020 municipal elections before the point of foreseeing any new sanitary measures or their costs. Thereafter, the TSE called for help from private companies that donated masks, alcohol gel, pens, guidance materials and transport services for materials and equipment (Superior Electoral Court 2020b, 2020i). States waived taxes on

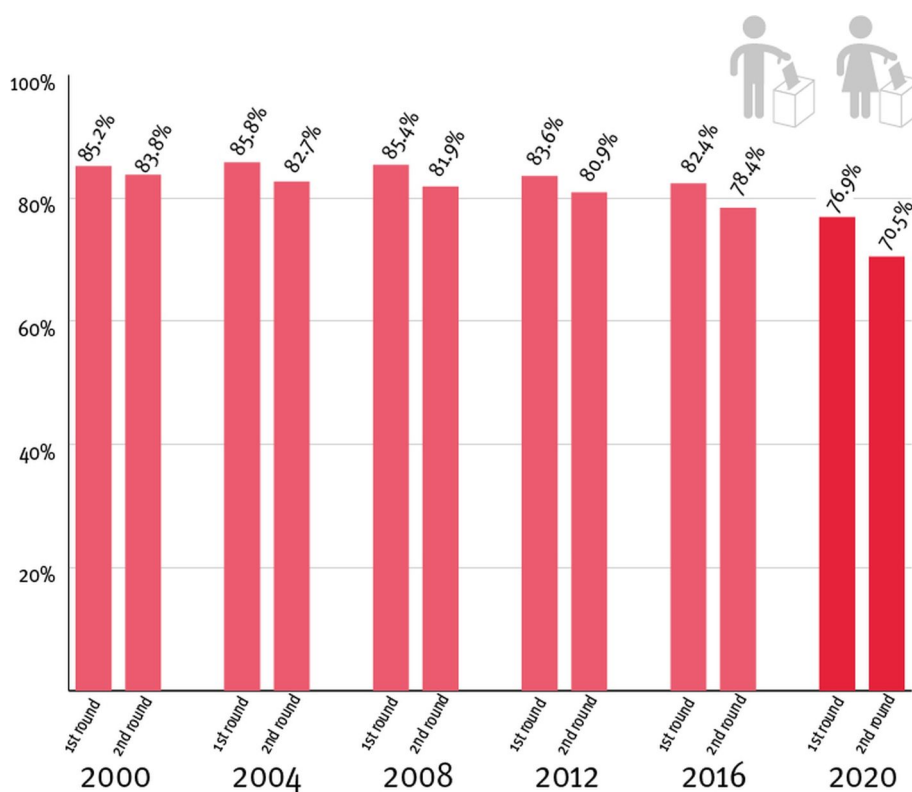
the distribution of these donations, delivered directly to the TREs from September onward, on time to serve polling stations across the country. The private source of these resources was not an issue for debate.

6. Turnout

In the first round, on 15 November 2020, 77 per cent of registered voters attended. The turnout was six percentage points below the previous municipal election in 2016, and this might perhaps be expected, given the extraordinary circumstances. In Macapá, where the election was delayed, the turnout was 74 per cent. In 57 cities there was a runoff election on 29 November, with a turnout of 70 per cent.

Mandatory voting in Brazil usually achieves high levels of compliance, but not because of its enforcement. The consequences of not voting are not negligible, but the voters have many ways and a long deadline to present a justification that releases them from the fine. Beyond that, the fine for not voting or not justifying absence (BRL 3.51, equivalent to less than USD 1.00) is waived for voters who declare themselves not having enough income to pay for it. Because of that low cost of not voting, electoral turnout in Brazil has been interpreted as a matter of voter choice. A post-election poll found that 40 per cent of the absent voters pointed to the fear of infection as their reason for not voting (DataSenado 2020). Nevertheless, turnout had already been declining from election to election, suggesting that some other process is guiding voting behaviour in Brazil. The turnout decline varied among states and cities and it is not possible yet to attribute it (or at least, attribute it fully) to the pandemic. The total decline is shown in Figure 2.

Figure 2. Turnout in municipal elections, 2000–2020



Source: Author's graph based on data from the Electoral Superior Tribunal (Tribunal Superior Eleitoral), <<https://www.tse.jus.br/eleicoes/estatisticas/estatisticas-eleitorais>>, accessed 30 January 2021.

7. Conclusion

Few Covid-19 restrictions in Brazilian cities could be described as amounting to a true 'lockdown', at any point in the pandemic to date. Governors and mayors have instead enacted social distancing measures with varying levels of stringency, enforcement and compliance. Beyond the issues of scepticism and denial, poverty and inequality prevent most Brazilian citizens from staying at home or socially distancing. For example, significant numbers need to leave their homes simply to access water supplies.

During the electoral campaign of 2020, electoral interests precluded preventive behaviour: mayors and governors avoided unpopular public measures, and candidates seeking votes did not refrain from walking through crowds and hugging supporters. Not surprisingly, several candidates became ill (Pitombo 2020), and there was a huge increase in the number of new Covid-19 cases following the campaign period (Borges and Souza 2020). In the days following the election, several state governors rowed back on their flexible social distancing policies and reintroduced more restrictive measures.

On election day there were no reports of problems with access to voting. Some electronic ballot boxes had to be replaced, and some people were arrested for electoral crimes such as campaigning on election day. As usual, armed forces provided logistical and security support especially in more remote areas.

Two observation missions monitored the electoral process: one from the Organization of American States (OAS) and, the other, a domestic non-governmental organization, Transparência Eleitoral Brasil [Election Transparency Brazil] (2020). The TSE also provides a mobile application called Pardal through which citizens can report campaign malpractices. The OAS mission worked in five Brazilian cities with 14 observers from nine countries, deploying both in-person and remote methods. They issued a preliminary report (OAS/EOM 2020) highlighting occasional breaches of social distancing rules, and the scarce presence of political parties' representatives during inspections and audit procedures.

As for electoral integrity and credibility, the 2020 municipal elections were held fairly and safely, despite the pandemic. Whether Brazilian democracy is (or is not) at any risk, it is not a matter of electoral management. However, as Figure 1 suggests, campaign activities combined with the low effectiveness of social distancing measures should not be disregarded as a factor in the second wave of Covid-19 in Brazil.

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