

House Committee on Foreign Affairs
Subcommittee on Global Health, Global Human Rights and International Organizations
Hearing – “Brazil: A Crisis of Democracy, Freedom & Rule of Law?”
May 7, 2024

Rep. James P. McGovern (MA-02)

Statement Submitted for the Record

I thank Chairman Smith and Ranking Member Wild for permitting me to submit this Statement for the Record for today’s hearing on Brazil.

The title of the hearing poses a question: is there a crisis of democracy, freedom and rule of law in Brazil?

The accurate response is “no.”

This hearing is an effort by extreme right-wing political actors in Brazil – many of whom are on record supporting a return to military dictatorship – to use the United States Congress as a platform to amplify their attack on democracy in Brazil, aided and abetted by members of the Republican party. It is a disgraceful misuse of Congress.

These actors claim that the 2022 presidential election - in which Lula da Silva defeated Jair Bolsonaro by more than 2,000,000 votes with 79% turnout - was fraudulent. They allege, with no evidence, that there were problems with the electronic voting machines.

In reality, the official results of the election were reported promptly and recognized by international observers, including the Organization of American States, and by Brazilian politicians from across the political spectrum. The Brazilian armed forces, who have no role in running elections but were pushed by Mr. Bolsonaro into doing an audit of the results, [found no evidence of vote-rigging](#).

Lula won the election.

But Mr. Bolsonaro did not concede – just like Donald Trump did not concede in the 2020 U.S. election. Instead, Mr. Bolsonaro continued his years-long campaign of casting doubt on Brazil’s electoral process. In doing so, laid the groundwork for the violent January 8, 2023 attack on Brazil’s institutions, allegedly in an attempt to provoke a military coup.

Thank goodness the military did not bite. Thank goodness that this time the United States government [worked behind the scenes to prevent a coup](#) – unlike 1964, when the U.S. took the side of brutal authoritarians who deposed a democratically elected president and went on to [torture 20,000 people](#) and kill or disappear at least 434. One of those tortured was former president Dilma Rousseff.

The January 8 coup attempt has already been reviewed by a Joint Parliamentary Committee of Investigation (CPMI) in the Brazilian congress that issued a damning report. The CPMI found that the January 8 movement was a planned and organized mobilization, and that Jair Bolsonaro and his inner circle bore direct responsibility for events. Now these events are being criminally investigated by the Brazilian Federal Police, as they should be. But rather than take responsibility for their actions, Mr. Bolsonaro and his supporters are doing everything they can to present

themselves as victims. They are using the same playbook as Donald Trump and his followers. I am reminded of the old saying: imitation is the sincerest form of flattery.

A lot will be said today about supposed violations of the right to freedom of expression and the evils of censorship.

I am a lifelong, strong supporter of human rights, including freedom of expression. But it is not an unlimited right. You don't get to yell "fire" in a crowded theatre.

For those who care about facts, the [preliminary report of the OAS Electoral Observation Mission](#) on Brazil's 2022 election has an important section on the deep concerns about disinformation and steps taken to combat it. The report recognizes that freedom of expression constitutes "a fundamental bastion for debate during electoral processes, that it is indispensable for the formation of voters' opinions, and that it is a *conditio sine qua non* in allowing political parties and candidates—and all those seeking to influence the community—to express themselves fully." But the report also makes clear this does not mean that disinformation in the context of political and electoral discourse cannot be restricted or sanctioned.

In fact, Brazil's own laws and jurisprudence restrict disinformation. As we will hear today, in 2018 Brazil's courts held that evidence-free claims that voting machines were not safe were not protected speech. In 2021 President Bolsonaro signed a federal statute which made it a crime against democracy to "publicly incite animosity between the armed forces, or of armed forces against the constitutional powers, civil institutions, or society."

In every country, the role of the police and the courts is to enforce the law. A failure of these institutions to enforce the law leads to impunity and undermines the rule of law.

But today's witnesses are arguing the opposite: by enforcing the law, by acting to end impunity, somehow Brazilian authorities are undermining rule of law.

No one should be persuaded by this. I have been subjected to the "truth" of one of today's witnesses who, besides making use of an antisemitic trope, called me a communist and claimed I do the bidding of foreign governments. What he is defending isn't the right to freedom of expression, but the right to tell any lie he chooses, without consequences.

The question of how to reconcile the right to freedom of expression with other human rights and the public interest is a hard question that merits serious attention. Unfortunately, what we will get today is all heat and no light.

Thank you.