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Brazilian Judges Convict Popular Former Leader, Indict Unpopular Sitting President

by Gregory Scruggs

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In a plot twist befitting a telenovela, Brazil's wildly popular former president, Luiz Inácio "Lula" da Silva (2003-2011), has been convicted of corruption and money laundering. He was sentenced to nine and a half years of prison, but the presiding judge will allow him to keep his liberty during his appeal. The July 12 decision shook Brazil to its foundation, with the current and previous two presidents (including da Silva's successor, Dilma Rousseff [2011-2016]) now tainted by impropriety following the June indictment of President Michel Temer on formal corruption charges. The country must now look back 14 years to find a head of state with a clean legal record ([NotiSur, Nov. 3, 2006](#), [June 24, 2016](#), [Sept, 30, 2016](#)).

Thousands of protesters took to the streets in support of the embattled da Silva, the charismatic former metallurgist who rose from a destitute childhood in Brazil's impoverished northeast to become a two-time president under the banner of the Partido dos Trabalhadores (PT). He was once deemed the most popular politician in the world, following a successful administration during which millions of Brazilians were lifted out of poverty while economic growth remained steady. The country was awarded the 2014 FIFA World Cup and the 2016 Summer Olympics under his watch ([NotiSur, Feb. 7, 2014](#), [Aug. 1, 2014](#), [Aug. 5, 2016](#)).

Despite the conviction, da Silva remains defiant and insists he will run in the 2018 presidential election. Prior to the judicial decision, opinion polls showed him as the leading candidate, with sitting president Temer's approval rating hovering in the single digits. "Anyone who thinks this is the end of Lula is going to be disappointed," he said at a press conference on July 13. "Wait for me, because no one can decree my end but the Brazilian people."

Beachfront bribe

Federal Judge Sérgio Moro handed down the indictment, one of dozens that have reached the highest echelons of the Brazilian political establishment as part of the Operação Lava Jato (Operation Car Wash) anti-corruption investigation ([NotiSur, Jan. 13, 2017](#)). With poetic flourish, Moro cited the 17th century English scholar Thomas Fuller in his ruling: "Be you never so high, the law is above you." But after delivering the 260-page decision, Moro deferred to the delicacy of sentencing such an important national figure to jail. In his decision to allow the former president to remain free while the case is appealed, he acknowledged "certain traumas" to the national psyche if da Silva were to be immediately placed behind bars.

The crux of the conviction is that da Silva received a beachfront property worth more than US \$700,000 from OAS, a construction company seeking lucrative contacts with Petrobras, the state-owned oil company ([NotiSur, Aug. 14, 2015](#)). This clear-cut instance of bribery was the most ironclad connection between da Silva himself and a broader corruption scandal, the Mensalão ([NotiSur, May 15, 2015](#)), that funneled construction firms' bribes into PT election campaigns. While investigators have struggled to pinpoint da Silva's exact role in the Mensalão scheme, the OAS beachfront

giveaway was enough to sink his legal fortunes. Further indictments are likely to come, as he faces four more trials for charges of influence peddling, corruption, and obstruction of justice.

Da Silva insists that the ruling provides “absolutely no proof” of his guilt, but he has yet to specify the strategy for his appeal. On July 20, Moro ordered da Silva’s assets frozen. They include US \$200,000 in bank accounts, two cars, three apartments, and a plot of land.

Presidential impropriety

While da Silva has railed that the case against him was politically motivated, the probes into prominent politicians seem more the product of a flourishing independent judiciary that has enjoyed wide public support in its wide-ranging investigations. Just weeks before da Silva’s conviction, Temer received his own corruption charge.

The federal general prosecutor, Rodrigo Janot, announced on June 26 that Temer was accused of receiving a US\$152,000 bribe. The formal indictment came a month after Joesley Batista, a corporate executive in charge of the meat conglomerate JBS, secretly recorded a conversation with the president in which he approved of paying hush money to a jailed politician. Batista agreed to make the recording as part of a plea bargain with federal prosecutors over his company’s role in the Petrobras scandal.

Janot said that the bribe “helped to compromise the image of the Federal Republic of Brazil.”

In the indictment, prosecutors charged that an additional US\$11 million in bribes had been promised to Temer and Rodrigo Rocha Loures, a presidential aide who was caught on camera receiving a suitcase that is believed to have contained the initial payment. Loures was arrested shortly thereafter.

Temer has denied the charges. As sitting president, his fate rests in the hands of the Congress. If two-thirds of the lower house votes against him and accepts the corruption charges, and the Supreme Court concurs, he will be suspended from office for 180 days and face a trial. Political analysts believe he has enough votes to stave off that scenario, but with his approval rating at a dismal 7%—the worst of any Brazilian president in 30 years—he does not intend to stand for reelection next year.

Effectively a lame duck, a poll shows 76% of Brazilians believe Temer should resign. Former presidents agree.

After his conviction, da Silva told supporters at a rally, “If Temer had a minimum commitment to the people, he would resign. This country has only one way out: direct elections to elect a president who has the courage to look people in their faces. We know that if one day we elect a person committed to the people, we will have to dismantle the disgrace that he [Temer] did.”

While da Silva’s calls for resignation may seem an effort to distract from his own legal woes, the elder statesman of Temer’s own party has publicly expressed similar sentiments, if in a softer tone. Former President Fernando Henrique Cardoso (1995-2003), as of now not implicated in any legal scandal, said on June 26, shortly after the indictment, that Temer should make a “grand gesture” and step down early.

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