

Dilma's Impeachment Process to Return to the Chamber of Deputies?

*By Rachael Hilderbrand and Emma Tyrrou
Research Associates at the Council on Hemispheric Affairs*

The newest episode of Brazil's political crisis took yet another turn on May 9, as President Dilma Rouseff's impeachment process was negated by the acting President of the Chamber of Deputies, Waldir Maranhão. The impeachment process was expected to continue with a Senate vote on Wednesday in order to commence with an impeachment trial, however, Maranhão's decision to annul the April 17 vote now calls for the proceedings to return from the Senate to the Lower Chamber of Deputies.¹ There will then be five additional sessions in the Chamber of Deputies to re-vote on the continuation of the impeachment process. Maranhão opposed the impeachment process originally in the April 17 session and became the Acting President of the Chamber of Deputies this past week when former Chamber of Deputies President, Eduardo Cunha, was suspended for the obstruction of investigations in the Petrobras corruption scandal.

If Maranhão had not negated the April 17 vote, the Senate was expected to vote on Wednesday, May 11, where a simple majority among the 81 Senators would determine whether or not the ultimate trial within the impeachment process would then take place. After this step, within a maximum of 180 days and after consideration of proofs and testimonies by both the accusatory commission and Dilma Rouseff's defense, a verdict would be rendered: guilty or not guilty. Meanwhile, the President was to undergo a temporary suspension from duty, the office being assured by Vice President Michel Temer (from the Brazilian Democratic Movement Party, PMDB). Maranhão's decision to annul the April 17 vote does not cancel the process, but rather delays it by having the Chamber of Deputies recast their vote.

This surprising decision to repudiate the vote was due to a number of irregularities during the Chamber of Deputies original voting session. First, Deputies should not publically announce their positions prior to voting, as had happened on April 17. Such public announcement of members voting intentions, as reported in Folha de S. Paulo, was seemingly a clear offense to the constitution.² Maranhão stated that as the vote returns to the Chamber of Deputies again, members are prohibited from announcing and anticipating their votes prior to the voting process. A second irregularity consists in party leaders instructing their party members how to vote. Such direct instruction influencing party members is also illegal considering that Deputies should be able to vote freely according to their own personal

¹ Marcio Falcao, Paulo Gama, and Ranier Bragon. "Presidente Interino Da Câmara Decide Anular Tramitação Do Impeachment." *Folha De S. Paulo*, May 9, 2016. Accessed May 9, 2016. <http://www1.folha.uol.com.br/poder/2016/05/1769301-presidente-interino-da-camara-anula-tramitacao-do-impeachment.shtml>.

² Ibid.

convictions.³ There is also the claim that Dilma's defense should have been heard one last time before the final vote in the Chamber on April 17.⁴

Maranhão also recognized the existence of serious discrepancies in the very content of the debate on which the April 17 vote in the Chamber of Deputies rested. The deputies overwhelmingly justified their vote on Dilma's alleged corruption charges in the Lava Jato scandal. Regardless of the possible validity of such accusations, it is crucial to remember that the ongoing impeachment process is meant to investigate solely the responsibility crimes the President is being accused of in the impeachment request formulated in December 2015. As the deputies' duty while voting was to determine if the impeachment request deserves examination by the Senate and ultimately the opening of a trial, such a lack of consistency reveals how much of a political game the whole process has become.

The latest developments could be seen in the effort to refocus the debate on the actual charges against President Rousseff that a trial would have to investigate as ultimate step of the impeachment process. Instead of focusing on Lava Jato, such a trial must focus on the fiscal irregularities on which the impeachment charges are based. Interestingly enough, these rest on a controversial legal argument, one which deserves attention as it could set a precedent in the country's legal framework. Rousseff is indeed accused of tampering with the state funds in order to make the economy seem better than it actually was -- practices condemned by the Federal Court of Accounts. Rousseff's defense argues that the practices she carried out do not consist in criminal charges but rather in administrative procedures which involved the consultancy of jurists, and have in the past been conducted by other Presidents. At stake is the interpretation of the Fiscal Responsibility Law, which outlines what responsibilities the federal government has in terms of managing the public bank accounts. In a panel hosted by the Woodrow Wilson Center in Washington D.C. regarding the current impeachment process, it was mentioned how the country is now facing a "fight of legal interpretations".⁵

It is now unknown what will happen as the Chamber of Deputies casts a re-vote. Originally on April 17, the continuation of the impeachment process was approved with 367 votes for and 137 votes against moving the process along to the Senate. The odds of the Lower Chamber still voting in favor of continuing the impeachment process are high, considering that Dilma does not have a high level of support in Congress. Since the announcement of Maranhão's decision to annul the vote, Dilma Rousseff declared: "It's not official and I do not know the consequences [this decision will have]. Remain cautious because we live in an environment of tricks and wiles."⁶ Political leaders have continued to tear their pawns on what has become a highly polarized board game, neglecting their duty to conduct the process in

³ Wyre Davies. "Brazil Crisis: Rousseff Impeachment Vote 'annulled'" *BBC News Latin America*, May 9, 2016. Accessed May 9, 2016. <http://www.bbc.co.uk/news/world-latin-america-36248925>.

⁴ Marcio Falcao, Paulo Gama, and Ranier Bragon. "Presidente Interino Da Câmara Decide Anular Tramitação Do Impeachment." *Folha De S. Paulo*, May 9, 2016. Accessed May 9, 2016. <http://www1.folha.uol.com.br/poder/2016/05/1769301-presidente-interino-da-camara-anula-tramitacao-do-impeachment.shtml>.

⁵ "Rousseff's Tenure Nears the End." Lecture, Brazil Institute: Woodrow Wilson Center, Washington, D.C., March 31, 2016.

⁶ Marcio Falcao, Paulo Gama, and Ranier Bragon. "Presidente Interino Da Câmara Decide Anular Tramitação Do Impeachment." *Folha De S. Paulo*, May 9, 2016. Accessed May 9, 2016. <http://www1.folha.uol.com.br/poder/2016/05/1769301-presidente-interino-da-camara-anula-tramitacao-do-impeachment.shtml>.

accordance to the most impartial and constitutional standards. Marnahão's decision to bring the vote back to the Chamber of Deputies could in that sense offer the opportunity to reset the focus on the legal argument behind the whole process and away from solely partisan moves. What is at stake for Brazil and the remainders of its democratic residue I of dramatic importance, as the decisions taken determine which of the tormented scenarios lies ahead.

By Rachael Hilderbrand and Emma Tyrou, Research Associates at the Council on Hemispheric Affairs