

Brazilian Senate Votes to Proceed with the Impeachment Process despite New Allegations of Corruption in the Interim Cabinet

*By Aline Piva,
Research Fellow at the Council on Hemispheric Affairs*

In a 59 to 21 vote, the Brazilian Senate decided on August 9 to place democratically elected President Dilma Rousseff on trial for fiscal mismanagement, initiating the last phase of her impeachment process. The decision was made despite the fact that Rousseff was found not guilty of budgetary maneuvers by the Brazilian prosecutors' office and that no new evidence pointing to Rousseff's involvement in any illegal deeds has been presented.ⁱ Meanwhile, new evidence has emerged linking interim president Michel Temer and two of his appointed ministers, José Serra and Eliseu Padilha, to a corruption scheme involving the illegal exchange of millions of dollars. The continuation of the impeachment process highlights the partisan nature of the impeachment itself, given that the legal basis of the accusations against Rousseff is increasingly challenged. Documentary evidence, such as the transcripts of conversations involving former ministers of Temer's interim government, supports the argument that Rousseff's removal from office is part of a political maneuver to shield Temer and his political allies from corruption investigations and to impose his own agenda against the will of the Brazilian people. As such the impeachment would lack democratic legitimacy and therefore seriously erode Brazilian democracy.

A Crooked Process

In addition to the lack of evidence for the accusations against Rousseff, other concerns are being raised regarding the legality of her impeachment. José Eduardo Cardozo, former Minister of Justice and now head of Rousseff's legal team, stated that the impeachment process is tainted with ulterior motives. He notes, for instance, that Representative Eduardo Cunha, former Speaker of the Brazilian Lower House, only initiated the impeachment process after representatives from Rousseff's Workers Party voted to proceed with investigations for corruption against him. This evidence challenges the legitimacy of the process, since Cunha had personal motivations to attack Rousseff politically.ⁱⁱ

Furthermore, the impeachment is being sponsored by the Brazilian Social Democracy Party (PSDB, *Partido da Social Democracia Brasileira*), which lost the last four presidential elections to the Workers Party. Janaína Paschoal, one of the lawyers who authored the legal report calling for Rousseff's impeachment, admitted that she had been hired by the PSDB to produce legal arguments to justify the impeachment.ⁱⁱⁱ Moreover,

Senator Antonio Anastasia, who was in charge of analyzing both the defense's and the prosecution's evidence, is also one of the senior members of the PSDB. Anastasia is a close ally of Aécio Neves, who lost the 2014 election to Rousseff and has been sponsoring and instigating pro-impeachment manifestations.

Corruption in the Interim Cabinet

As Rousseff prepares for her trial, new allegations of corruption have arisen regarding the interim administration. Brazilian weekly magazine *Veja* revealed on August 7, that interim President Michel Temer had requested 10 million BRL (approximately \$3.15 million USD) in undeclared campaign contributions from Marcelo Odebrecht, president of Brazilian construction company Odebrecht.^{iv} According to Odebrecht, Temer had personally requested his "financial support" over a dinner in the Jaburu Palace, the official residence of the Brazilian vice-president, in May 2014. Between August and September of 2014, Odebrecht funneled the requested amount to Temer's party, the Brazilian Democratic Movement Party (PMDB, *Partido do Movimento Democrático Brasileiro*). Of this total amount, 4 million BRL went to Eliseu Padilha, Temer's Chief of Staff. The other 6 million was destined for Paulo Skaf, president of the Industry Federation of São Paulo State (Fiesp) and a major sponsor of the protests in favor of Rousseff's impeachment.^v In an official notice Temer confirmed the encounter, but said that the financial support was requested "accordingly with the electoral legislation" and that it was properly reported to the Electoral Justice. Padilha, on the other hand, said that he had never received any donations from Odebrecht. Skaf also declared that he had not received any money from the construction company.

Temer's Minister of Foreign Affairs José Serra is also purportedly involved in the alleged scheme. According to Brazilian newspaper *Folha de S.Paulo*, Serra received 23 million BRL (approximately \$7.2 million USD) from Odebrecht's construction company.^{vi} Part of that money was paid in Brazil, and the rest was deposited in undeclared offshore accounts. Members of the Odebrecht board of directors stated that the company had been illegally funding Serra since 2007, but the latter maintains that the money was legitimately funding his campaign.

This is not the first time that members of Temer's cabinet have been involved in corruption schemes. Fabiano Silveira, former Minister of Transparency, Superintendence, and Control, and Romero Jucá, former Planning Minister in Temer's interim government, had to resign after audio was leaked proving that they had been trying to stop the corruption investigations against themselves and their political allies.^{vii} It is also important to note that Temer himself was found guilty of electoral fraud last May, and is unelectable to office for eight years.

According to the Brazilian Constitution, the President cannot be tried for acts from before his or her mandate. Thus, if the impeachment process against Rousseff is ultimately carried out, Temer would become the official president and would thus be shielded of all investigations against him.^{viii} In light of this, Temer and his cabinet have been actively pushing to speed up the impeachment process, calling in political favors in order to convince senators to vote in favor of Rousseff's impeachment.^{ix}

Next steps

In response to the blatant partisanship of the impeachment process, members of Rousseff's allied base have filed an appeal with the Inter-American Commission on Human Rights (IACHR, an organ of the Organization of American States). The document calls for Rousseff's return to the presidency and the suspension of the impeachment proceedings. "Given that what we are experiencing here in Brazil is a coup in which the Brazilian Parliament, the House, the Senate and, unfortunately, the Brazilian Judiciary played an active role, we decided to appeal and seek the aid and institutional support from the OAS' Inter-American Commission on Human Rights," said Workers Party Senator Wadih Damous, one of the authors of the appeal.^x

Rousseff's trial is projected to begin on August 25. During this phase, Rousseff will be tried by the Brazilian Senate, presided over by Justice Ricardo Lewandowski. The prosecution and the defense may appoint up to six witnesses each to be heard by the senators. It is expected that this phase will last five days, after which the senators will cast their final votes—it is necessary that 54 of the 81 senators vote in favor of the impeachment in order to permanently remove Rousseff from office. Although the outcome is still uncertain, there is a high chance that she will be impeached in spite of the lack of evidence.^{xi} Rousseff is now the second Brazilian head of state to face a formal impeachment process since the re-democratization of the country in 1985. As stated by Karl Marx, "history repeats itself, first as tragedy, second as farce." And that is exactly what is now happening in Brazil.

***By Aline Piva,
Research Fellow at the Council on Hemispheric Affairs***

ⁱ "Dilma Rousseff Found Not Guilty of Budgetary Maneuvers." COHA. 2016. Accessed August 08, 2016. <http://www.coha.org/dilma-rousseff-found-not-guilty-of-budgetary-maneuvers/> and "Brazilian Prosecutor Declares Dilma Rousseff Not Guilty of Budgetary Maneuvers." COHA. 2016. Accessed August 08, 2016. <http://www.coha.org/brazilian-prosecutor-declares-dilma-rousseff-not-guilty-of-budgetary-maneuvers/>.

ⁱⁱ Mazui, Guilherme. "Pedido De Impeachment Tem "profundos Vícios", Diz Cardozo Na Câmara." ZH 2014. 2016. Accessed August 10, 2016. <http://zh.clicrbs.com.br/rs/noticias/noticia/2016/04/pedido-de-impeachment-tem-profundos-vicios-diz-cardozo-na-camara-5754014.html#>.

ⁱⁱⁱ "Janaína Paschoal Admite Ter Recebido R\$ 45 Mil Do PSDB Para Elaborar Pedido De Impeachment - Portal Fórum." Portal Frum. 2016. Accessed August 10, 2016. <http://www.revistaforum.com.br/2016/04/29/janaina-paschoal-confessa-ter-recebido-r45-mil-do-psdb-para-elaborar-pedido-de-impeachment/>.

^{iv} Pereira, Daniel. "Odebrecht Cita Temer Em Negociação De Delação Premiada." VEJA.com. Accessed August 08, 2016. <http://veja.abril.com.br/brasil/odebrecht-cita-temer-em-negociacao-de-delacao-premiada/>.

^v Ibid.

^{vi} "Folha De S.Paulo." José Serra Recebeu R\$ 23 Milhões via Caixa Dois, Afirma Odebrecht. Accessed August 08, 2016. <http://www1.folha.uol.com.br/poder/2016/08/1799887-jose-serra-recebeu-r-23-mi-via-caixa-2-afirma-odebrecht.shtml>.

^{vii} "Leaked Audios Reveal Plot to Oust Dilma Rousseff." COHA. 2016. Accessed August 10, 2016. <http://www.coha.org/leaked-audios-reveal-plot-to-oust-dilma-rousseff/>.

*Brazilian Senate Votes to Proceed with the Impeachment Process Despite New Allegations of Corruption
in the Interim Cabinet*

viii "Janot Poderá Pedir Inquérito Contra Temer." *Jornal*. Accessed August 10, 2016.

<http://www.brasil247.com/pt/247/poder/238741/Janot-poderá-pedir-inquérito-contra-Temer.htm>.

ix "Aliados De Temer Abrem Mão De Discursos Para Acelerar Sessão Do Impeachment." *Congresso Em Foco RSS*. Accessed August 10, 2016. <http://congressoemfoco.uol.com.br/noticias/aliados-de-temer-abrem-mao-de-discursos-para-acelerar-sessao-do-impeachment/>.

x "Parlamentares Brasileiros Entram Com Recurso Na OEA Contra Impeachment De Dilma Rousseff." *Opera Mundi*. Accessed August 11, 2016.

http://operamundi.uol.com.br/conteudo/noticias/44912/parlamentares-brasileiros-entram-com-recurso-na-oea-contra-impeachment-de-dilma-rousseff.shtml?utm_source=akna.

xi "Folha De S.Paulo." *Senado Vota E Passa à Fase Final Do Processo De Impeachment De Dilma*.

Accessed August 10, 2016. <http://www1.folha.uol.com.br/poder/2016/08/1801051-senado-torna-dilma-re-e-votacao-indica-aprovacao-do-impeachment.shtml>.