

Brazil's Supreme Court intervenes in Petrobras scandal probe

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Brazil's Supreme Court (Supremo Tribunal Federal—STF) intervened Thursday to take the investigation of the country's ex-president and founder of the Workers Party (Partido dos Trabalhadores—PT) Luiz Inacio Lula da Silva out of the hands of the lower court judge who has directed “Operation Car Wash,” the two-year-old probe into a massive bribes and kickbacks scandal surrounding Petrobras, the state-run energy conglomerate.

Lula, as the ex-president is universally known, has been accused of accepting favors from top contractors with Petrobras, including the construction of a seaside triplex in a beach town near Sao Paulo. He was forcibly detained earlier this month when scores of Federal Police agents raided his home and took him in for an involuntary interrogation.

The Brazilian high court was openly critical of Judge Sérgio Moro, who has presided over the “Car Wash” investigation, bringing charges against nearly 150 politicians and businessmen. Moro, who attended Harvard and participated in a 2007 US State Department “International Visitor Leadership Program,” has been lionized in predominantly upper-middle class demonstrations demanding the impeachment of President Dilma Rousseff and the ouster of the ruling PT.

The STF judges, however, voted 8-2 to take Lula's case away from Moro, finding that he had violated the law with the release to the media earlier this month of the contents of a secret wiretap that recorded a discussion between Rousseff and Lula. The conversation was widely interpreted as an offer by Rousseff of a cabinet appointment to Lula to protect him from prosecution. The post would have granted him greater latitude for his defense and also moved his case from Moro's hands to those of the Supreme Court.

The high court has yet to rule on an injunction barring the appointment.

The Supreme Court found that once Moro learned that he had recorded Brazil's president, “even if fortuitously,” his obligation was to turn the matter over to the STF. It further found that the release of the wiretap to the media was illegal. The legality of the evidence itself is called into question by the fact that the recording was made after the warrant authorizing the tap had expired.

Brazil's attorney general intervened in the case as well, charging that Moro's wiretapping of the president was a violation of “national security.”

In a thinly veiled threat, the high court decision warned that Moro's “well-intentioned but probable excesses in duty” could jeopardize the validity of the investigation. It recalled that other probes had been called off because of abuses of authority.

There is little doubt that the high court's decision has more to do with political practicalities than constitutional principle.

The ruling came down on the same day that rallies were held in the capital of Brasilia as well as 16 other cities denouncing the ongoing drive to impeach President Rousseff and warning that the extra-constitutional methods being employed by Moro and the Brazilian Congress posed the threat of an anti-democratic “coup.”

While Rousseff's popularity rating has fallen into the single digits, disquiet over the wiretap episode and the attempt to impeach her without any probative evidence of criminal responsibility has begun to grow. By intervening, the high court may be attempting to assuage such sentiments.

The sole charge now being considered in impeachment hearings is that the president manipulated

budget accounts to mask a growing deficit in the run-up to the 2014 election. Rousseff insists that there is nothing criminal about such budgetary measures, which she says have been employed by previous presidents.

At the same time, the court's warning that the investigation could be terminated for abuses of power could provide a means of aborting an investigation that threatens to bring down not only Rousseff and the PT, but virtually every major party and politician, including the top three officials in the line of succession if the president is impeached.

The terminal crisis of the entire bourgeois political setup in Brazil was acknowledged directly by one of the Supreme Court's justices, who was recorded without his knowledge while speaking Thursday to a group of university students.

Justice Luis Roberto Barroso's apparently informal remarks pointed to the glaring political dilemma posed by the drive to impeachment: the fact that all the political actors involved in it are more directly implicated in crimes than the president herself.

"Politics are dead," Barroso says in the recording, which was first aired by the Globo television network. "We have a political system that doesn't have a minimum of democratic legitimacy."

"I'd say the problem with politics at this moment is the lack of an alternative," he added. "There is nowhere to run. ...This is a disaster."

He directly referred to Brazil's largest party, the PMDB (Brazilian Democratic Movement Party), which on Tuesday voted to leave the government, making impeachment more probable. If Rousseff is impeached, Michel Temer, her vice president and a PMDB member, would take charge.

"When the newspaper yesterday reported that the PMDB had left the government and showed [a photo of] the people who raised their hands, I looked and said, 'My God in heaven! This is our alternative power,' " said the justice. "I'm not going to name names, but those who saw the photo know what I am talking about."

After discovering that his remarks had been taped, Barroso asked for them to be erased, but it was too late to prevent their disclosure.

The intersection of the spiraling political crisis and Brazil's sharp economic downturn, with a 3.8 percent contraction last year and official unemployment rising

to 9.5 percent, found expression in a pair of developments Friday.

Petrobras, reeling from the fall in oil prices and the impact of the kickbacks scandal, announced that it will seek to eliminate 12,000 jobs and slash its five-year investment plan by \$80 billion.

Meanwhile, the Brazilian construction giant Odebrecht SA, a major Petrobras contractor, revealed plans to sell off \$3.4 billion worth of assets to confront mounting debts.

The company's billionaire ex-CEO, Marcelo Odebrecht, was convicted of paying out tens of millions of dollars in bribes and sentenced to 19 years in prison. Records found in a search of a company executive's office showed payments by the Odebrecht to 316 politicians from 24 different parties during the 2012 municipal election campaigns and the 2014 national elections.

The lower house of the Brazilian Congress is likely to vote on impeachment this month. Should two-thirds of its members vote to impeach, Rousseff would be removed from office for 180 days while the Senate deliberates whether to approve impeachment, taking a final decision in October.



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