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## FEATURED Q&A

# How Well Is Brazil's Government Fighting Graft?



Brazil's supreme court has recently overturned convictions in prominent corruption cases. // File Photo: Everton137 via Creative Commons.

**Q** In cases related to Brazil's sprawling "Car Wash" corruption probe, the country's supreme court in May overturned convictions against left-wing politician José Dirceu. One of the court's justices, Dias Toffoli, also annulled rulings against industrialist Marcelo Odebrecht. People targeted in the investigation, which began a decade ago, have accused authorities of improprieties, while critics of decisions to overturn convictions say the moves are returning the country to impunity. What is behind recent orders to overturn Car Wash convictions? How strongly is the government of President Luiz Inácio Lula da Silva, who himself was convicted of corruption in 2017 and spent more than a year in jail, fighting graft? To what extent do the recent quashing of Car Wash convictions create a permissible environment for corruption, as critics have said?

**A** Alfredo Attié, justice at the Supreme Court of São Paulo: "During its first and long spell in power, the Workers' Party was responsible for significant changes in Brazilian law, which enabled the autonomy of public administration control institutions to put an end to the way in which traditional elites appropriated and exercised power. However, as mechanisms of control of these autonomous institutions were absent, the controversial effectiveness of their actions led to disfiguring the rule of law and undermining democratic principles. A difficult period followed, not only for President Lula da Silva, in his personal ordeal, but it was equally traumatizing for society, which faced an attempted anti-democratic coup. It was also difficult for the judiciary, which is now trying to redeem itself for the mistakes that were

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## TODAY'S NEWS

### POLITICAL

## At Least Six Killed as Hurricane Beryl Tears Through Caribbean

At least six people have been killed as Hurricane Beryl raked the southeastern Caribbean. The powerful Category 4 storm is expected to hit Jamaica today.

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## CVR Energy Submits Bid in Citgo Auction

U.S.-based oil refiner CVR Energy, which is controlled by billionaire Carl Icahn, has reportedly submitted a binding offer for shares of Venezuela-owned Citgo Petroleum.

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## Europe's Energy Chief Visiting Chile, Argentina

The European Commission's commissioner for energy, Kadri Simson, is visiting Chile and Argentina this week in order to strengthen cooperation on energy issues.

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Simson // File Photo: European Commission.

## POLITICAL NEWS

## At Least Six Killed as Hurricane Tears Through Caribbean

At least six people have been killed as Hurricane Beryl, a powerful Category 4 storm, tore through the southeastern Caribbean and is taking aim today at Jamaica, the Associated Press reported. Three people were killed on the islands of Grenada and Carriacou, and one other person was killed in St. Vincent and the Grenadines. Two other people were killed in northern Venezuela, where five people remain missing, the AP reported. The islands of Carriacou and Petite Martinique sustained heavy damage, with scores of homes and businesses destroyed in Carriacou, according to Kerryne James, Grenada's environment minister, the AP reported. Grenada's prime minister, Dickon Mitchell, reported power outages and impassable roads and said a rising death toll "remains a grim reality," the AP reported. The prime minister of St. Vincent and the Grenadines, Ralph Gonsalves, vowed to rebuild. He said 90 percent of the homes on the country's Union Island were destroyed and added that he expected "similar levels of devastation" on the islands of Myreau and Canouan, the AP reported. As of 8 a.m. Eastern Time today, the storm was located about 125 miles southeast of Jamaica's capital, Kingston, and was moving west-northwest at 20 miles an hour, according to an advisory from the U.S. National Hurricane Center. The advisory said the storm has maximum sustained winds of 145 miles an hour. Beryl is expected to "bring hurricane conditions to Jamaica by midday today with life-threatening winds and storm surge," the advisory said. It added that the hurricane is expected to approach the Cayman Islands tonight and

### SUBSCRIBER NOTICE

The Latin America Advisor will not be published on Thursday, July 4 in observance of the Independence Day holiday in the United States. We will resume publishing on Friday, July 5.

into Thursday. A hurricane warning is in effect for Jamaica, Grand Cayman, Little Cayman and Cayman Brac, the advisory said.

## BUSINESS NEWS

## Icahn's CVR Energy Submits Bid in Citgo Share Auction

CVR Energy, an oil refiner that is controlled by billionaire Carl Icahn, has submitted a binding offer for shares of Venezuela-owned Citgo Petroleum, Reuters reported Tuesday, citing three people with knowledge of the matter. CVR, which is headquartered in Sugar Land, Tex., operates two refineries in the United States, one with a capacity of 115,000 barrels per day in Coffeyville, Kan., and the 75,000-barrel-per day Wynnewood refinery in Oklahoma, the wire service reported. CVR's refineries would complement Citgo's refineries in Louisiana, Texas and Illinois, according to a person familiar with the bid, Reuters reported. Icahn controls approximately 66 percent of the shares of CVR. A court in Delaware is auctioning the shares in Citgo in order to pay creditors who have claims amounting to \$21.3 billion against Venezuela in connection with appropriations and defaults, the wire service reported. The court has accepted bids not only from CVR but also from trading company Vitol and others, Reuters reported. Elliott Investment Management is also considering a bid, and a group of creditors represented by Centerview Partners wants to convince ConocoPhillips to be part of another offer, people familiar with the matter told Reuters. CVR is seeking to raise financing for the bid and is working with Wells Fargo, the wire service reported. Icahn Enterprises is supporting CVR in the offer. A court officer's representative said Tuesday that the second bidding round for Citgo shares was "successful" and that several competitive bids were received. The court's special master is expected to announce the winning bid to the involved parties on around July 31, Reuters reported. U.S. District Judge Leonard Stark, who

## NEWS BRIEFS

## Two Russian Ships Dock in Venezuela After Visiting Cuba

Two Russian naval ships docked on Tuesday in Venezuela's port of La Guaira, the Associated Press reported. The visit of the ships, intended to show the close relationship between Moscow and Caracas, earlier performed exercises in other parts in the Atlantic, including an initial stopover in Cuba. The frigate and oil tanker are part of Russia's Northern Fleet. [Editor's note: See related [Q&A](#) in Tuesday's Advisor.]

## Brazil Puts Meta's New Privacy Policy on Hold

Brazil's National Data Protection Authority (ANPD) on Tuesday suspended, with immediate effect, Meta's recently launched privacy policy that utilizes personal data to train generative artificial intelligence systems, Reuters reported. Brazil's official gazette published ANPD's preventative measure, which also sets a daily fine of 50,000 reais (\$8,837) in the event of non-compliance. The measure puts on hold the processing of personal data across all Meta products. That includes the data of individuals who are not users of the company's platforms.

## Former Chairman of Peru's Credicorp to Testify in Keiko Fujimori Trial

Dionisio Romero Paoletti, a former chairman of Peru's largest bank, Credicorp, will testify in the trial of former lawmaker and three-time presidential candidate Keiko Fujimori, a prosecutor said Tuesday, Bloomberg News reported. Fujimori stands accused of the laundering of contributions from Credicorp and other large companies to finance her campaigns for president in 2011 and 2016. The case against Fujimori, the daughter of disgraced former President Alberto Fujimori, is expected to last years. She has denied wrongdoing.

is overseeing the case, on Tuesday approved a motion to delay the final hearing in the case to Sept. 19. The special master, Robert Pincus, had requested the postponement, Bloomberg News reported. Venezuelan President Nicolás Maduro has threatened legal action against any company that acquires shares of Citgo, the news service reported. The South American country's opposition has been lobbying the administration of U.S. President Joe Biden to delay the auction until after Venezuela's presidential election on July 28.

## ECONOMIC NEWS

# Europe's Energy Chief Visiting Chile, Argentina

The European Commission's commissioner for energy, Kadri Simson, is visiting Chile and Argentina this week in order to strengthen cooperation on energy, particularly renewables and hydrogen, the European Commission said Monday in a statement. In Chile, Simson met Tuesday with Energy Minister Diego Pardow and José Miguel Benavente, the executive vice president of the Chilean Economic Development Agency. She also met with the executive secretary of the Economic Commission for Latin America and the Caribbean, José Manuel Salázar-Xirinachs. While visiting Chile, Simson is also visiting local energy projects, including the Smart Energy Monitoring Initiative for public buildings, which has funding from the Euroclima program, the European Commission said. She is also visiting an E.U.-funded project that involves the use of solar panels for energy consumption at a winery. In Buenos Aires, Simson will serve as co-chair of the E.U.-Argentina High-Level Energy Dialogue, which will also be co-chaired by Energy Minister Eduardo Rodríguez Chirillo, the European Commission said. She also plans to meet with Argentine Finance Minister Luis Caputo, Foreign Affairs Minister Diana Mondino and is to visit the Sustenta-Vitis sustainability project, the European Commission added.

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committed. The recent decisions that overturned Car Wash convictions and rescued companies previously involved in acts of corruption must be interpreted in the light of that context. Meanwhile, the political agenda has changed from corruption to public safety, and fighting graft became more cautious, granting fewer electoral gains. If the lessons arising from the excesses or illegalities of the previous experience are well understood, society should strengthen the mechanisms of control of judicial institutions, enabling judicial decisions to achieve greater reliability. It does not mean a setback in the implementation of constitutional values. However, it is also necessary to invest more in the education of lawyers. Above all, it is necessary to emphasize the teachings of the connection of democracy to the rule of law in law schools."

**A Patrick Duddy, senior advisor for global affairs at Duke University, former U.S. ambassador to Venezuela and former U.S.**

**consul general in São Paulo:** "Recent court decisions in Brazil overturning earlier Operação Lava Jato (Car Wash) convictions of former minister José Dirceu and industrialist Marcelo Odebrecht are unlikely to change public perceptions in Brazil. If anything, these reversals seem likely to exacerbate the deep divisions that already exist. There are several reasons. First, many Workers' Party (PT) faithful still believe the Lava Jato prosecutions were primarily an attack on the PT. Dirceu, in particular, is an emblematic figure for both the left and the right in Brazil. Overturning his conviction, as well as that of Odebrecht, is therefore seen as validating the view of many PT supporters that the Lava Jato was as much a political campaign as an effort to combat corruption. The reversals in these two cases were not based on new evidence or even a new understanding of the facts on which the original convictions were based. Rather, they were based on procedural questions. In essence, the

judges threw out the convictions for investigative misconduct, prosecutorial errors and inappropriate sentencing—which is not the same thing as exonerating those previously convicted. Predictably and unsurprisingly, critics of President Lula and the PT have reacted with indignation. For them, the court's actions seem undeniably political and aligned with the PT's interests. Although no evidence has emerged of executive branch pressure on the justices, much less of collusion, critics nevertheless see in these decisions evidence of the PT's dangerous willingness to delegitimize prior corruption investigations of the party and whitewash the consequences of earlier scandals. The overturning of these convictions—along with earlier decisions invalidating evidence and canceling and/or reducing fine—has tarnished the reputation of Operação Lava Jato as an exemplary, courageous and overdue campaign against Brazilian corruption. For critics of the current administration in Brasília, it has also undermined confidence in the impartiality of the court. Reactions to date have been largely along partisan lines, and it remains to be seen whether the voting public will hold the PT to account in future elections."

**A Cecília Godoy, analyst at FrontierView:** "While Toffoli's recent decisions to overturn the conviction against José Dirceu and annul the rulings against Marcelo Odebrecht represent another—and perhaps final—nail in the coffin of Operation Car Wash, the dismantling of anti-corruption efforts has been a longstanding and bipartisan issue in Brazil. In 2017, then-President Michel Temer pardoned nonviolent corruption offenders who had served only one-fifth of their sentences. In 2021, his successor, Jair Bolsonaro, disbanded the Car Wash task force entirely, claiming that corruption had been eradicated across his government. Therefore, Toffoli's recent rulings indicate that the capriciousness and backtracking

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of anti-corruption efforts will likely not see any significant improvement during President Lula's third term. While President Lula aims to launch a more comprehensive anti-corruption plan later this year, the ability of his administration to address potential corruption allegations remains precarious, especially as Brazil looks to revamp several state-led industrialization programs—such as the Growth Acceleration Program—whose legacy became associated with funneling money to state-owned enterprises later compromised in corruption schemes. However, the key difference perhaps lies in the public's perception of the role and ability of Brazil's Supreme Court to issue decisions on the matter. At a time when the Supreme Court's integrity has already been significantly tarnished by continued attacks from the country's far-right bloc, Toffoli's unilateral rulings—he remains one of President Lula's Supreme Court appointees from 2009—cast further doubt on the credibility of the judiciary to exercise due process in efforts to stifle corruption."

**A** **Joel Korn, president of WKI Brasil and senior international partner at UPITE Consulting Services:** "Recent developments and ongoing actions to review legal decisions in connection with the unprecedented 'Car Wash' investigation on corruption practices, which entailed over 1,400 arrest warrants and more than 500 indictments, have been politically driven by challenging

the impartiality of the legal process and integrity of the prosecution. This is being accomplished through a concerted plan to dismantle the results achieved within the judiciary, through controversial technicalities that might not have been followed in the course of the legal proceedings, thus paving the way for nullifying proven evidence of fraudulent actions and money laundering, and ultimately leading to the overturning of convictions through monocratic decisions at the supreme court. Moreover, previous agreements involving legal monetary settlements are under revision and disciplinary actions are being carried out by the Superior Court of Justice against prosecutors and judges involved in 'Car Wash' cases. Even though the recent decisions have been far from consensual within the Brazilian judiciary, the virtual dismantling of such robust and globally visible investigations with cross-border implications involving even heads of state in neighboring countries, signals a blow to the confidence level of anti-corruption measures. In turn, to counteract this negative perception and its effects on the country's domestic and international image, it is incumbent that the administration enforce actions for effective implementation of ethical values and standards, along with strict disciplinary measures to hinder corruptive practices."

*The Advisor welcomes comments on its Q&A section. Readers can write editor Gene Kuleta.*

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