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Lula's Conviction Is a Win for Brazil

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Brazil's stock market surged in January after an appellate court upheld the bribery conviction of former President Luiz Inácio Lula da Silva. Investor euphoria pushed the benchmark Ibovespa index to a record close, finishing up 5.3% for the week ending Jan. 26.

The market celebrated because the ruling increases the odds that Mr. da Silva won't be a candidate in the presidential election slated for Oct. 7—and thus won't return to the presidential palace with his pernicious left-wing populism.

But there's another, more profound reason the decision is good news for Brazil: It is a signal that the judiciary is becoming more independent and that the rule of law is maturing. This is a far bigger development for the economy than any deep-water oil discovery or bumper crop in soybeans.

The corruption inquiry that brought Lula down is known as Operation Car Wash. It began when federal police launched an investigation into money laundering at a gas station in Brasília in 2009. Following that thread, prosecutors unraveled a complex web of bribes paid by construction companies to Petrobras executives—appointed and protected by Mr. da Silva—in exchange for contracts. Kickbacks also went to politicians and to Mr. da Silva's Workers' Party (known by its Portuguese initials PT). It is hardly surprising that the party's top honcho got in on the action.

Mr. da Silva's handpicked successor as president, Dilma Rousseff, took office in January 2011 and was impeached in 2016. Had prosecutors been under the thumb of the executive, as the judiciary had been for decades, it is unlikely that they would have followed the trail of evidence. Dozens of politicians from across the political spectrum have been convicted as a result of Operation Car Wash.

Yet the same ideological spinmasters who cheered the destruction of Venezuela under Hugo Chávez now defend Lula with bogus claims that his conviction is purely political. A January op-ed in the New York Times stated, for example, that it was the plea-bargain testimony of a single individual that put Lula away.

That is patently false. Under Brazilian law, testimony given as part of a plea bargain is not enough to convict a defendant. It has to be corroborated by hard evidence. Nevertheless, it is understandable that Lula and his fellow travelers are steamed about plea bargaining. Without it, the socialist demagogue might have skated right past the scandal.

Brazilian lawyer Geanluca Lorenzon explained the role plea bargaining plays in Brazil's 2013 law targeting organized crime in a November 2017 Cato Institute [paper](#), "Corruption and the Rule of Law: How Brazil Strengthened Its Legal System." A key point is that "witness accounts are not sufficient for a conviction." Furthermore, because plea bargaining requires proof, "there are incentives not only to be truthful at trial, but also to effectively collaborate during the investigation phase, when evidence is gathered and presented before a judge."

Since Brazil approved the 1988 constitution, reformers have worked to strengthen judicial independence and improve the quality of judges and prosecutors. But as Mr. Lorenzon noted, the plea bargain leading to corroborating evidence via collaboration with witnesses "is the biggest [change] in the system, and it made Operation Car Wash possible."

In Lula's case, witness testimony led prosecutors to a remodeled penthouse apartment on the beach in the city of Guarujá, in São Paulo state. They asserted in court that the construction firm OAS, which owned the building, had promised the apartment to Mr. da Silva and his wife as a kickback. They presented testimony from numerous people familiar with the project. They also presented an agreement with OAS, seized at Lula's home in the city of São Bernardo do Campo, indicating that he was to become the owner of the property once a renovation was complete.

The most damning evidence was electronic messages between OAS executives who conspired to pay the bribes. These communications indicate that the value of the apartment was to be deducted from the total of bribes owed to the PT.

Mr. da Silva faces at least four other corruption charges. Still, he insists he was never the owner of the apartment and that despite his conviction, which bars him from running for office, he will apply to the electoral tribunal to be a presidential candidate. The left will claim it is antidemocratic to refuse him.

Last week the Supreme Court denied Lula's request for an injunction to keep him out of jail during the appeal process. This doesn't mean that the court, under pressure, cannot allow his candidacy, but it lowers the likelihood of its doing so.

The rule of law in Brazil still needs a lot of work. But if the high court adheres to the facts in this case, it will signal a new standard in judicial professionalism and independence that should not be overlooked.