

BOOK REVIEW

The Fight against Corruption in Brazil: more than Politicians on Trial

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(Da Ros, Luciano and Taylor, Matthew M. *Brazilian Politics on Trial: Corruption Reform under Democracy*. Boulder: Lynne Rienner Publishers, 2022)

The crisis of liberal democracies is perhaps the main topic in political science in this century. Its relevance goes beyond the boundaries of academia, as attested by the number of books on authoritarianism and democratic backsliding making their way onto bestseller lists. Brazil can undoubtedly be included as a case study representative of this process in which democratic institutions are being eroded. And any analysis of this topic for the Brazilian case should involve an effort to analytically understand the role played by the major nationwide operation named 'Lava Jato' in controlling corruption at the country's high ranks – to then make progress in establishing an appreciated dialogue between two bodies of literature: accountability and judicial politics. The book 'Brazilian Politics on Trial', by Luciano da Ros and Matthew Taylor (2022), takes an important step in this direction mainly because, although the book is centered on the accountability literature, it makes the theme of corruption more complex by bringing politics into the analysis, the politics around anti-corruption policies and the activities of accountability institutions, whose effects have repercussions on politics and the workings of democracy.

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Structured in seven chapters and filled with data, the book has a dense and well-systematized narrative that connects the history of the construction of anti-corruption institutions in the country since redemocratization with some core characteristics of the main corruption scandals involving the high ranks of the federal level, with two chapters dedicated to the rise and fall of the 'Lava Jato' operation. Although some of the effects and results of this large-scale criminal case are still unfolding, the book's timing allows for a more general assessment. The authors present a robust evaluation, and, more importantly, they do so with the monophony expected in a coauthorship that offers the reader a comprehensive perspective of the period and events analyzed, different from the fragmented view offered by collective authorships in the various collections of articles that have already been published about 'Lava Jato'.

The book stands on three pillars. The first proposes an explanation for the pattern of grand corruption in Brazil based on the analysis of the accusations made in four major criminal cases. The second pillar develops a heuristic model for evaluating the patterns of accountability over time. The third involves a comparative analysis of the Brazilian case, an assessment that allows the authors to contest the global anti-corruption recipe, which prescribes that efforts should be focused on recommended policy designs to combat corruption. Such blueprints do not take into account the fact that political context affects the viability of these policies in the long term. The last two pillars are the highlights of the book, so this review addresses them first.

The pillar dedicated to developing the heuristic model for evaluating accountability is intertwined with a description and analysis of the historical process in which Brazilian anti-corruption institutions were built, first incrementally, between 1985 to 2014, then at a rapid pace with the 'Lava Jato' investigation – a judicial big push (2014-2016), and finally followed by what is described in the book as a period of reaction from the political system (2016-2021). The authors claim that accountability results from rules and behaviors in six different domains, which are used separately in a heuristic model for assessing accountability over time. This model is expressed by an equation that splits into six component elements: three are core components for producing accountability (transparency, oversight, and sanction), two are components with a moderating role

(capacity and civic engagement), and, finally, one last component that tempers this result (economic and political dominance). The equation is expressed in a formula that is the result of the simple product of the two sets of variables: $[(T + O + S) * (C + E - D)]$. Each component of the heuristic model is measured on a four-level scale, ranging from very weak (01) to strong (04); however, there is a lack of conceptual accuracy when categorizing the last three components as capable of moderating or tempering accountability or when determining objective criteria for quantifying all six components.

The core components are well-known in the accountability literature: transparency, which includes not only the availability of information of public interest but also its traceability and intelligibility; oversight, which covers monitoring and investigation, carried out through routine follow-up mechanisms in public administration (police patrols) and mechanisms activated in situations that are atypical and with apparent irregularities (fire alarms); and sanctioning, which is divided into the reputational, political, administrative, civil, and criminal dimensions – the latter being the main focus of the book. The three components of the second part of the equation help create a more accurate mapping of accountability standards, as they incorporate three aspects into this evaluation: the level of capacity of accountability institutions; the degree of engagement or salience of the issue in parts of civil society; and the negative impact generated by dominance, which derives from the degree of concentration of political power and economic influence.

At the end of a long chapter in which the heuristic model is applied to evaluate the patterns of accountability at the federal level since 1985, the reader finds a table with well-systematized information and analyses. It includes the representative scandals and accountability responses for each of the five periods, circumscribed by a significant change in the evaluation of one or more components of the heuristic equation.

It does not go unnoticed by the reader that the book emphasizes and presupposes that it is particularly important to sanction politicians criminally to prevent corruption. Such emphasis and assumption are attested not only by the fact that the empirical data mostly refer to criminal cases at the federal level, but also by the choice made regarding the main theoretical references on the

general preventive effects of the prison sentence: ancient works such as those of Cesare Beccaria (1764) and Jeremy Bentham (1843) (DA ROS and TAYLOR, 2022, p. 49). There is no mention of specific and recent empirical research on the expected effects of criminal sanctions on the prevention of corruption in Brazil, such as that of Oliveira and Cunha (2017).

In addition to contributing analytically to the development and application of the heuristic model for evaluating accountability in the Brazilian case, the book describes and situates the ‘Lava Jato’ operation in its relationship with politics, allowing for a dialogue between the bodies of literature on accountability and judicial politics.

This approach is used in two dimensions: national and comparative. The first describes and discusses the advances (and rollback) in accountability before ‘Lava Jato’ (1985-2014), during the big push or big bang that characterized the early years of this operation (2014-2016), and during the period in which the political system reacted (2016-2021), which is still ongoing. In line with other accountability scholars in Brazil, Da Ros and Taylor (2022) point to a process of incremental advances in the pre-‘Lava Jato’ period. They show that advances were made mainly regarding the dimensions of transparency (T) and capacity (C) and, to a lesser extent, oversight (O) and engagement (E); the main bottlenecks identified were criminal sanctioning (S) and dominance (D), its background.

The authors present a national-dimension approach that is also consistent with diagnoses pointing out that the outcomes of ‘Lava Jato’ – including its subsequent partial reversion due to the reaction of the political system – are at least partly explained by the political voluntarism of operators of the criminal justice system linked to the operation, which is referred to in the book by the concept of judicial policy entrepreneurship. Da Ros and Taylor (2022) competently include the Brazilian scholarly work that is in line with these diagnoses regarding the period before and during the ‘Lava Jato’, and so three important contributions of the book may be highlighted. First, it organizes and systematizes studies focusing on some of the different dimensions of accountability. Secondly, it publicizes these studies to readers in other parts of the world. Finally, it presents a comprehensive diagnosis of this historical process, including the authors’ initial steps in analyzing the post-‘Lava Jato’ period.

The pragmatic concern with identifying the most effective strategies for achieving accountability takes shape in the book's third pillar, the comparative dimension. The book offers a well-organized, albeit brief, map of the successful and failed attempts to shift from a vicious to a virtuous equilibrium in what concerns corruption. Addressing the Brazilian case from a comparative perspective, the authors suggest that country size – its territory or population – matters when designing policies aimed at reducing corruption. The argument is that country size makes collective action more difficult. Large and more populous countries are often associated with institutional designs that foresee many veto players, with great internal heterogeneity. There are also few incentives for collective action among political elites since these elites do not feel particularly vulnerable to exogenous shocks.

These factors related to country or population size indicate that the recipe for success, toward a virtuous cycle, in large democracies such as Brazil, has much more to do with incrementalism than with a shock or big push strategy such as 'Lava Jato', as argued in the book. Although it is still early to draw conclusions about how 'Lava Jato' – and the reaction it triggered among the political class – affected accountability in the country, the authors raise a pessimistic prospect, suggesting that corruption patterns and its oversight could face a regression to levels prior to the launch of this operation.

Finally, the last component of the accountability equation they propose – dominance – is directly associated with the explanatory pillar that runs throughout the book, which refers to the causes for the pattern of high-level corruption revealed in some scandals in recent decades.

The authors argue that Brazil suffers from a syndrome of corruption characterized by the presence of networks connecting political and economic elites in privileged relations, from which cartels are formed and then protected through corruption. Drawing on Michael Johnston's concept of elite cartel, the book offers the reader an argument explaining the roots of corruption in the country. Such argument is central to their work and runs through the entire book, but it is perhaps its riskiest and most contestable analytical formulation, and, for this reason, we critically assess it in this final part of the review.

It is argued that this pattern of corruption, the elite cartel type, stems from incentives created by a perilous combination of three elements. First, a coalitional presidentialism with a fragmented party system, which presents a challenge to minority presidents trying to build stable majorities, when parties that are organized in cartels seek access to resources vital to their survival by occupying positions in state-owned companies and the federal bureaucracy.

Secondly, a large developmental state intertwined with large oligopolistic companies in a setting where there are strong ties between the state and the market. And, finally, an opaque campaign financing system, which is poorly regulated and concentrated in wealthy individuals and large companies with close ties to the government (corporate campaign contributions were prohibited as of 2015). Four criminal cases of grand corruption scandals are analyzed. According to the authors, all cases have common features that indicate elite cartel formation and the above-mentioned perilous combination, as they all revealed links between state-owned companies, political elites, money laundering operators, and the private sector. Also, all cases show how difficult it is to impose sanctions on the investigated/accused.

The authors acknowledge that other factors might explain why criminal punishment is absent or difficult to achieve in these cases, which include only corruption involving high-ranking officials. However, they do not offer a general picture of the universe of criminal cases that could be analyzed, so the reader is left wondering whether the four cases were selected because they confirm the proposed explanation. The most contestable element of their theoretical argument, however, is the inclusion of the developmental state as a necessary element of the perilous combination they claim to be at the root of the syndrome of corruption. That is because, despite the remarkable comparative research done, no counterfactual analysis is offered to examine whether there are cases of failure in preventing and punishing corruption among high-ranking officials in countries with neoliberal economies and coalitional presidentialism. It is also troubling that there are no considerations about the fact that one developmental state is on the list of successful cases in controlling corruption (DA ROS and TAYLOR, 2022, p. 06), as seems to be the case of Botswana (MBABAZI and TAYLOR, 2005; MEYNS, 2010). Despite being a country under a parliamentary regime, the case would require a more in-depth approach, mainly to clarify how the alleged success in controlling

corruption was achieved in the face of the coalitions necessary to establish governability.

Including the developmental state as an element of the perilous combination developed in the book is not trivial when discussed in the accountability literature. This body of literature generally has strong normative assumptions and a primary focus on anti-corruption policies and programs, given the international consensus built on the subject in recent decades. According to Kratev (2004), this consensus has been replicated in academia many times without critical reflection because of the moral appeal of the topic. It emerged as the result of a coalition of relevant international players who have their own underlying interests in disseminating anti-corruption campaigns. Certain players stand out, such as the United States government, which seeks to promote its commercial interests, as well as international financial institutions, who are engaged in mobilizing support for their policies, and multinational companies, for which anti-corruption campaigns are opportunities to reduce protectionism in emerging markets (KRATEV, 2004).

Few critical reflections on this background of international geopolitics were made in the accountability literature in Brazil, which has made little progress in identifying economic and political interests that might be concealed behind the frame of anti-corruption policies, an agenda that is very appealing to public opinion. In the Brazilian case, this not-very-reflective body of literature – which also has not paid much attention to the corporate interests of officials in the accountability agencies – somehow provided an intellectual repertoire used to legitimize the judicial crusade undertaken by the actors involved with the ‘Lava Jato’ operation, often reproducing unrestrictedly these actors’ discourse. The work of Da Ros and Taylor (2022) shows that the big push promoted by the Brazilian criminal justice system apparently did not bring positive results to Brazilian accountability, much less to democracy, as it destabilized the political system, delegitimized political activities, and helped pave the way for the rise of an authoritarian leader.

The fact that there are international actors whose political and economic interests are affected by the greater or lesser extent of a given developmental state recommends that analyses on this topic be solidly supported by empirical research, and, more than that, that they establish a dialogue with scholars in other fields so

that other desirable policies that might find more fertile ground in a more developmental state configuration are not ignored.

Other points can be made about normative and methodological issues and the inaccuracy of some data presented in the book. The authors say that the criminal cases that are moved to another judicial body due to a change in politicians' status essentially start over (DA ROS and TAYLOR, 2022, p. 69), when in fact they continue from where they left off. It is the case, for example, of politicians with original jurisdiction – when they can only be prosecuted before the Federal Supreme Court or another special court – who lose their mandate and have their case moved to first-instance courts, where all previous judicial acts are considered. Since these criminal cases are not mapped by the literature, the conclusions about the results and causes of these processes are undermined; it could be that they are not related to the political dominance so highlighted in the book. The authors place much confidence in the operators of the justice system, since they did not test the hypothesis that the alleged impunity partly results from a malfunctioning bureaucracy. In several excerpts of the book, the reader sense the assumption that these operators act based on noble goals, a display of bias in favor of their perspective – for example, using allegedly criminal facts investigated by the 'Castelo de Areia' task force as a subsidy to develop an argument about the roots of grand corruption in the country (DA ROS and TAYLOR, 2022, p. 36). This case did not even lead to a conviction in a first-instance court and, contrary to what the authors' claim, the decision that declared the nullity of the procedure left open the possibility of using the evidence that was not nullified to continue the investigations (BRASIL, 2011). Not to mention that there is no evidence that the judge in charge of the case was punished for voluntarily applying to a position in the Court of Appeal and taking part in a panel of judges (turma) dealing with pension-related cases since this was based exclusively on seniority criteria (DA ROS and TAYLOR, pp. 38-39). It is also worth mentioning that the authors do not refer to non-cooperative jurisdictions (tax havens) when discussing the roots of corruption, which is especially surprising since the main grand corruption criminal cases described in the book involve some accusation of concealment of illicit resources abroad.

These, however, are isolated or minor issues that do not undermine the authors' arguments, nor do they negate the book's relevant analytical contribution

to the accountability literature, the great step it took in establishing a dialogue between this body of literature and that of judicial politics, and the detailed analysis of the intriguing Brazilian case presented to foreign readers.

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