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## **Mapping Corruption & its Institutional Determinants in Brazil**

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**Abstract**

This paper provides an overview of the status, sources, and forms of corruption in Brazil. While the country outperforms many of its regional and developmental peers on various corruption-related indicators, corruption continues to plague many areas of public life, most notably in regional and state governments, political parties, parliament, and public procurement at all levels of government. After analysing what various metrics reveal about the character and level of corruption in Brazil, we examine how specific scandals have impacted anti-corruption initiatives in the country. We conclude with an overview of the various institutions oriented towards fighting corruption in Brazil, highlighting how systemic failures and deficiencies undermine the performance of accountability mechanisms, particularly at the punishment level.

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## **Introduction**

Cross-national studies consistently confirm the robust negative correlation between economic growth and corruption (Aidt, 2011; Mo, 2001; Swaleheen, 2011). While the causal direction of the relationship has been a source of considerable debate (Aidt, 2009; Rose-Ackerman, 2006; Treisman, 2007, 2000), numerous studies have found that corruption lowers private investment (Mauro, 1995; Zurawicki and Habib, 2010; Wei, 2000); discourages inward foreign direct investment (Habib and Zurawicki, 2002; Wei, 2000); pushes businesses out of the formal sector, thus reducing government tax revenues (Friedman, et al., 2000; Johnson, et al., 2000); and misallocates talent away from innovative activities to rent-seeking (Acemoglu and Verdier, 1998; Aidt, 2009). By creating incentives for officials to direct government spending away from productive investments (e.g., education) towards activities that can be more easily manipulated to secure illicit rents (e.g., military, infrastructure spending), corruption may distort public resource allocation (Gupta, de Mello, and Sharan, 2001; Mauro, 1998; Shleifer & Vishny, 1993). Corruption can also reduce the effectiveness of government expenditures, undermining policy outcomes in social sectors such as health and education (Baldacci, Hillman, & Kojo, 2004; Tanzi and Davoodi, 1997; Silva, Garcia, and Bandeira, 2001). In addition, corruption has significant negative impacts on measures of social and economic inequality within countries (Gupta, Davoodi, and Alonso-Terme, 2002; Li, Xu, and Zou, 2000).

Politically, corruption may foster incentives for officials to promulgate or perpetuate inefficient regulations conducive to rent-seeking and rent-securing (Aidt, 2009; Tanzi, 1998). Corruption that infiltrates the mechanisms of justice (the police, prosecutorial officials, judiciary, correctional institutions, or the legal profession) may undermine another critical governance institution – the rule of law (Sarsfield, 2012; Tanzi, 1998). Corruption also weakens interpersonal trust as well as popular confidence in government (Morris and Klesner, 2010; Seligson, 2002). Because corruption threatens core democratic values such as accountability, equality, and transparency, its political impacts may be particularly deleterious in democracies. The inherently exclusionary character of corruption damages the central democratic norm of empowered inclusion in collective decision-making and action, such that “corruption in a democracy” is “corruption of democracy” (Warren, 2004). In addition, as corruption erodes public trust, it weakens the legitimacy of the governance regime (Anderson and Tverdora, 2003; Power and Cyr, 2009; Seligson, 2002), potentially fostering an environment in which corruption “becomes a pervasive phenomenon, multiplying its perverse effects and leading a country to a serious political, institutional, and economic crisis” (della Porta and Vannucci, 1999, p. 12).

As an emerging economic power that has witnessed peaceful regular exchanges of political power, Brazil has avoided the most calamitous potential consequences of corruption, but its persistence in the country’s economic and governance systems has not been costless. Although Brazil has experienced impressive economic expansion over the past decade (World Bank, 2013; OECD, 2011), strong evidence indicates that the net effect of corruption on the country’s economic development has been negative (Iquiapaza and Amaral, 2007). Silva, Garcia, and Bandeira (2001) estimate that if the level of corruption in Brazil had been as low as that in Denmark (the least corrupt country in their sample), per worker incomes would have been 43% higher in 1998, representing a per capita income loss of US\$2,840.81.

Recent studies estimate that corruption consumes between 1.4% (FIESP, 2010) and 5% (Época, 2008) of the country's GDP, translating into economic losses of between £10.5 billion and £32.9 billion each year. There are indications that corruption has contributed to the erosion of public trust in Brazilian political officials as well. Power and Taylor (2011, p. 3) report that confidence in politicians dropped from 31% in 1992 (during the run-up to impeachment of President Fernando Collor de Melo) to 8% in late 2005, while confidence in political parties plummeted from 26% to 9% over that same period.

More recent surveys also indicate that trust in public institutions remains low and may be deteriorating. The 2014 Edelman Trust Barometer found that Brazil exhibits the largest gap between trust in business and government among the BRIC countries, with only 34 percent of Brazilians surveyed expressing confidence in their government compared with 70 percent who trusted business institutions; the report noted that the gap has widened since the previous year's survey (Holdheim, 2014). In addition, in the most recent *AmericasBarometer* survey of citizens in 26 countries in the Western Hemisphere, Brazilians reported the 4<sup>th</sup>-lowest levels of trust in local government (42.5%) and support for the political system (45.4%) (Seligson, Smith, and Zechmeister, 2012, pp. 185, 203).

While generally discussed as if it were a uniform phenomenon, corruption – commonly defined as the misuse of public power for private benefit – encompasses a vast array of behavior and activities, including bribery, embezzlement, nepotism, collusion, fraud, and extortion (Lambsdorff, 2007; Rose-Ackerman, 1999). Corruption may be found among low-level bureaucrats and involve relatively modest sums (“petty corruption”) or stretch to the highest levels of government where officials wield significant influence and authority over major assets and revenues (“grand corruption”). To characterize a country as “corrupt” thus provides as much actionable information as the declaration that a patient is suffering from cancer – until the illness’ form, severity, and location can be determined, treatment may be futile or even counter-productive. This paper aims to create a map of corruption in Brazil, focusing on discrepancies in corruption-related indicators and on documented cases of corruption to understand where and why corruption remains a pressing issue. We then consider the institutional responses to the problem of corruption, examining the primary pillars of the country's enforcement mechanisms by focusing on the performance and capacity of institutions responsible for oversight, investigation, and punishment of corrupt activities (Taylor and Power, 2011).

## **1. Aggregate Indicators**

While Brazil has grappled with corruption for most of its political history, the issue has assumed a particularly prominent position in the country's politics since its return to democracy in 1988. Numerous scandals at the federal, state, and municipal levels and across all branches of government confirm that corruption remains entrenched in the country's political system. However, corruption's complex and clandestine nature presents inherent challenges to assessing its current and historical levels in any environment, including Brazil (Golden and Picci, 2005; Knack, 2007). In the absence of any comprehensive, direct mechanism to measure the prevalence and magnitude of corruption in a given environment, researchers and policymakers have developed a series of indirect indices which can be grouped into three broad categories: (1) objective data related to

enforcement actions, legal standards, and audit reports; (2) perception-based surveys; and (3) experience-based surveys. The divergent findings of these various assessments suggest that corruption in Brazil is heterogeneous and dynamic, with significant diversity in the forms and degrees of corruption across levels and branches of government.

### **1.1 Objective Data**

One immediately compelling mechanism to measure corruption levels and trends is through the examination of objective data, such as the number of incidents of corruption reported to criminal justice officials or the proportion of investigations resulting in convictions for corruption-related crimes. Utilization of objective data appears particularly promising in a democratic country like Brazil where the federal bureaucracy displays a high degree of professionalism (Kaufmann, Kraay, and Mastruzzi, 2006; Melo, 2013). However, such data generally reflects only those corrupt behaviors which are identified, investigated, and punished, failing to capture undetected, unprosecuted, or systematically ignored corruption. Thus information on convictions validly reflects only how many enforcement actions against corruption have been pursued successfully and offers minimal guidance on the magnitude of the phenomenon itself.

For example, in 1999, the Tribunal de Contas da União (Federal Accounting Tribunal, TCU), Brazil's leading government auditing institution, convicted 845 officeholders for irregularities and misconduct in public administration, with the number of convictions climbing to 1,574 in 2007; over the same period, audits performed by the TCU revealed that the percentage of cost-intensive government programs showing severe irregularities rose from 32% to 77% (Speck, 2011, p. 140). However, while such increases could be interpreted as evidence suggesting that bureaucratic waste and corruption spiked dramatically over that nine-year period, the escalations may more appropriately reflect changes in the TCU's capacity, resources, policies, or procedures. Similarly, reports that investigations initiated by the Ministério Público (Federal Public Prosecutorial Service, MPF) on corruption and administrative impropriety more than tripled between 2007 and 2011 (MESICIC, 2012, p. 36) may reveal "more on the traits of how the criminal code is applied than on the crime in question" (Speck, 2000, p. 11).

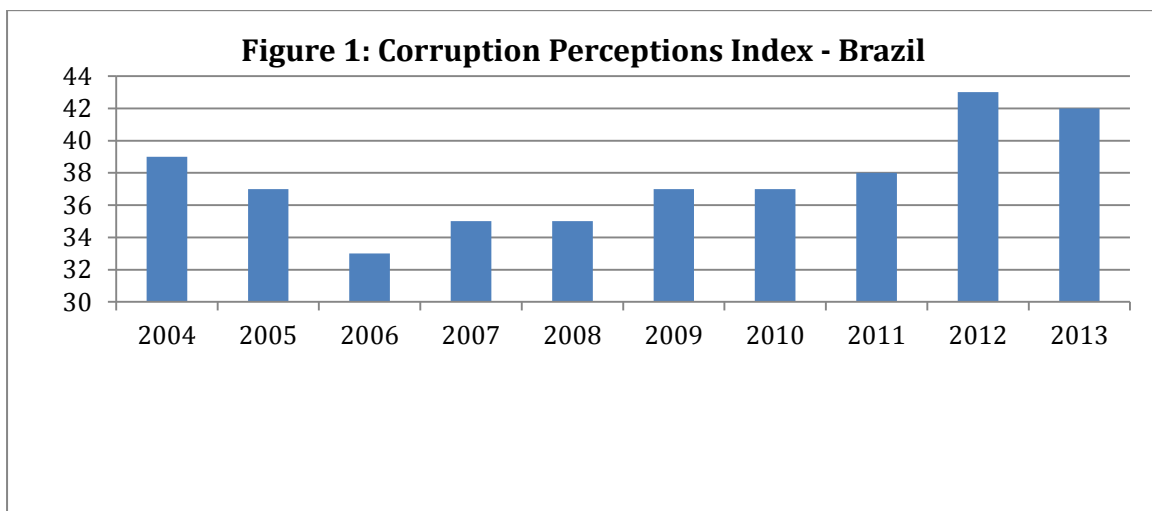
Additional potential sources of objective information include laws, regulations, or governance arrangements related to the oversight, investigation, and/or punishment of corruption. The volume and scope of Brazil's anti-corruption laws are impressive, including provisions addressing conflicts of interest, public procurement, freedom of the press and expression, protection of whistleblowers, and the powers and functions of the government Ombudsman (Pope, 2000). The country has received perfect scores as well as commendations from leading anti-corruption non-governmental organizations (Global Integrity, 2009; Amarribo Brasil, 2012), and its anti-corruption legislative framework has been heralded as a model for other developing countries (Stocker, 2012). However, data on such policies and institutions measure only the formal potential of corruption control in Brazil, not how these arrangements function in reality. The distinction is significant, as there may be sharp divergences between law on the books and law in action.

As an example, although the Access to Information Law guarantees public access to information and details processing procedures for government agencies, a recent study found that only 44% of public bodies respond satisfactorily to information requests from individuals and non-governmental organizations (NGOs) (Article 19, 2013). Mere cataloguing of laws and statutes may also fail to account for broader institutional bottlenecks and dysfunctions, such as the anachronistic procedural rules that undermine the Brazilian judiciary's ability to punish corruption efficiently and effectively (Avritzer, 2011; Filgueiras, 2011; Taylor, 2009). Despite Brazil's robust anti-corruption legal framework, a recent study found that civil servants dismissed from their positions on account of corruption face a less than five percent probability of criminal or civil conviction in the court system (Alencar and Gico, 2011).

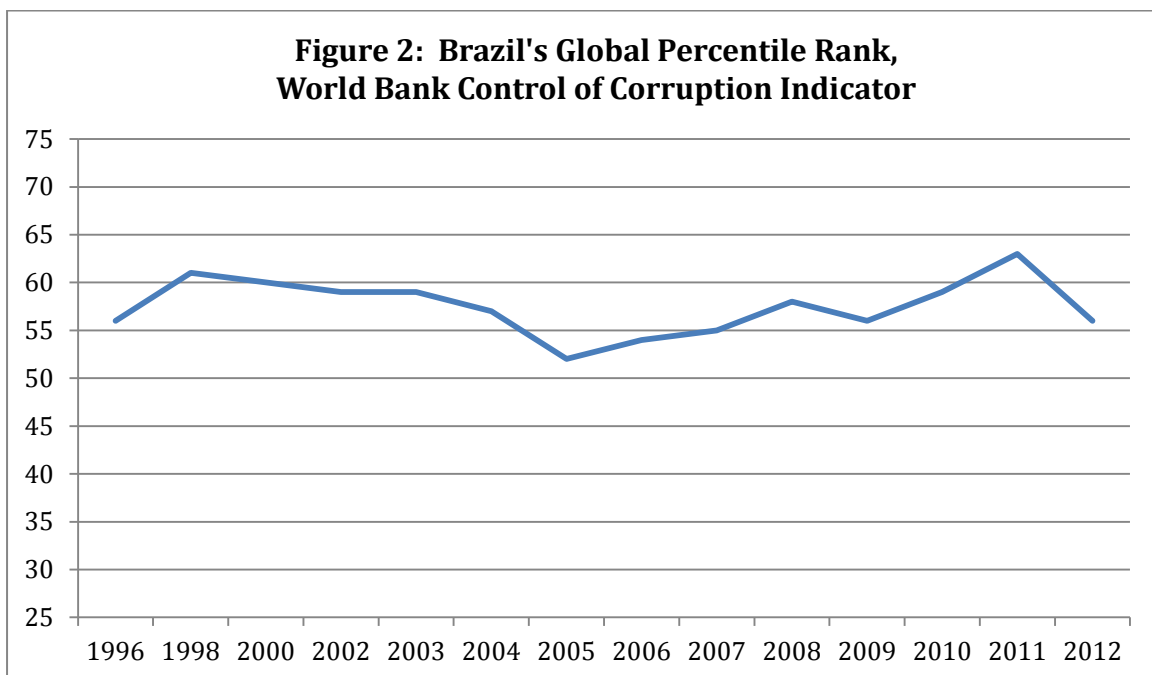
A final option for objective data analysis is the examination of public financial books and records for gaps, omissions, or misstatements that might indicate improper use or misdirection of funds. In Brazil, the reports generated through the *Programa de Fiscalização a partir de Sorteios Públicos* (Random Audit Program) provide a wealth of data concerning political corruption in municipal governments. While service provision is decentralized under the country's federalist system, the national government provides an average of US\$35 billion per year to local governments to provide public services in the areas of education, health, transportation, and infrastructure. In order to discourage and detect the misuse of public funds in local governments, in 2003, the government of President Luiz Inácio Lula da Silva initiated a random auditing of municipal government expenditures. Beginning with 26 randomly selected municipalities and later expanding to 50, then 60 per lottery, as of January 2010, the Program, overseen by the Controladoria-Geral da União (Office of the Comptroller General of the Union, CGU), had audited more than 1,500 municipalities (Brollo, et al., 2010, p. 22). In their study of 496 audits from the first 11 lotteries, Ferraz and Finan (2011, p. 1285) found that 58% of municipalities had engaged in an illegal procurement practice, 54% diverted funds, and 7% participated in over-invoicing; overall, 79% of municipalities had at least one incident of corruption and nearly all (99%) committed some act of mismanagement. In total, approximately 8% of the audited funds were diverted. As discussed below, such data may provide extremely valuable information about the prevalence of specific forms of corruption within the identified government institutions and might prove incredibly useful in triggering enforcement proceedings and guiding policy reforms in those arenas. However, such targeted, institution- and activity-specific information cannot offer reliable intelligence on the breadth and depth of overall corruption in Brazil. First, the Program currently audits just over 1% of the country's 5,570 municipalities roughly every other month (60 municipalities a time), meaning the sample size is far too small to be considered representative. Second, even if the number of examined municipalities were expanded dramatically, such project and expenditure audits can only capture specific types of high-level, grand corruption and are thus ill-suited to provide a comprehensive view of the full corruption landscape which may include activities that fall outside the scope of the audits, especially those activities that do not use funds from federal transfers, such as vote-rigging or petty corruption.

### 1.2 Perception-Based Surveys

Given the identified imperfections in objective measures of corruption, researchers and policymakers increasingly rely on surveys of perceptions about corruption within countries. The most widely cited perception-based indices – Transparency International’s *Corruption Perceptions Index (CPI)* and the World Bank’s *Control of Corruption* indicator (CC) – aggregate information from various surveys, organizing and condensing the findings from multiple sources into single indicators which can be used to track trends and compare countries. On both indicators, Brazil ranks around the median of surveyed countries, and its scores have remained relatively stable since the transition to democracy in the late 1980s despite numerous public scandals and a plethora of anti-corruption reforms (Figure 1, Figure 2).



Source: Transparency International



Source: World Bank Governance Indicators

Survey data reveals that corruption remains a deep concern among the country's citizens as well as business leaders. Seventy percent of Brazilians surveyed for the 2013 *Global Corruption Barometer* deemed corruption to be "a very serious problem" in their country's public sector, placing it above the global average (Transparency International, 2013b). The Brazilian corporate executives interviewed for the *EY Global Fraud Report 2013* also indicated that corruption persists as a challenge with 84% agreeing that "bribery/corrupt practices happen widely in business in this country," compared to a survey average of 51% (EY, 2013). There are indications, however, that the two groups differ in how they assess the recent trends in the magnitude and prevalence of corruption; while nearly half (48%) of Brazilian citizen respondents to the *Global Corruption Barometer* reported that the level of corruption had increased over the past two years (with 18% signaling it had decreased and 35% stating it stayed the same), only 20% of Brazilian business leaders surveyed in the *EY Global Fraud Report* agreed that "bribery/corrupt practices have increased because of the economic downturn."

Surveys also provide enlightening information on how individuals perceive certain categories of government officials and activities. In the *World Economic Forum Global Competitiveness Report 2013-14*, based on data gathered through surveys of 13,000 business leaders, Brazilian respondents rated the ethical standards of politicians 1.9 out of a possible 7, ranking 136<sup>th</sup> among 148 economies (World Economic Forum, 2013). Respondents were also more likely than average to indicate that government officials show favoritism to well-connected firms and individuals when deciding upon policies and contracts (2.9 compared to a global mean of 3.2). Interestingly, despite the somewhat disheartening reports from domestic sources, Brazilians are not perceived to be particularly corrupt internationally; in the 2011 *Bribe Payers' Index* which polls business executives around the world on their perceptions concerning the likelihood of firms from the sampled countries to engage in bribery, Brazil ranked 14<sup>th</sup> of 28 countries, receiving a more favorable rating than the other BRIC countries as well as developed economies such as Hong Kong, Italy, and Taiwan. While Brazil's score of 7.7 (with 10 signaling that companies from the country never bribe) was still below the national average of 7.9, it represented a 0.3-point improvement over its 2008 score when the country was ranked 17<sup>th</sup> (Transparency International, 2011a).

In addition, perception-based surveys reveal how members and segments of the public view the government's anti-corruption efforts. Fifty-six percent of Brazilian respondents in the 2013 *Global Corruption Barometer* replied that the government's actions in the fight against corruption were ineffective, while only 23% said they were effective. In Transparency International's 2012 *Putting Corruption out of Business* survey of 3,000 businesspeople in 30 diverse economies around the world, 38% of Brazilians listed "corruption and bribery-related crimes are not prosecuted" as the top barrier to stopping bribery and corruption in the country's private sector, compared with 28% of total survey participants; only five countries – Senegal, Turkey, Hungary, Nigeria, and the Philippines – had a higher percentage of respondents list lack of prosecution as the main obstacle (Transparency International, 2012).

The relationship between perceived levels of corruption and the stringency of government anti-corruption activities exposes one of the primary flaws of perception-oriented indicators



– their vulnerability to echo and reinforce misinformation or biases among respondents and the public at large. Perceptions are likely to be based on observable reports or developments that appear to reflect the level of corruption within a society, such as muck-raking media stories or the announcement of new or emboldened governmental anticorruption campaigns (Treisman 2007, p. 215). Given the susceptibility of perception-based surveys to the “noise” concerning and surrounding corruption, a vibrant and free press that reports aggressively on such activities may trigger one of two potential alternative results: (1) participants will overestimate the prevalence of corruption in society, or (2) reports of governmental action will produce (possibly undue) confidence concerning the status of the battle against corruption. In the first scenario, respondents may interpret media reports or government initiatives as signs of worsening corruption, while, in reality, they may be mere manifestations of heightened awareness of or commitment to reducing existing levels. Rock (2009) provides theoretical and empirical evidence for such a claim, demonstrating an inverted U-shaped relationship between the durability (age) of democracy in a country and its perceived levels of corruption: in the early years of democracy, greater openness and transparency expose instances of corruption, triggering corresponding increases in perceived levels of corruption regardless of any changes in its actual prevalence within the society. Anecdotal evidence from recent global scandals further supports this argument. In the wake of the Peruvian government’s 2000 release of transcripts from the Montesinos corruption scandal,<sup>1</sup> the country’s Corruption Perceptions Index dropped from 4.4 to 3.5 (on a scale of 10 - 1, with 10 indicating no perceived corruption); as Kenny, Klein, and Sztajerowska (2011) note, this decline suggests that before the scandal was exposed – but while the corruption was actually proceeding – the survey participants did not appreciate the degree or extent of governmental malfeasance. However, once the scandal was revealed, people seized upon it as evidence of a significant increase in corruption, regardless of any changes in the actual level of corruption in the country. Similar trends were detected in Germany and Ireland in 2000, following public revelations of political corruption in those countries (Lambsdorff, 2000). Thus, publicized governmental action against corruption may actually raise, or at least keep steady, the country’s perception-based indicators, even if such activities are deterring and reducing corruption effectively. If, as Melo (2013) contends, this model holds for Brazil, the country’s persistently mediocre perception-based indicators may be attributable to the greater visibility of corruption resulting from the effective functioning of the country’s democratic institutions, including the press.

Alternatively, perception-based indicators may capture overly optimistic attitudes generated by well-publicized reports of individual incidents of government reform and anti-corruption activity. For example, in Bertelsmann Stiftung’s *BTI Transformation Index 2014*, Brazil received an 8 out of 10 on expert assessments of the extent to which “public officeholders who abuse their positions [are] prosecuted or penalized” (Bertelsmann

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<sup>1</sup> As the head of Peru’s intelligence service, Servicio de Inteligencia Nacional (SIN), under President Alberto Fujimori, Vladimiro Montesinos Torres engineered the bribery of over 1,600 government officials and the embezzlement of more than \$200 million into his personal accounts. Montesinos notably kept detailed records of his corruption, including videotapes of his bribery as proof of the bribees’ complicity; some of these videotapes – “vladivideos” – were eventually broadcast by Peruvian television stations, with transcripts of video- and audiotapes made available on the national Congress’s website. Montesinos was later convicted of “usurpation of authority” and faced more the 50 additional charges “including influencing judges, overseeing Peru’s drugs trade and running death squads.” (McMillan and Zoido, 2004, p. 72).

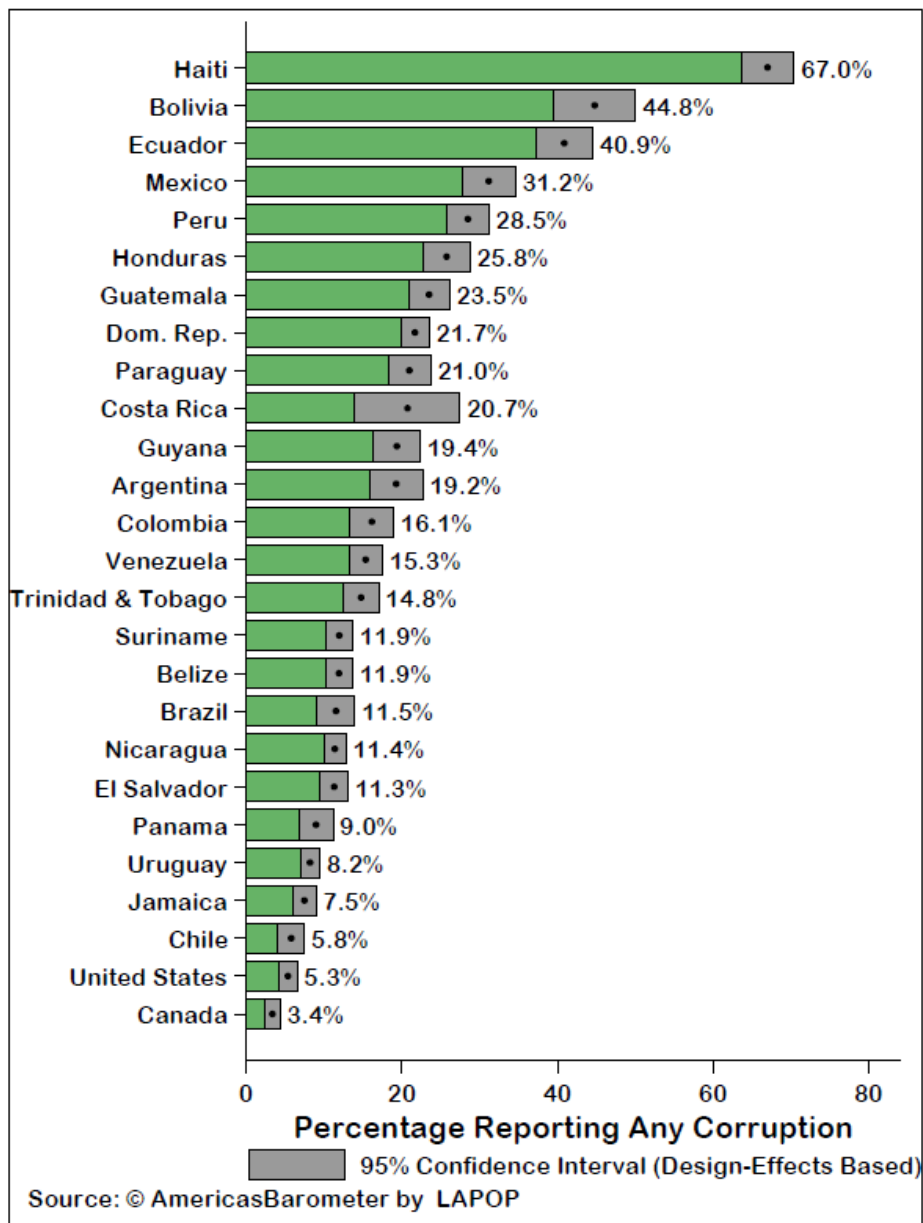
Stiftung, 2014). In the qualitative evaluation, the respondents noted the recent increases in the number of public servants and elected officeholders suspended or removed from office, forced resignations of several ministers from President Dilma Rousseff's administration, and the much-heralded convictions and sentences handed down in the Mensalão scandal (ibid., pp. 8-9). While such developments are certainly auspicious, it is unclear the extent to which they reflect a true turning of the tide of corruption in the country as opposed to isolated events in an otherwise-unchanged institutional landscape.

Despite the acknowledged flaws in perception-driven indicators, their prominence in the corruption literature also reflects the reality that popular beliefs about corruption may matter as much as actual institutions, policies, and laws in terms of influencing political and economic outcomes. Citizens who lack confidence in the integrity of their public officials are less likely to avail themselves of government services like courts and the police or to participate in political processes such as voting (Clausen, Kraay, and Nyiri, 2009; Kaufmann, Kraay, and Mastruzzi, 2009). On the economic side, decisions to invest or start or expand a business are predicated on expected costs and benefits, expectations that are themselves derived from perceptions of all aspects of the market, including the level of corruption; thus, the perceived level of corruption in a country is likely to affect its economic development regardless of the corruption reality (Mauro, 1995; Treisman, 2000).

### **1.3 Experience-Based Surveys**

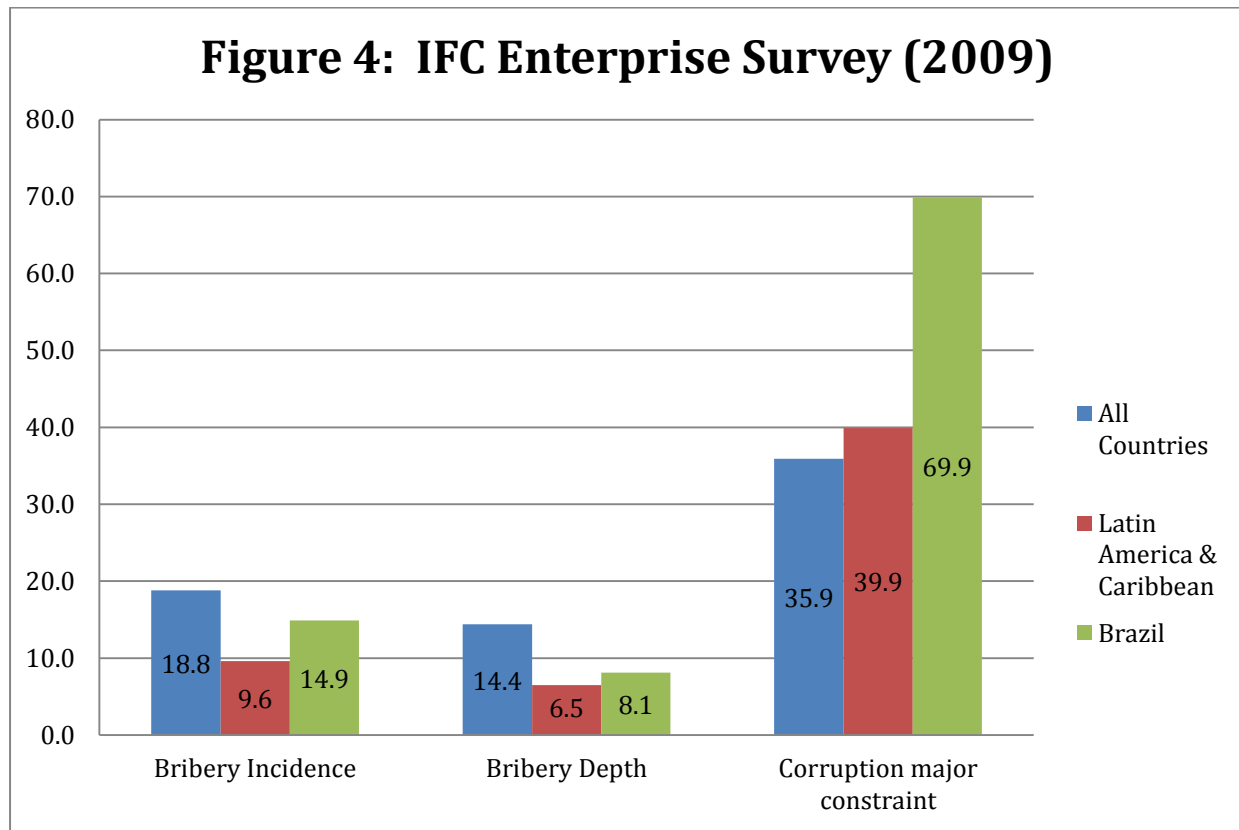
While perception-based surveys question respondents about their beliefs concerning the prevalence of corruption within a certain country, experience-based surveys pose questions related to the respondents' own experiences with corruption. Responses to experience-based surveys provide a somewhat brighter view of the level and extent of corruption in Brazil. In the 2010/2011 *Global Corruption Barometer*, only 4% of Brazilians reported paying a bribe to any one of nine public institutions within the past 12 months, compared to 24% globally. In the same survey, only 8% of Brazilians indicated that they had ever been asked to pay a bribe, and, of those asked, 72% refused (Transparency International, 2011b). Data from the most recent *AmericasBarometer* also suggests that the levels of corruption victimization are lower in Brazil than in most of the Western Hemisphere. While 11.5% of Brazilians reported direct experience with corruption, the average for all survey participants was 19.5% (Seligson, Smith, and Zechmeister, 2012, p. 153; Figure 3).

Figure 3: Corruption Victimization in the Americas

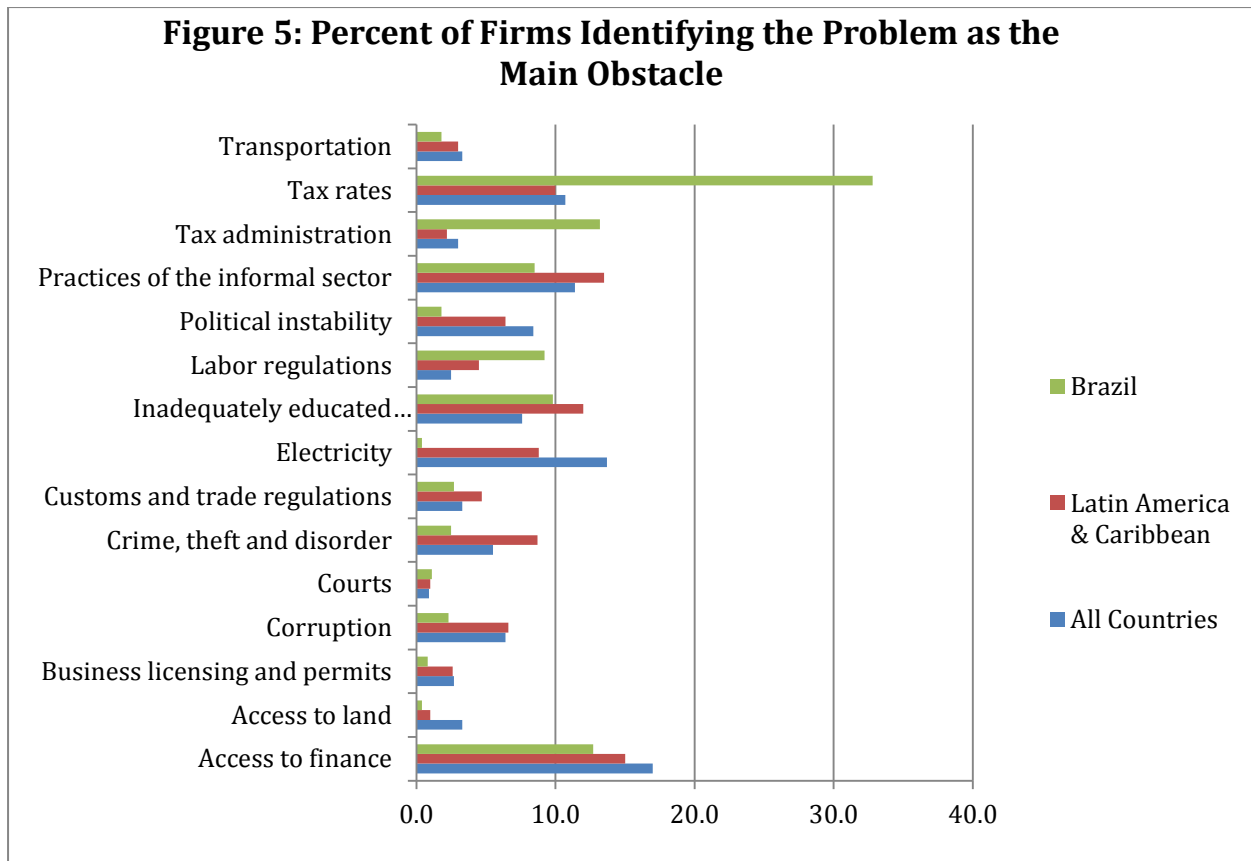


Experience-based surveys of business executives suggest that corruption in Brazil is not a uniform phenomenon. For example, in the EY Global Fraud Report 2013, when asked to comment about the business realities in their country and industry, 18% of Brazilians agreed that “in our sector, it is common practice to use bribery to win contracts,” compared to a global average of 12%. However, when asked whether engaging in any one of four illicit activities could be justified in order to help a business survive an economic downturn, 70% of Brazilians (and 53% of all respondents) replied that none was acceptable (EY, 2013). Such discrepancies between the reports of the obstacles presented by corruption to Brazilian business and the direct experiences of executives with bribery and other corrupt activities were also manifest in the 2009 *Enterprise Survey: Country Report on Brazil*. Nearly 70% of Brazilian firms identified corruption as a major business constraint, compared to 35.9% of respondents globally and 39.9% of those from Latin America and the Caribbean (World Bank, 2009). However, when questioned specifically about the incidence and depth of bribery, the results for Brazil were far more moderate. The percentage of firms

experiencing at least one bribe request (“bribery incidence”) was 18.8% globally, 14.9% among Brazilian firms, and 9.6% among all Latin American and Caribbean respondents; while Brazilians reported that a gift or informal payment was requested in public transactions (“bribery depth”) 8.5% of the time, the rates for all participants and those from Latin American and the Caribbean were 14.4% and 6.5%, respectively (Figure 4).



In addition to the contrast between the high levels of perceptions of corruption as a major constraint for businesses and actual experiences of corruption, there is also an important discrepancy between the relevance of corruption vis-à-vis other obstacles to conducting business in Brazil. When asked to rank various institutional hurdles, Brazilian respondents listed corruption 9<sup>th</sup> out of 15 obstacles to their current operations with only 2.3% identifying it as the main problem, compared to 6.4% globally and 6.6% among all Latin American and Caribbean respondents. The contrast between corruption and taxation, considered the biggest problem, is particularly striking: while only 2.3% identify corruption as the primary problem impacting their business, 32.8% list the country’s tax rates (Figure 5).



The discrepancies indicated in Figures 4 and 5 above may be explained by the high level of suspicion that there is rampant corrupt activity in the country, while few individuals admit direct experience with corruption. Indeed, a survey in Brazil indicated that while respondents do not report high incidence of personal engagement in corruption, they do indicate a suspicion that others are less honorable; 34% of Brazilian businesspeople answered “yes” when asked “During the last 12 months, do you think that your company has failed to win a contract or gain new business in this country because a competitor paid a bribe?,” compared to a global average of 27% (Transparency International 2012).

In sum, the appeal of experience-based surveys is obvious – by capturing actual experiences with corruption, such surveys avoid the bias and noise issues associated with perception-based indicators and appear to reflect the experience of corruption on the ground. There are, however, problems with experience-based surveys. The data proffered may be inaccurate due to misinformation about household members’ activities, selective memory, embarrassment, or fear of reprisal from authorities (Treisman, 2007). Respondents may interpret questions differently, skewing results; for example, what one individual considers a bribe, another may view as an informal gratuity or expediting payment. More troubling from a metrological standpoint, while experience-based surveys may provide insight into the prevalence of petty corruption – as well as low-level behaviors associated with administrative capture – they are ill-suited to measure grand corruption or actions facilitating state capture. Such surveys ask about respondents’ experiences with bribe solicitation or payment, but they do not pose questions related to voting inducements, non-delivery of officially-allocated social benefits, or irregularities in public procurement solicitation or contracts. For example, although 81% of Brazilians surveyed in the 2013

Global Corruption Barometer reported that political parties in the country are “extremely corrupt,” providing evidence of personal exposure to such inner-circle, elite corruption presents an obvious challenge. Therefore, while experience-based surveys may help to identify specific high-risk sectors or populations, they cannot provide a comprehensive measure of the full extent of corruption.

#### **1.4 Summary of Findings**

Divergences in the findings among the objective data, perception-based, and experience-based metrics suggest that the prevalence and forms of corruption vary significantly among public institutions and across levels of government. However, they also represent the inherent diversity encapsulated in the term “corruption” itself. The common definition of corruption as the misuse of public power for private benefit (Lambsdorff, 2007; Rose-Ackerman, 1999) belies the phenomenon’s complex and multifaceted character. Corruption includes an expansive array of behaviors (e.g., bribery, extortion, collusion, nepotism, clientelism, fraud, embezzlement), which may be prohibited formally by law, regulation, or policy, or “merely” violate the fundamental tenets of civil service and public trust (Nye, 1967). Corruption may be petty, pursued by low-level officials who demand or divert relatively modest sums, or grand, involving misconduct by high-level officials with significant influence or authority over major projects, assets, or contracts. The discrepancy between perceived levels of corruption and reported corruption rates reflects, in many ways, the differences between grand corruption, involving major scandals, and petty corruption, which is more likely to be experienced by average citizens (Seligson, Smith, and Zechmeister, 2012, p. 156). The available evidence from Brazil suggests that while the problem of petty corruption in the country is not overly significant, institutional barriers to accountability remain, preserving opportunities for malfeasance by public officials, particularly in political parties, the legislature, and local governments, as discussed below.

Perhaps the most encouraging news contained in the various surveys and studies is the degree to which Brazilian citizens and corporate representatives express an inclination and sense of responsibility to take action on corruption. In the 2013 *Global Corruptions Barometer*, 81% of Brazilians agreed that “ordinary people [can] make a difference in the fight against corruption,” while 80% said they were willing to engage in at least one of five identified anti-corruption activities (Transparency International, 2013b). Corporate executives also signaled a commitment to anti-corruption efforts in the 2012 *Putting Corruption out of Business* survey, in which 98% of Brazilian businesspeople responded affirmatively that “my company has an ethical duty to fight corruption;” the country had the highest positive response rate among all 30 surveyed countries, compared to an average of 79% (Transparency International, 2012).

## **2. Corruption at the Regional and Institutional Level**

Empirical and anecdotal evidence suggests that while much progress has been made in professionalizing the bureaucracy and reducing corruption at the federal level, considerable challenges remain within state and local governance institutions. In addition, lax campaign finance laws and the concentration of donors reduce the responsiveness of political parties

to popular demands, while legal protections and advantages for members of the legislature foster a destructive culture of impunity in the National Congress.

### **2.1 State and Local Governments**

As reported by Ferraz and Finan (2011), corruption remains a widespread and substantial problem in municipal governments, with reports from the Random Audit Program identifying evidence of corruption in 79% of municipalities and mismanagement of government funds in virtually all jurisdictions (p. 1285). In 2008, 34% of state legislators nationwide faced charges in Brazil’s criminal and audit courts (Melo 2013, p. 13). Local and state governments have also lagged behind federal authorities in implementing anti-corruption measures. For instance, a study of individuals’ and NGOs’ effective access to government information under the Access to Information Law reported that over half of requests directed to state and municipal authorities went unanswered, compared to 32% of all requests (Artigo 19, 2013, p. 31). While such lack of responsiveness may reflect resource or other capacity restraints, in its review of Brazil’s implementation of the Inter-American Convention against Corruption, the expert team from the Organization of American States noted that, during their evaluation, representatives from civil society emphasized the continued “‘culture of secrecy’ on the part of public servants, especially at the state and municipal level” as well as the latter’s absence of an archives policy, which has led to “cases of mayors who destroyed information about their administration upon completing their terms in office” (MESICIC 2012, p. 59).

When discussing state and regional governments, however, relying on average indicators ignores significant geographic variations. Levels of corruption appear to be considerably higher in states in the North and Central-West regions, with 73% of state legislators from Goiás and 63% of those from Rondônia charged as defendants in criminal or audit courts (Melo, 2013, p. 29).

### **2.2 Political Parties**

The 2013 Global Corruption Barometer reveals that Brazilians perceive stark differences in the extent of corruption in various institutions. Only 30% of respondents from Brazil considered the military corrupt or extremely corrupt, the figure leapt to 81% when asked about political parties (Transparency International, 2013b; see Table 1).

**Table 1: Global Corruption Barometer 2013 (Brazil)**

Percent who consider the institution “corrupt” or extremely “corrupt”	
Political parties	81%
Legislature	72%
Police	70%
Medical and health services	55%
Judiciary	50%
Public officials/civil servants	46%
Media	38%
Business/private sector	35%
NGOs	33%

Religious bodies	31%
Military	30%

When polled on their perceptions of political party representativeness, less than a quarter of Brazilians reported that political parties listened to people like them, second lowest in the 2012 *AmericasBarometer* survey (Seligman et al., 2012, p. 103).

Perceptions of undue influence and elite bias in Brazilian political parties are supported by data on campaign financing. Brazil has the world’s most expensive political campaigns outside the United States, with nearly US\$2 billion spent by Brazilian parties and politicians in the 2010 presidential elections, despite the provision of free airtime and lack of primary elections (Melo, 2013). Corporate interests bankrolled the 2010 campaign of winner Dilma Rouseff, providing nearly 98% of her total funds, as well as that of her main opponent (95.5% of whose financial support was provided by corporations). Brazilian firms are allowed to give up to 2% of their gross annual revenues directly to candidates, and their contributions dwarf those provided by individuals; in the 2006 election, 55% of donations to federal deputy candidates came from corporate donors, versus 34% from individuals (Boas, Hidalgo, and Richardson, 2013). It appears corporate donations are a sound financial investment for corporate interests so long as the targeted candidate emerges victorious. Based on information from the 2006 federal deputy election, Boas, Hidalgo, and Richardson (2013) find that public works firms that donated to successful candidates from the ruling Workers’ Party (Partido dos Trabalhadores, PT) received, on average, at least 14 times the value of their electoral contributions in additional government contracts in the ensuing legislative term. Musacchio and Lazzarini (forthcoming) also shows that firms that donated to the campaign of successful candidates are more likely to get Brazilian Development Bank (BNDES) financing than other firms (regardless of the party).

### 2.3 Legislature

The legislature places second on the list of public institutions perceived to be most corrupt by Brazilian citizens. The low standing of Congress may reflect ubiquitous and incessant investigations into and evidence of alleged corruption among its members. Members of Congress have featured prominently in three of the country’s most notorious corruption scandals over the past two decades – the *anões do orçamento* (budget “dwarves”) scandal in 1993-94, the *sanguessuga* (“bloodsucker”) scandal between 2004 and 2006, and the recent *Mensalão* affair. Notably, all three scandals involved the subversion of the policy-making process and thus the public good. Power and Taylor (2011) characterize both the budget dwarves and bloodsucker scandals as “policy for cash” schemes in which members of Congress and their aides were discovered to have drafted budget amendments specifically designed to raid the public coffers for personal gain. The *Mensalão* scandal, they argue, is more appropriately viewed as a “cash for policy” program in which the government offered personal enrichments to members of Congress in exchange for their support of identified policy objectives. The implications of trading policies for money stretch far beyond the moral repugnancy of betraying the public trust to undermine the central values of democratic representation and accountability.



While members of Congress are frequently charged with corruption-related offenses – in 2013, 55% of federal deputies and 48.1% of senators were defendants in administrative (TCU) or judicial cases (civil or criminal) (Excelências Database, 2013) – elected officials and high-ranking officials in Brazil enjoy the Special Courts Privilege (*foro privilegiado*), which allows them to have criminal cases initially heard in higher appellate courts rather than lower courts. Appeals courts lack the capacity to conduct investigations, meaning cases often pend for years without being properly investigated. In addition, the procedures of the Supreme Federal Tribunal (STF) in which such cases are heard are extremely rigid and lengthy (MESICIC, 2012). According to a recent study by the Brazilian Judges' Association, between 1988 and 2007, the STF processed 130 cases under its original jurisdiction (44 of them concerning crimes against the public administration), but none led to the conviction of a parliamentarian or a high-level political appointee (Ibid., at p. 45). The combination of flagrant official malfeasance and judicial institutions ill-equipped to enforce the country's corruption laws has contributed to the popular sentiment that corruption in the legislature continues to go largely unsanctioned.

#### **2.4 Judiciary**

The Brazilian judiciary enjoys a high level of *de jure* independence from the other branches of government (Feld and Voigt 2003; La Porta, et al., 2004; Rios-Figueroa, 2006). Institutional guarantees of financial and operational independence implemented during the democratic transition have successfully insulated Brazilian courts from political interference, unlike many of its Latin American counterparts such as Argentina (Brinks, 2007; Hammergreen, 2007). Thus, the Brazilian judiciary is not subject to the executive or legislative interference in judicial decision-making that constitutes its own form of corruption in many developing countries (Transparency International, 2007). Instead, evidence of judiciary-related corruption in Brazil suggests that this independence has shielded the judiciary from a great deal of transparency and accountability, facilitating at least three types of misfeasance: embezzlement, nepotism, and the exchange of judicial opinions for bribes.

The direct control the Brazilian judiciary exercises over its own budget and the absence of effective accountability mechanisms for the use of such funds creates opportunities for embezzlement. The most prominent example of this problem involved a scandal in the late 1990s in which a judge of the Labour Court in the state of São Paulo orchestrated a scheme that embezzled approximately R\$170 million (US\$85 million at the time) from federal funds allocated for the construction of a new courthouse. In a more recent case, officials at the Labour Court in the state of Rondônia have come under investigation for allegedly transferring an estimated R\$2 billion (US\$1 billion) from the judicial budget to private hands. Nepotism, once a common and even legal practice, also continues to pervade the Brazilian judiciary. In a particularly egregious case from the late 1990s, Severino Marcondes Meira, a Labour Judge, placed 63 relatives on the court payroll. In 2013, a judge in the appeals court of Mato Grosso was sanctioned for including his two sons on the payroll despite the fact that they did not provide any services to the judiciary. Finally, the sale of judicial opinions has been uncovered in a number of cases. As recently as December 2013, the National Council of Justice (Conselho Nacional de Justiça, CNJ) initiated a disciplinary investigation in response to evidence that a judge in the state of Tocantis, José Liberato

Costa Póvoa, exchanged favorable decisions for cash (prices allegedly ranged from US\$5,000 to US\$25,000).

Given the generous – even by global standards – salaries paid to members of the Brazilian judiciary, such malfeasance cannot be easily dismissed as the product of financial hardship. Rather, it appears that the lack of accountability mechanisms creates few practical disincentives for judicial corruption. The revelation of scandals involving embezzlement, nepotism, and the sale of judicial opinions raises questions as to how many similar cases have gone undetected. Partly to address these and related concerns, the CNJ, the judicial oversight body, has embraced the fight against judicial corruption as one of its top priorities, uncovering a series of corruption schemes since its creation in 2004. Indeed, activity in CNJ's investigative body, Corregedoria Nacional de Justiça, has increased over the last few years. From 2004 to 2008, there were only 28 investigations of judges, but by September 2008 the number had climbed to 113 and has continued to rise since then (Bulla, 2010; Estadão, 2014). In 2013, the CNJ also demonstrated its willingness to go after judges who improperly manipulate the judicial process, removing for the first time a judge who was in charge of internal accountability mechanisms (*corregedoria*) in the state of Amazonas after discovering that he had delayed and closed cases without justification in order to protect colleagues (Estadão, 2009).

Despite these optimistic developments, doubts remain that existing sanctions are sufficiently harsh to deter corruption in the judiciary. While the CNJ has been quite active in imposing sanctions, punishing 64 judges since its creation, the most severe punishment it can levy is mandatory retirement, to which it has sentenced 44 judges (Estadão, 2014). However, forced retirement still entitles judges to a generous package of benefits, including monthly retirement payments. A proposal for a constitutional amendment allowing the removal from office of judges in lieu of mandatory retirement was first introduced in 2003 but was still under debate as of May 2014.

### **3. Corruption Scandals and Government Responses (1992-2013)**

The democratic constitution enacted in 1988 laid the groundwork for the development of Brazil's modern web of accountability institutions, particularly in the areas of oversight and investigation. Under the Constitution, the Ministério Público Federal (Federal Public Prosecutors' Office, MPF), gained independence from the executive branch, emerging as the de facto "fourth branch of government," empowered to act in the defense of the public; the MPF's role as the primary enforcer of political law and protector of collective interests was further strengthened under the 1992 Administrative Improbity Law which granted it enhanced authority to act against corruption and the misuse of public funds (Arantes, 2011). The Constitution also conferred greater powers and responsibilities on the *Tribunal de Contas da União* (National Accounting Tribunal or Federal Audit Court, TCU), and guaranteed the full freedom of the press. In spite of, or, as argued below, because of, these and other strong oversight and investigative institutions, corruption scandals have been discovered and exposed during the terms of each of Brazil's first six post-authoritarian presidents. Each scandal has prompted further governmental reforms to increase transparency and accountability, but responses have largely focused on expanding and strengthening oversight and investigation mechanisms, rather than sanctioning institutions.

### 3.1 Collorgate

In June 1992, Congress launched a *Comissão Parlamentar Inquérito* (Parliamentary Investigation Commission, CPI) to investigate public allegations by Pedro Collor de Melo that his brother, Brazilian President Fernando Collor de Melo [Collor], was involved in an elaborated extortion and influence-peddling scheme orchestrated by his former campaign manager, Paulo César (“PC”) Farias. Assisted by leads from investigative journalists, in August 1992, the CPI announced that it had uncovered conclusive evidence implicating Collor in the multi-million-dollar scheme. On September 1, 1992, the Brazilian bar and press associations submitted a formal request to open impeachment proceedings, and, on September 29, Collor was formally impeached by the Chamber of Deputies by a vote of 441 to 38. Although he resigned on December 29, Collor was formally impeached by the Senate the following day. In December 1994, the *Supremo Tribunal Federal* (Supreme Federal Tribunal, STF) acquitted Collor of bribery charges brought by the MPF after throwing out the most damning evidence on a technicality. While his Senate impeachment stripped Collor of his ability to participate in politics for eight years, in 2006 he was elected to the Brazilian Senate where he currently chairs the Infrastructure Commission.

The media played a central role throughout the so-called “Collorgate” scandal. After *Veja*, a newsweekly, first published Collor’s brother’s allegations, members of the press worked in tandem with the CPI to expose details of the corruption scheme and then filed the impeachment request. Daily revelations in the media helped to mobilize and sustain public outcry over the scandal and were critical in pressuring Congress to pursue the investigation and impeachment proceedings (Manzetti and Blake 1996, p. 683).

Collorgate prompted legislative action to address some of the gaps exposed in the existing legal framework. In June 1992, just as the scandal was erupting, Congress expanded the MPF’s authority to act as a horizontal accountability body through the Administrative Improbability Law (Law 8429/92), and the following year, it passed the Government Procurement Act (Law 8886/93) which established rules on public bidding.

### 3.2 *Anões do Orçamento* (“Budget Dwarves” or “Budgetgate”)

Less than a year after Collor’s resignation, the Brazilian political system was rocked by yet another scandal first exposed in a *Veja* cover story. Under suspicion for murdering his wife, a former staff aide to the *Comissão Mista do Orçamento* (Joint Budget Committee of Congress, CMO) revealed that members of the Committee had been receiving kickbacks and bribes since 1989 for approving budget amendments that provided benefits to construction companies, bogus non-profits, and municipal governments. In his testimony before the CPI convened days after the story broke, the aide implicated 38 sitting government officials in the *anões do orçamento* (“budget dwarves,” coined after the short stature of the legislators involved) scandal. The Federal Police (Departamento da Polícia Federal, DFP) soon launched their own criminal investigation into the budget process. Eventually 19 legislators were expelled from Congress.

The scandal highlighted the lack of transparency and overconcentration of power in the budget process and triggered significant reforms in budgetary institutions. Based on recommendations from the CPI, in 1995 Congress implemented new procedural and reporting requirements for the CMO, increased membership on the Committee, limited the powers of the CMO's leaders, and reduced the number of permitted individual amendments (Melo, 2013; Samuels, 2002, p. 325).

### **3.3 Cardoso's Vote-Buying Scandal**

The reputation of President Fernando Henrique Cardoso's government as a break from the dishonesty and corruption of the past was tarnished in May 1997 when the newspaper *Folha de São Paulo* published transcripts of conversations between two legislators discussing vote-buying in Congress by a member of the administration. The deputies revealed that they and three other members of Congress had each been paid R\$200,000 (US\$187,000) by Sérgio Motta, Minister of Communications and a personal friend of Cardoso, in exchange for their January 1997 votes for a constitutional amendment to allow elected executives, including the president, to run for re-election. The approval of this amendment allowed Cardoso to run for re-election in 1998 and remain in office until 2002. A week after the scandal broke in the press the amendment overwhelmingly passed the Senate (63-to-6) on the same day the two implicated legislators resigned from Congress. Motta denied any involvement and died in office the following year.

### **3.4 São Paulo Regional Labor Court (TRT)**

In 1998, it was revealed that while R\$263 million had been transferred from the federal treasury to build the São Paulo Regional Labor Court (TRT) since 1992, only R\$70 million had been spent on actual construction (Taylor, 2009, p. 156). While the TCU had identified problems with the court's procurement process within a year of the bid selection, its calls to halt the project went ignored, allowing construction to begin in 1994 (Taylor, 2009, p. 156). After public revelation of the overspending, the ensuing CPI revealed that the bulk of the funds had been embezzled through a scheme masterminded by Judge Nicolau dos Santos Neto (nicknamed "Lalau") with the assistance of Senator Luiz Estevão. In June 2000, Estevão became the first Senator to be impeached; after being stripped of his parliamentary immunity, he was also charged with criminal embezzlement though later acquitted. After nine months as a fugitive, Lalau returned to Brazil where he was convicted and sentenced to prison in 2002.

This scandal highlighted procedural and institutional deficiencies in the TCU that had first been exposed during Collorgate. While a proposal during the Collorgate scandal to strengthen the oversight of federal funds by transforming TCU into an independent technical accounting body called Auditoria Geral da União (General Accounting Office) was never realized (Fleischer 2000, p. 104), the Lalau scandal underscored the need for internal control mechanisms and enhanced coordination. In 2001, President Cardoso established the Corregedoria Geral da União (later strengthened and renamed the Controladoria Geral da União, CGU, under Lula) not only as a response to the scandal but also a strategic reform to address long-standing deficits in the country's anti-corruption architecture (Loureiro et al, 2012, p. 57).

### **3.5 SUDAM and SUDENE**

In 2001, investigations conducted by the Federal Police (DPF), federal prosecutors, the TCU, a congressional CPI, and the press revealed R\$2 billion had been embezzled from each of two federal regional development programs, the *Superintendência para o Desenvolvimento da Amazônia* (Amazonian Development Superintendency, SUDAM) and the *Superintendência para o Desenvolvimento da Nordeste* (Northeastern Development Superintendency, SUDENE). President Cardoso abolished both agencies, transferring their powers to newly created bodies. After being implicated in the embezzlement scheme, the leader of the Senate, Jader Barbalho, resigned first his leadership position, then his office, and was briefly arrested and imprisoned before being released. Because he resigned his post before being expelled, he retained full political rights; in 2002, he was elected to the Chamber of Deputies and was reelected to the Brazilian Senate in 2011.

In December 2001, as a response to this scandal, Congress removed the requirement for Congressional consent for the Supreme Court to proceed with cases against elected politicians (Constitutional amendment n. 35) (Melo 2013, p. 18). The amendment prevented cases from being held up due to corporativism, a common practice in Congress before the amendment.

### **3.6 Operation Anaconda**

In 2003, a joint operation (code-named “Anaconda”) organized by the MP and the DPF exposed a syndicate of lawyers, federal judges, and police in a scheme that involved selling judicial decisions to criminals. The scandal, along with growing popular dissatisfaction with the functioning of judicial institutions and processes, prompted President Inácio Lula da Silva in 2003 to create a new position, *Secretaria de Reforma do Judiciário* (Office for Judicial Reform, SJR) in the Ministry of Justice. The SJR is charged with creating, promoting, coordinating, and managing the process of reforming the judiciary and with promoting communication and cooperation among the branches of government as well as judges, public prosecutors, public defenders, lawyers, law experts and civil society. In 2004, Constitutional Amendment 45/2004 was enacted to modernize the administration of justice. Among other actions, the Amendment established the CNJ as an administrative oversight body to provide guidance to the judiciary as well as investigate and punish judicial officials in violation of the law or ethical rules.

President Lula also took broader action against corruption, establishing by decree in 2003 the Council on Public Transparency and Combating Corruption (Decree 4,923/03) as an advisory body to the Controladoria-Geral da União (Office of the Comptroller General of the Union, CGU). The members of the Council include representatives of ten public entities, including the CGU, the MPF, and the TCU, and ten civil society organizations, including the Brazilian Bar Association and the Brazilian Press Association. Its purpose is to discuss and recommend measures to improve control mechanisms especially over public resources, promote transparency in the public administration, and combat corruption and impunity.

### 3.7 Mensalão

The Mensalão (“big monthly stipend”) scandal involved a series of regular pay-offs from the ruling *Partido dos Trabalhadores* (Workers’ Party, PT) to allies in the Chamber of Deputies in exchange for support for their legislative agenda. The scandal broke in 2005 when the president of an allied party, Roberto Jefferson, revealed the R\$30,000 (US\$12,000) per-month payments in an interview with the Brazilian newspaper *Folha de São Paulo*. The funds were alleged to have originated in the advertising budgets of state-owned enterprises and transferred via fake contracts with corrupt advertising agencies. A series of intersecting CPIs were launched to investigate the payments scandal as well as related and overlapping alleged wrongdoing related to the Postal Service and the regulation of gambling. In 2005, Congress expelled Jefferson as well as the alleged mastermind of the scandal, President Lula’s former chief of staff, José Dirceu, while several others legislative members resigned their seats preemptively. In total, the congressional committee investigations named 18 deputies (and one former deputy) who had received the *mensalão* payments.

At the request of President Lula, the Procurador Geral da República (Chief Public Prosecutor) launched an independent criminal inquiry into the affair, and, in May 2006, asked the *Supremo Tribunal Federal* (Supreme Court, STF) to initiate criminal proceedings against 40 individuals. In August 2007, the STF announced that it had approved all requested indictments, but, in an archetypical example of the inefficiencies that plague the Brazilian judiciary, the case was not heard until 2012. In November 2012, the STF found 25 individuals guilty of crimes including embezzlement, money-laundering, corruption, and the misuse of public funds. Arrest warrants were issued for 12 of the 25 in November 2013 although several of the convicted have outstanding appeals.

The convictions handed down in the *mensalão* case were widely heralded as a landmark for Brazilian justice and a blow to the culture of impunity (The Economist, 2013). While the degree to which the STF’s actions signify a movement towards real reform in the judicial process remains unanswered, the *mensalão* has triggered campaign finance reforms: the Superior Tribunal for Electoral Law (TSE – Tribunal Superior Eleitoral) has enacted a regulation requiring parties to fill out an online declaration of campaign contributions that will be publicly available at TSE’s website before elections (Resolução- TSE 23.376/12). (Melo, 2013, p. 17). Although the system, known as *Sistema de Prestação de Contas Eleitorais* (Accounting System of Campaign Financing, SPCE), is likely to create more transparency it is unlikely to curtail off-books campaign contributions, a widespread practice in Brazil.

### 3.8 Operação Sanguessuga (“Operation Bloodsuckers”)

After the CGU reported to the Health Minister in 2004 that its randomized municipal audits had discovered irregularities in the procurement of ambulances, the DPF launched an investigation code-named *Operação Sanguessuga* (Operation Bloodsucker) which eventually uncovered a major corruption ring in which 90 incumbent and 25 former members of Congress were accused of receiving kickbacks for the sale of overpriced ambulances and other medical equipment to municipal governments. Although the CPI created in 2006 to

investigate the affair recommended the expulsion (*cassação*) of 72 legislators, none were expelled or faced criminal charges.

#### **4. Corruption Oversight, Investigation and Punishment in Brazil**

An effective system of accountability requires a “web” of institutions that will increase the likelihood of those engaging in corrupt of being caught and punished (Pope, 2000; Mainwaring, 2003). In this regard, there are three primary functions that these institutions should perform (Taylor and Buranelli, 2007; Power and Taylor, 2011): (i) oversight, which entails monitoring those occupying positions of power and/or engaged in activities where there is high risk of corruption in order to identify quickly anything suspicious or atypical; (ii) investigation, which is the process of obtaining more detailed information about acts or activities once there is suspicion has been raised; and (iii) punishment, which is the effective application of sanctions in those cases in which there is enough evidence to prove that there was wrongdoing.

##### **4.1 Oversight at the Federal Level**

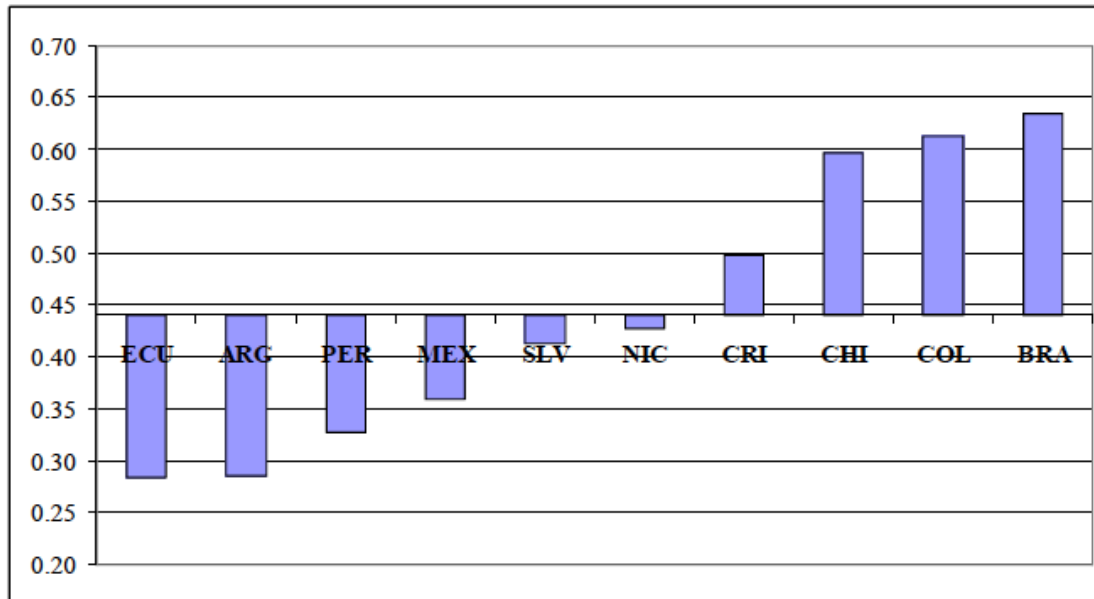
At the federal level, monitoring of government expenditures and performance is conducted by a multitude of institutions, including, most prominently, the *Tribunal de Contas da União* (TCU). Initially created when Brazil first became a republic in 1891, the TCU was last overhauled in the 1988 Constitution, although its powers and responsibilities have been expanded over time (Speck, 2011, p. 136). While formally part of the legislative branch, the TCU is not subordinated to Congress, possessing institutional guarantees of autonomy akin to an independent central bank or an independent regulatory agency; as confirmed by the *Supremo Tribunal Federal* (Federal Supreme Court, STF) in 2010, the powers of the TCU emanate from the Constitution, not legislative delegation.<sup>2</sup> As part of its oversight and monitoring activities, the TCU assists Congress in the preparation and execution of the federal budget, inspects annual financial reports from all offices of the public administration, and approves the hiring, retirement, and pension policies for all civil servants (Federal Constitution art. 71, I, II and III). Each year the TCU’s staff of 2,400 people inspects roughly 3,000 annual financial reports from various government offices and processes several thousands of cases involving the employment and retirement of civil servants (Speck, 2011).

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<sup>2</sup> “A posição constitucional dos Tribunais de Contas órgãos investidos de autonomia jurídica inexistência de qualquer vínculo de subordinação institucional ao poder legislativo atribuições do Tribunal de Contas que traduzem direta emanção da própria Constituição da República. Os Tribunais de Contas ostentam posição eminente na estrutura constitucional brasileira, não se achando subordinados, por qualquer vínculo de ordem hierárquica, ao Poder Legislativo, de que não são órgãos delegatários nem organismos de mero assessoramento técnico. A competência institucional dos Tribunais de Contas não deriva, por isso mesmo, de delegação dos órgãos do Poder Legislativo, mas traduz emanção que resulta, primariamente, da própria Constituição da República. Doutrina. Precedentes.” (ADI 4.190 - MC, REF, Rel. Min. Celso de Mello, julgamento em 10/3/2010, Plenário, DJE de 11/6/2010.) Cited by the MESICIC Report (2011), p. 40.

With an operating budget of R\$700 million (US\$350 million), the TCU compares well on global assessments of auditing institutions. The Open Budget Project gave it a perfect score on “supreme audit institution strength,” helping boost Brazil to 12<sup>th</sup> place out of 100 countries on the overall Open Budget Index which assesses budget transparency and accountability (Open Budget Index 2012, p. 54, 7). TCU also compares well on measures of institutional effectiveness, placing first in an index measuring independence, credibility, timeliness, and enforcement among 10 Latin American autonomous auditing agencies

**FIGURE 3: INDEX OF EFFECTIVENESS OF AAAs IN LATIN AMERICA**



(Source: Santiso 2007).

Despite its highlighted strengths as an institution, the TCU still faces obstacles in monitoring corruption effectively. First, the TCU focuses primarily on compliance reviews, analyzing the lawfulness of acts and processes, as opposed to performance reviews (also known as impact and risk assessments), assessing whether resource allocation has been rational, efficient and effective. Speck contends that this continued focus on compliance rather than performance is justified as the number of processes with severe irregularities is relatively high, ranging from 30%-40% of the total programs analyzed from 1998 to 2005, to 73% and 77% in 2006 and 2007 (Speck, 2011, pp. 139-40). However, Melo (2013) argues that this emphasis on formal analyses (i.e. the conformity and legality) of spending acts results in very few serious irregularities actually being uncovered. In conversations with officials at the TCU, they acknowledged the organization focuses first on legality but emphasized that it serves as merely the first phase in a process that also assesses price, performance, and governance (Author Interviews, 2014). Perhaps signaling its recognition of the need for an increased emphasis on monitoring resource utilization and performance, in 2013, the TCU restructured its auditors into specialized units that focus on specific sectors such as health care, technology, and construction (Author Interviews, 2014).



TCU's governance structure presents additional challenges to ensuring accountability. While autonomous from Congress, TCU is not immune from political pressures. Each member of the TCU's cadre of highly qualified and professional auditors has technical independence while analyzing budget information, but any audit reports can be rejected by one of nine politically-appointed ministers who occupy the highest positions in the organization. Ministers are often former politicians or people with strong ties to the political parties in power creating strong incentives for them to block politically sensitive issues and information (Melo, 2013; Speck, 2008). As Alston, et al. (2005, p. 49) describe: "the process of nomination of the nine ministers assures that the majority coalition in Congress will generally have control over the decision making process in the TCU. Furthermore, the relationship between the President and Congress [...] implies that the majority coalition will generally not have an interest in having the TCU create problems for the President." While the vast majority of the recommendations advanced by TCU officials are acted upon, concerns remain for the potential of ministers to fall victim to political capture (Santiso, 2007; Rocha, 2003).

The third constraint on TCU's ability to punish effectively those involved in wrongdoing concerns the appeals process. The sanctions imposed by the TCU can be appealed to and are often undermined by the judiciary. Regular courts often strike down such sanctions, or take so long to decide on these cases that they end up being closed by running against the limits of the statute of limitations (Santiso, 2007; Speck, 2011; Melo, 2013). Since this is related to another accountability function, punishment, it will be discussed in greater detail below.

The *Controladoria-Geral da União* (Office of Comptroller General, CGU)<sup>3</sup> is part of the executive branch and, unlike the TCU, does not have strong guarantees of independence. CGU performs a number of monitoring and investigative functions, the latter of which will be described in the next section. Most notable among its monitoring functions is its program to audit the use and management of federal transfers by municipalities. Considering that Brazil has over 5,000 municipalities, and the CGU does not have resources to audit all of them, it uses a lottery to randomly select those that will be audited, around a total of 60 every other month (Melo, 2013). This is known as the *Programa de Fiscalização a partir de Sorteios Públicos* (Random Audits Program).<sup>4</sup> Another important initiative is the *Observatório de Despesa Pública* (Observatory of Public Expenses),<sup>5</sup> which develops technology to constantly evaluate patterns in public expenditures at the federal level. The

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<sup>3</sup> "The Office of the Comptroller General of the Union (CGU) is the agency of the federal executive branch, directly linked to the Secretariat of the Office of the President of the Republic, which is responsible for the tasks of internal oversight, inspections, ombudsman units, and preventing corruption. In addition to overseeing the use of public funds and initiating audits, the CGU is also responsible for pursuing actions to promote transparency and to prevent corruption. The purpose of the CGU is not only to detect instances of corruption; it must also anticipate them and work to develop ways to prevent their occurrence. The CGU also performs inspection functions, which consist of activities related to the investigation of possible wrongdoing by public servants and to the imposition of the appropriate penalties. In addition to its central offices, located in the Federal District, the CGU also has offices in all the other states of the federation, on account of its decentralized functions." MECHANISM FOR FOLLOW-UP ON THE IMPLEMENTATION OF THE INTER-AMERICAN CONVENTION AGAINST CORRUPTION (MESICIC), FEDERATIVE REPUBLIC OF BRAZIL FINAL REPORT 3 (2012). See pages 5-10 for full description.

<sup>4</sup> For a program description, see Ferraz and Finan, 2008; CGU, 2014.

<sup>5</sup> <http://www.cgu.gov.br/ODP/index.asp>

initiative has received multiple international awards, including the United Nations Public Service Awards in 2011.<sup>6</sup> A less publicly visible monitoring is crossing data in publicly available databases, in search for evidence of misuse of misappropriation of federal government funds. This work is conducted by the *Secretaria de Prevenção da Corrupção e Informações Estratégicas* (SPCI) on a regular basis.<sup>7</sup>

#### **4.2 Investigation at the Federal Level**

The central institutions performing investigative functions in Brazil are the Federal Public Prosecutors' Office or MPF (*Ministério Público Federal*, MPF) and the Federal Police or DFP (*Departamento da Polícia Federal*).

The MPF is a prosecutorial institution with two important features: (i) it can act in the defense of the public interest, bringing to the judiciary actions to protect the environment and other issues that do not have one individually identified beneficiary, such as corruption (these are known in Brazil as diffuse or collective rights); (ii) it is effectively independent from the three branches of government, being often called the fourth branch (Macedo, 1996; Sadek, 2008); and (iii) it has a low level of institutionalization, and no hierarchical system, allowing each prosecutor to act according to its preferences (Sadek and Cavalcanti 2003). These three features have helped the MPF become one of the strongest accountability institutions in the world and a stalwart actor in fighting corruption in Brazil (Sadek and Cavalcanti, 2003; Sadek 2008). It conducts investigations in collaboration with the DFP and brings criminal and civil suits for administrative improbity according to the Administrative Improbity Law of 1992 (Arantes, 2011). Its activist stance has rendered it the position of most trusted institution among the Brazilian population, according to public opinion surveys (Arantes, 2011).

The MPF's counterparts at the state level are the *Ministérios Públicos Estaduais* (MPEs). Jointly referred to as the *Ministério Público* (MP), the MPF and MPEs have very similar guarantees of autonomy. According to Article 127 of the Brazilian Constitution, the MP is responsible for defending the legal order, the democratic system, and inalienable social and individual rights. "The MP's functions also include overseeing the enforcement of laws, the protection of public property, and the effective respect by the branches of government of the rights guaranteed in the Constitution." (MESICIC, 2012, p. 4) Its duty to protect the public property (*patrimônio público*) is interpreted as a mandate to fight corruption.

Often times the MPF will conduct investigations in collaboration with the police, especially in criminal cases, but there have been cases in which it acts alone. The constitutionality of such investigations have been questioned before the Supreme Court in a case that started in 2008 and had not been decided at the time of this writing (Sadek 2008, note 4).<sup>8</sup> As actions of administrative improbity are civil in nature, the MPF cannot count on the federal police to investigate such cases (which require a civil investigation, or what is called *inquérito civil*), so it usually does most of the work. However, there has been increasing concern about the fact that MPF is conducting many investigations independently (Arantes, 2011, p. 189). Indeed,

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<sup>6</sup> <http://www.cgu.gov.br/ODP/premios.asp>

<sup>7</sup> <http://www.cgu.gov.br/PrevencaoodaCorrupcao/InformacoesEstrategicas/index.asp>

<sup>8</sup> RE 593727 - RECURSO EXTRAORDINÁRIO, Filed before the STF: 02/10/2008. Relator: MIN. CEZAR PELUSO.

in 2013 a bill was introduced into Congress to create a constitutional amendment to expressly prohibit MPF from conducting criminal investigations (PEC-37). After a strong popular campaign against such measure, spearheaded by the public prosecutors themselves, the bill was voted down (O Globo, 2013). Thus, MPF and all MPEs maintain non-institutionalized but broadly exercised investigative functions. Indeed, according to the Attorney General (Procurador Geral da República) it would not be possible to prosecute and convict those involved in the *mensalão* case without the investigation conducted by the MP (Terra, 2013).

The Federal Police Department (DPF) in turn is responsible for criminal investigations of matters under federal jurisdiction (Federal Constitution, Art. 144), whereas criminal investigations of all other matters are left with the state police forces. In contrast with MPF, the federal police force is weakly institutionalized: it is subordinated to the Ministry of Justice (part of the executive branch), it offers relatively low prestige (specially in comparison to other options for young lawyers such as those offered by MPF or the judiciary) and it has been more prone to corruption and abuse of power (Arantes, 2011). It was only in the late 1990s that the MPF started conceiving of its mission as combating corruption and organized crime. This happened alongside attempts at the Federal government to strengthen the Federal Police, which have translated both in personnel, and budget increases (Arantes, 2011).

This contributed to an increase in the number of investigations of acts of corruption between 2005 and 2009. (MESICIC, 2012, p. 27). There was also an increase in the number of “operations”, which are defined as “the carrying out of arrest or search and seizure warrants, issued by courts after a period of investigation that may last weeks or months and almost always includes participation by the MP or other bodies such as the Revenue Service, the Social Security Ministry, the state police, or regulatory agencies” (Arantes, 2011, p. 200). While some investigations may lead to operations, others will just lead to criminal charges. The operations, however, are very visible, often being described by catchy nicknames that facilitate publicity. They are accompanied by wide press coverage. Both the operations and the number of people imprisoned, including the Governor of the Federal District and the Governor of the State of Amapá, have significantly increased (MESICIC 2012, 26):

	2005	2006	2007	2008	2009	2010	2011
Operations carried out	67	167	188	235	288	270	256
Public servants imprisoned	219	385	310	396	183	124	260
Police officers imprisoned	9	11	15	7	4	5	4
Total persons imprisoned	1,407	2,673	2,876	2,475	2,663	2,734	2,085

More recently, in 2012, the DFP created the Service for the Suppression of the Diversion of Public Resources (SRDP), which engages specialized delegations to fight embezzlement of public resources. They are currently present in 17 of Brazil’s 26 states and the federal district (MESICIC 2012, 25).

It is important to note that in addition to investigation at the civil and criminal level, there are also administrative investigations. The internal control bodies inside each department of the government (*corregedorias*) conduct most of these investigations. CGU has a program to

help departments that do not have internal control bodies to create them (CGU, 2011). In addition, one of CGU's arms is the Corregedoria Geral da União (CRG), which is the supreme internal control body for the executive branch. CRG can investigate wrongdoing in cases in which the internal control body is not able or willing to do so, or in cases where the accused is a high profile person and there is low chance of an impartial internal investigation. Based on these investigations, CRG can open an administrative process and impose administrative sanction on civil servants. The same can be done by TCU, as discussed earlier.

#### **4.3 Punishment at the Federal Level**

The most important institution involved in the punishment of corruption-related offenses is the federal judiciary. As discussed in Section 2.4 the Brazilian court system enjoys significant formal and operational autonomy, but this independence has often served to obscure its broader institutional deficiencies.

The Brazilian judiciary's underperformance relates not to sporadic errors in execution but rather to fundamental structural problems such as its excessively formalistic, burdensome procedural rules and corruption (Prillaman, 2000; Taylor, 2009; Taylor, 2011). Brazilian courts still follow so-called positivistic doctrines, which impose a high evidentiary burden on prosecutors, to interpret the law, resulting in a very low rate of corruption convictions. Considering that corruption is an act that is rarely documented, it is very difficult to find cases in which courts have found that the evidence presented was enough to justify a conviction.

Collorgate is probably the most famous case in which the most prominent figure among the accused, former President Fernando Collor, failed to be convicted due to the lack of evidence. While the individuals directly involved in the scheme were sentenced, there was nothing among the legally collected evidence to link Collor with any of the criminal acts under analysis. The last decision in this case was issued on April 24, 2014, illustrating the slow pace at which corruption cases are analyzed in the judiciary. Due to the delay, two of the three accusations were dismissed as they had run against the statute of limitations. STF absolved Collor from the third one.<sup>9</sup> The Collor case is not unique – often high level politicians and important business people have been acquitted, while their subordinates, who actually deposited or transferred the money at their superiors' direction or request, have been sentenced. The 2013 Mensalão case represented a significant shift in that the Supreme Court imposed vicarious liability on superiors who, by nature of their relationship with the directly involved party, could allow the court to assume that the person in a higher position had mandated the subordinate to commit a criminal act. While this high-profile case resulted in top-level officials being sent to prison, it is unclear the extent to which lower courts will incorporate the decision into their own jurisprudence.

In addition to the formalism regarding the burden of proof, courts also very strict in determining the admissibility of evidence. Under the Brazilian Constitution, courts may only consider evidence obtained through legal means (Constitution, art. 5, item LVI) and, given the country's strong constitutional protections against telephone, financial (income and

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<sup>9</sup> STF, Ação Penal 465, available at <http://www.stf.jus.br/portal/processo/verProcessoAndamento.asp?incidente=2565265>.

wealth) surveillance (Constitution, art. 5, XII), much evidence of corruption is never introduced formally into court. For instance, a high profile case, *Operação Castelo de Areia*, was dismissed by the second highest court in the country (STJ) because the recording of phone conversations was considered illegal. It is interesting to note that the police had requested judicial authorization to perform the recording, but the judicial authorization itself was considered illegal because the request was based on an anonymous lead. Thus, there were no grounds for a court of law to grant authorization for the recording. This illustrates the level of formality that impairs the punishment of corruption cases in Brazil.

Delays in the resolution of cases combined with strict statutes of limitations further contribute to the impunity problem. As a result, if a case takes too long to be decided, it runs against the statute of limitations and needs to be closed before a final verdict is issued. As a consequence, even in cases in which there may be sufficient evidence to impose criminal sanctions the result is impunity.

In sum, formalism combined with lack of capacity has had a negative impact on legal suits to fight corruption, as shown illustrated in the MESICIC Report (2012, 46-47):

	STF	Regional federal courts
# of complaints of acts of corruption and money laundering received	4	229
# of proceedings concerning corruption or money laundering resolved	0	53 (30 final, with 14 defendants receiving final convictions and 3 in which the statute of limitations ran)
# of complaints related to administrative impropriety	0	571
# of proceedings concerning administrative impropriety resolved	1 (final)	79 (4 final)

The causes of the delays under the current system are manifold. First, at the operational level, as of 2012, the judiciary was utilizing at least 210 different, unintegrated computer systems, frustrating any attempt at coordination (MESICIC 2012, p. 37). Second, an excessive number of cases leads to a significant backlog. Brazilian courts – even the Supreme Court – cannot select the cases it will hear. In addition, the breadth of the scope of the Federal Constitution, a large number of cases can be “constitutionalized”. As a result, in 2010 alone, the Brazilian Supreme Court received 72,000 new cases (MESICIC 2012, p 37). Third, the system of appeals is overly generous to defendants; if all the available remedies are used, a standard criminal proceeding has to exhaust four judicial instances<sup>10</sup> in order to be considered concluded and no longer subject to appeal (*trânsito em julgado*). Thus, criminal proceedings may drag out indefinitely as, no sanction can be executed before the case is concluded, as per Article 5 (LVII) of the Federal Constitution: “no one shall be

<sup>10</sup> In the First Instance, a single judge reviews the evidence and analyzes the facts and law. A judgment at First Instance may be appealed to a collegiate body (Second Instance) which will review the facts and law. That collegiate body decision may be appealed to the Supreme Court of Justice (STJ) (Third Instance) to examine legal questions under federal law. Finally, the STJ is subject to appeal to the STF (Fourth Instance) under an “extraordinary appeal,” in which constitutional issues are raised. (MESICIC, 2012, p.43).

*considered guilty until the criminal conviction is final.*" This means that there is no punishment until there is no longer the possibility of an appeal.

The MESICIC Report notes that civil society and academics have been particularly critical of the consequences of the multiple appeals process, arguing that it "contributes, in practice, to a final (not subject to appeal) judgment being virtually unattainable, often leading to the statute of limitations to run on cases and, consequently, impunity for those accused of acts of corruption." (MESICIC, 2012, p. 44). There has been two initiatives to tackle this problem. One was spearheaded by the National Council of Justice (CNJ) the external oversight body of the Brazilian judiciary. In 2012, CNJ determined that all cases of corruption and administrative improbity that had reached the courts by December 31, 2011 should be decided by December 31, 2013 (CNJ, 2012). Out of the total of 114,336 cases, only 61,698 were decided (53.97%) of the total (CNJ, 2014).

Another initiative is a proposal is a constitutional amendment (Draft Constitutional Amendment 15/2011) that would eliminate special and extraordinary appeals to the STJ and STF. This would, in practice, eliminate the third and fourth instances, allowing cases to conclude at second instance. Justices of the Brazilian Supreme Court and members of the Federal Public Prosecutor's Office are supportive of the proposal. In contrast, the BAR Association criticizes it for reducing the possibility of fixing mistakes of lower courts while not solving the structural problems that slow down cases (MESICIC, 2012 43-44; Folha 2010). The proposal was waiting to be voted in the Brazilian senate at the time of this writing.

In addition to judicial sanction, the Brazilian system provides for administrative punishment. For instance, the TCU has power to impose penalties on those investigated and sentenced by this audit court, such as fines, compensation for the losses caused to the public administration, removal from office, temporary suspension of political rights or the right to be appointed for public office, and for companies banning from participating in public bidding processes. The TCU has been growing increasingly active in applying these sanctions: while in 2006, only 13 individuals were disqualified from holding commissioned or trust positions and 23 firms were barred from participating in competitive federal bidding by the TCU, these figures increased to 103 and 109, respectively, in 2010 (MESICIC, 2012, 20). Due to the sheer existence of this power to apply sanctions, and without analyzing its effectiveness, Santiso (2007) has rated the TCU's ability to punish at the highest level possible.

However, Beck (2011) argues that the effectiveness of these sanctions have been largely reduced due to the fact that any of these sanctions can be appealed and revised by regular courts. While some form of control against potential abuses may be perceived as positive, Beck indicates that such judicial appeals are dysfunctional and disruptive, rather than salutary to the process for two reasons. First, it is not fully clear how extensive the judicial review should be, considering that the TCU acts like a tribunal, following all the proceedings that would be following in a case brought before the judiciary. Some courts believe that the judiciary can review the substance of TCU's decisions, while others affirm that the review is only procedural. The dispute has generated much instability, negatively impacting on the effectiveness of the TCU's sanctions. Moreover, this dispute creates a somewhat higher rate

of revisions than it would be the case if the judicial review was merely procedural. The second problem is time. The Brazilian judiciary operates, in general, at a glacial pace, as discussed earlier. As a result, many appeals take too many years to be decided, running against statutes of limitations or in some cases becoming moot (due to the death of the accused or its leaving of public office).

#### **4.4 Accountability at the State and Local Levels**

As described in the previous section of the paper, levels of corruption are higher at the state and local level, in comparison to federal levels in Brazil. The accountability institutions are also on average less strong and effective in combating corruption at the state and local level, but there is significant regional variation (Melo, 2013).

For oversight, there are a total of 33 audit courts in the country (not including TCU). Twenty-seven are State Audit Courts, or TCEs (Tribunais de Contas do Estado) and 6 are Municipal Audit Courts or TCMs (Tribunais de Contas do Estado) (Speck 2012). Similarly to TCU, the governance structure of these entities is defined in the Federal Constitution (art. 75). Their effectiveness, however, seems to be conditional upon the context in which they operate: in states with higher levels of political competition and power alternation the TCEs are more active (Melo, Pereira and Figueiredo, 2009); also where the audit courts are better integrated with MPEs, they tend to be more effective (Melo 2013, 29). While there are only 6 audit courts for municipalities, since 2002, municipalities have been randomly audited by CGU, as described earlier. There have been studies indicating that such audits have been effective in reducing corruption at the local level, especially in education and health (Ferraz & Finan 2008, 2011; Zamboni 2012).

At the level of investigation, the scholarship seems to be unanimous in indication state police forces as unequipped to conduct adequate investigations, and obstacles to coordinate the investigative police (civil police) with the street patrolling police (military police) (Prado, Trebilcock and Hartford, 2012).

For punishment, states have state courts, which are plagued with the same deficiencies – if not more -- than federal courts.

#### **Conclusion**

This article offers a diagnosis of the status of corruption in Brazil based on different indicators, institutions, and levels of government, and provides an analysis of the efficacy of the government's post-1988 anti-corruption reforms, as well as the effectiveness of such initiatives. It also analyzes Brazil's "web" of accountability institutions – oversight, investigation, and punishment, highlighting some of the problems that have impeded efforts to combat corruption in the country.

Our main findings are twofold. First, the core corruption challenges currently facing Brazil lie not in street-level, petty corruption, but in systems and institutions that have allowed grand corruption to persist as a pestilence that weakens social and political trust and undermines economic growth. Second, an examination of Brazil's accountability

mechanisms reveals core institutional deficiencies – most notably and egregiously at the level of punishment – that have eviscerated the country’s efforts to combat corruption. Having developed our diagnosis, we hypothesize that the prescription for the country’s corruption ills lies in reforming the web of accountability institutions, particularly those responsible for sanctioning corrupt actors.



**Appendix: Notable Scandals (1988 - ) and the Roles of Accountability Institutions**

	<b>Oversight/Detection</b>	<b>Investigation</b>	<b>Punishment (Non-Judicial)</b>	<b>Punishment (Judicial)</b>
<b>Collorgate</b>	Media publicized revelations from an insider/rival (Pedro Collor de Melo)	Congressional CPI; active support from investigative journalists	President Fernando Collor de Melo: impeached by both houses of Congress; resigned office; political exclusion for 8 years; currently serving in the Senate Paulo César (“P.C.”) Farias: resigned office; his 1996 murder now suspected to be tied to the Collor kickback scandal	Collor: acquitted on “passive corruption” charges by the STF Farias: convicted of tax evasion and sentenced to 6 years in prison, later commuted to house arrest
<b>Anões do Orçamento (“Budget Dwarves” or “Budgetgate”)</b>	Police investigation into the death of former staff aide to the Joint Budget Committee of Congress (José Carlos Alves dos Santos) uncovered millions of dollars in his home; in interviews, dos Santos implicated 3 state governors, 2 Cabinet ministers, President of the Senate, the leader of the largest party in the Chamber of Deputies, and 19 other congressmen	CPI; DPF launched own criminal investigation	19 members of Congress expelled, 4 resigned including alleged ringleader João Alves	Dos Santos was convicted of murdering his wife, but no public official was convicted of corruption-related crimes in connection with the scandal

	Oversight/Detection	Investigation	Punishment (Non-Judicial)	Punishment (Judicial)
<b>Cardoso's Vote-Buying Scandal</b>	Media publication of transcripts of insider conversation obtained via illegal phone-tap	Commission of Inquiry (comissão de sindicância na Câmara) established in the Chamber of Deputies	2 legislators resigned from Congress	None
<b>São Paulo Regional Labor Court (TRT)</b>	TCU detected irregularities in 1993, but the construction project continued for the next 5 years.	Federal Revenue Service (Receita Federal) opened an investigation in 1998, followed by the MPF; a CPI was initiated in 1999	Senator Luiz Estevão became the first Senator to be impeached and was stripped of his parliamentary immunity.	Judge Nicolau dos Santos Neto ("Lalau") was convicted of criminal embezzlement and sentenced to prison in 2002. Estevão was acquitted of criminal charges.
<b>SUDAM and SUDENE</b>	In 2000, a CPI was initiated to investigate funds to the northeast region. CPI is followed by CGU, audits, which noted discrepancies in SUDAM accounts. In the coming months, mutual public accusations between political rivals, the leader of the Senate, Senator Jader Barbalho, and Senator Antônio Carlos Magalhães triggered further investigations into agencies long-suspected of corruption.	Investigations conducted by the Federal Police, federal prosecutors, the TCU, a congressional CPI, and the press.	Barbalho: resigned his mandate, preserving his political rights. Elected to Chamber of Deputies in 2002 and returned to the Senate in 2011.	July, 2013: the Federal Court of Tocantins convicted Barbalho and ten others for the misappropriation of public funds. Barbalho was ordered to pay R\$2.2 million of the total R\$11.1 million restitution demanded. Appeals are pending.

	Oversight/Detection	Investigation	Punishment (Non-Judicial)	Punishment (Judicial)
<b>Banestado</b>	Initial inquiries conducted by the Receita Federal, Ministério Público, and the Federal Police	The CPI found that more than R\$150 billion (US\$70 billion) had been illegally transferred between 1996 and 2002 through the Banestado regional bank.		September, 2011, Superior Court of Justice confirmed criminal conviction for mismanagement and tax evasion for 15 officers and advisors of the former Bank of the State of Paraná.
<b>Mensalão</b>	Media; revelations by insider/political rival, Roberto Jefferson	Series of intersecting CPIs were launched to investigate the payments scandal as well as related and overlapping alleged wrongdoing related to the Postal Service and the regulation of gambling. Federal Public Prosecutor (Procurador Geral da República) also launched an independent criminal inquiry into the affair.	Jefferson: expelled from Congress. José Dirceu, President Lula's former chief of staff: expelled Other implicated parties resigned their congressional positions preemptively.	August, 2007: STF approved all 40 indictments requested by the Federal Public Prosecutor. November, 2012: STF found 25 individuals guilty of crimes including embezzlement, money-laundering, corruption, and the misuse of public funds. November, 2013: STF issued arrest warrants were issued for 12 of the 25 although several of the convicted have appeals outstanding.

	Oversight/Detection	Investigation	Punishment (Non-Judicial)	Punishment (Judicial)
<b>Operação Sanguessuga (“Operation Bloodsuckers”)</b>	CGU’s randomized municipal audits discovered irregularities in the procurement of ambulances.	DPF launched the investigation which uncovered a major corruption ring in which 90 incumbent and 25 former members of Congress were accused of receiving kickbacks. CPI convened.	Although the CPI recommended the expulsion (cassação) of 72 legislators, none were expelled.	The Federal Court of Mato Grosso opened criminal cases against more than 300 defendants (mayors, former congressmen, advisors), but handed down only 31 sentences with 22 convictions. One ex-deputy was convicted and sentenced for accepting bribes, but his two-year sentence was converted to service.

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