

Luciana Romano Morilas

University of São Paulo, Brazil

morilas@usp.br

ORCID: 0000-0001-9318-2058

<https://doi.org/10.26881/gsp.2025.4.05>

Transparency, Accountability, and Judicial Independence in Brazil's Fight against Corruption: Lessons for Latin America from the Car Wash Operation

1. Introduction

Corruption and impunity pose significant challenges to democracies globally. The engagement of political leaders or public officials – often connected to unpunished private bribeers – in corrupt practices without facing consequences undermines the rule of law and erodes public trust in state institutions.

The perception of high impunity related to corruption has led to the election of populist leaders, perceived as part of “the good people” and invested in the heroic task of combatting a “corrupt elite,” offering an oligarchic mode of ruling.¹ Ironically, these anti-establishment figures have themselves become subjects of corruption investigations.²

The question is: Is there a disconnect between perceived impunity and the actual effectiveness of integrity systems in curbing corruption?

To answer this question, I take the cases of young democracies in Latin America. They are more vulnerable and have witnessed massive corruption cases recently, such as Brazil with the Car Wash Operation, *La Estafa Maestra* (The Master Swindle), in Mexico, and the Notebooks Case in Argentina. I explore the Brazilian case, studying the Integrity System in Brazil, which caused major political developments, such as the imprisonment of two ex-presidents of Peru, the resignation of Ecuador's vice-president, the incrimination of politicians from Colombia, Panama, Dominican Republic, and Argentina, and the bankruptcy of the Latin American giant conglomerate Odebrecht.³

¹ M.A. Cameron, *The Return of Oligarchy? Threats to Representative Democracy in Latin America*, “Third World Quarterly” 2021, vol. 42, no. 4, pp. 775–792, <https://www.tandfonline.com/doi/epdf/10.1080/01436597.2020.1865794?needAccess=true> [accessed: 2024.09.14].

² J. Mendilov, *Introduction* [in:] *The Fight against Systemic Corruption: Lessons from Brazil (2013–2022)*, eds. M.E. Trombini, E. Valarini, V.E. de Oliveira, M. Pohlmann, Wiesbaden 2024, pp. 1–7.

³ Conselho, Nacional de Justiça, *Justiça criminal, impunidade e prescrição*, Brasília 2021.

It is crucial to emphasize the importance of studying Latin America from a Latin American perspective. Evaluating issues such as impunity and perception of corruption through external frameworks can lead to misinterpretations, especially since different legal systems and regulations apply. For instance, research into corruption perception in Latin America notes: "Additionally, there has been a notable decrease in the percentage of Brazilians who believe that laws such as the Foreign Corrupt Practices Act (FCPA) have effectively reduced corruption risk (50 per cent of respondents in 2024, down from 74 per cent in 2020)."⁴ However, as the FCPA is a U.S. law and not enforceable within Brazil, it is reasonable for Brazilians to view it as having limited influence on corruption within their own borders. While the FCPA may indirectly impact cases involving Brazilian agents – such as during the Car Wash Operation⁵ – it remains an external mechanism, underscoring the need for research grounded in the region's own legal and institutional realities.

Indexes that focus on the perception of corruption are considered a good proxy since data on corruption itself may not be reliable or complete. However, perception-based indexes overlook possible mechanisms that shape citizens' perceptions of corruption, which mean that they do not measure the actual level of corruption.⁶ While global indices, international organizations, and foreign governments often focus on curbing corruption in young democracies, external perspectives may lead to misinterpretations of local realities and the imposition of ineffective solutions. Latin American countries, in particular, face distinct challenges that require context-specific approaches to corruption and impunity. External frameworks, such as the FCPA or international benchmarks like the Corruption Perceptions Index (CPI), provide a broad understanding of corruption, but they often fall short in recognizing the complex socio-political dynamics within each country.

This article studies Latin American democracy from a Latin American perspective, which we believe provides a more coherent framework, while acknowledging international contributions and perceptions in this field. By addressing anti-corruption efforts within the local context, Latin American countries can more effectively tackle deeply rooted issues of impunity and corruption, while preserving the integrity and resilience of their democratic institutions.

My article is structured as follows: first, I examine democracy and corruption in the Latin American context; next, I conduct a detailed analysis of the Brazilian case; finally, I discuss the broader role of integrity systems in promoting accountability.

⁴ R. Rincon, A. Sultan, *Top five takeaways on corruption perception in Latin America: Insights from professionals across the region*, International Bar Association 2024, <https://www.ibanet.org/top-five-takeaways-on-corruption-perception-in-latam> [accessed: 2024.09.14].

⁵ The Car Wash Operation (*Operação Lava Jato* in Portuguese) was an anti-corruption investigation that originated Brazil (2014–2021) saw developments in other Latin American democracies. It was initially named after a car wash business used for money laundering. The operation uncovered a massive corruption scheme involving politicians, executives, and the state oil company Petrobras, resulting in over 165 convictions.

⁶ G. Rodríguez-García, *Measuring the Risk of Corruption in Latin American Political Parties. De Jure Analysis of Institutions, "Data & Policy"* 2022, vol. 4, e42.

2. Democracy and corruption in Latin America

Democracy thrives on transparency; transparency is a principle that ensures accountability by making government actions visible and understandable to the public. Lindstedt and Naurin⁷ argue that while transparency can reduce corruption, as it is generally understood, in itself transparency is not sufficient. Effective transparency requires robust systems of publicity and accountability.

This raises the question: What is the state of transparency in Brazil, the main case under examination here?

From the 1950s to the late 1980s, many Latin American countries endured violent dictatorships characterized by widespread human rights violations (for example, Paraguay, 1954–1989; Bolivia, 1964–1982; Brazil, 1964–1985; Chile, 1973–1990; Uruguay, 1973–1985; and Argentina, 1976–1983). While democratization marked the end of these regimes, it did not immediately eliminate human rights abuses. On the contrary, anti-systemic guerrilla movements persisted into the early 2000s, perpetuating cycles of violence and human rights violations.⁸ Despite the establishment of democratic systems across the region, accountability for these past abuses remains largely absent. To this day, many human rights violations from both the dictatorship and post-dictatorship periods have not been adequately addressed or punished.⁹

In Brazil, democracy and transparency were formally institutionalized with the 1988 Constitution. Although the Constitution does not explicitly use the term "transparency," it enshrines the principle of "publicity" as a fundamental human right (Art. 5, LX¹⁰). Rodrigues¹¹ argues that while "publicity" and "transparency" are often used interchangeably, the former has roots in political discourse and decision-making in ancient Athens, whereas the latter is more closely associated with modern notions of accountability. Publicity, along with legality, impersonality, morality, and efficiency, is one of the guiding principles of public administration in Brazil¹².

⁷ C. Lindstedt, D. Naurin, *Transparency Is Not Enough: Making Transparency Effective in Reducing Corruption*, "International Political Science Review/Revue internationale de science politique" 2010, vol. 31, no. 3, pp. 301–322, <https://www.jstor.org/stable/25703868> [accessed: 2024.09.14].

⁸ R. Stavenhagen, *Human Rights, Democracy and Development in Latin America*, "Economic and Industrial Democracy" 1991, vol. 12, no. 1, pp. 31–41.

⁹ A. Chaves Jr., B.A. Machado, T.A. de Pádua, *The judgment of crimes against humanity in Brazil: Analysis through the critical criminological lens of Lola Aniyar*, "International Journal of Development Research" 2021, vol. 11, no. 11, pp. 47135–47145; S.R. Pinto, *Direito à memória e à verdade: Comissões de verdade na América Latina*, "Revista Debates" 2010, vol. 4, no. 1, pp. 128–143.

¹⁰ Art. 5, LX, of the Brazilian Federal Constitution declares that the law may only restrict the disclosure of proceedings if the restriction is required to protect privacy or the interest of society. In Portuguese, the word used instead of "disclosure" is best translated as "publicity".

¹¹ T.M. Rodrigues, *The Role of the Media in the Impeachment Processes of Dilma Rousseff (2016) and Michel Temer (2017)*, "Contracampo" 2018, vol. 37, no. 2, pp. 36–57.

¹² Efficiency was included in the text in 1998, by Constitutional Amendment no. 19.

Transparency, as defined by Schudson,¹³ involves making information accessible to the general public, often achieved through mechanisms of publicity. In Brazil, this principle is upheld through the publication of every administrative act, including public contracts, judicial decisions, annual budgets, and agency accounts. Historically, these documents were distributed via printed official gazettes; nowadays, they are available in digital formats, enhancing accessibility and reducing costs.

Publicity alone is insufficient for achieving true transparency.¹⁴ Transparency also requires accessibility and a free press. In 2011, the Access to Information Act¹⁵ established clear rules to ensure that any citizen can access public information, a tool frequently utilized by the media and researchers to expose and disseminate critical information. In 2010, Brazil's Supreme Court ruled the Press Law¹⁶ – enacted during the dictatorship to control information – unconstitutional in the judgment Direct Action of Unconstitutionality No. 130/2008. Furthermore, since 1988, the confidentiality of journalistic sources has been guaranteed as a fundamental human right under the Constitution.¹⁷

Brazil's strong and protected media landscape exemplifies the robustness of its democratic framework. For instance, the recent case involving the platform X (formerly Twitter), which was banned from the country for not complying with Brazilian laws,¹⁸ illustrates the judiciary's commitment to upholding the rule of law. Despite criticism from certain politicians and media figures, the judiciary complied with due process according to constitutional rule¹⁹ and ensured transparency by making public all the proceedings involved.

Judicial transparency in Brazil is particularly notable. Every single judicial act, including court hearings, is public unless restricted to protect "privacy or the interest of society" (Art. 5, LX). In stark contrast to countries like France, which have criminalized the publication of statistics about judicial decisions,²⁰ Brazil's National Justice Council publishes comprehensive data on decisions across its more than 100 courts (twenty-seven state courts, plus labour courts, electoral courts, military courts, and federal courts).

¹³ M. Schudson, *The Shortcomings of Transparency for Democracy*, "American Behavioral Scientist" 2020, vol. 64, no. 11, pp. 1670–1678.

¹⁴ *Ibid.*

¹⁵ Law No. 12,527/2011.

¹⁶ Law No. 5250/1967.

¹⁷ The Brazilian Federal Constitution, Art. 5, XIV, demands that access to information of public interest be ensured to everyone; the confidentiality of a source shall be safeguarded whenever necessary for professional practice.

¹⁸ T. Phillips, *Brazil's Supreme Court Upholds Ban on Elon Musk's X over 'Illegal Conduct'*, "The Guardian" 2 September 2024, <https://www.theguardian.com/technology/article/2024/sep/02/brazils-supreme-court-upholds-x-ban-over-conduct> [accessed: 2024.09.14].

¹⁹ The Brazilian Federal Constitution, Art. 5, LV, requires that parties in judicial or administrative proceedings and defendants in general be ensured an adversary system and a full defence, with the means and resources inherent to such defence.

²⁰ F. McCann, *France bans analytics of judges' decisions*, Lexology, 2019, <https://www.lexology.com/library/detail.aspx?g=ff53dfbe-0fe6-4dee-8a1d-990bf8459020> [accessed: 2024.09.14].

Transparency in Brazil, encompassing publicity, accessibility, and understandability, is well established. These elements align with Lindstedt and Naurin's criteria for a settled democracy.²¹ Thus, we can affirm that transparency, as a fundamental pillar of democracy, is both clearly defined and effectively implemented in Brazil, thus answering the first question that we asked above.

2.1. The corruption landscape in Latin America

Corruption is still a challenge for Latin American democracies. According to the 2024 Corruption Perceptions Index, Latin America scores 42 out of 100, just below the global average of 43.²² This indicates that the region still faces significant challenges, but should not be characterized as exceptionally corrupt. One should also take into account that this index measures "perception" and, as mentioned previously, the actual "risk" of corrupt activities at the country level may not be captured by it. Rodríguez-García²³ creates a Risk of Corruption Index (ROC) but realises that perception of corruption does not usually match risk of corruption; high perception usually accords with low risk and vice-versa. Both indexes measure different things, which might mean that countries with a low perception of corruption worry less about controlling its risks, while a higher perception of corruption might lead to more regulation to control those risks.²⁴

The countries involved in the Car Wash Operation – Brazil (107th), Ecuador (121th), Peru (127th), and Mexico (140th) – scored respectively 34, 32, 31, and 26 in the perception index,²⁵ while the position of the same countries in the risk index is: Mexico (1st), Peru (3rd), Brazil (4th), and Ecuador (15th) (from shorter to higher risk).²⁶ This striking discrepancy exemplifies how perception-based indices may misrepresent the actual corruption landscape in Latin America, potentially leading to misguided policy interventions based on external frameworks rather than regional realities.

Because of the nature of the region, corruption is not usually characterized as a matter of isolated incidents, but crosses borders of multiple countries and involves both public officials and private corporations. The transnational nature of corruption in the region became starkly evident through the Car Wash Operation, which evolved into what the BBC has called "the largest foreign bribery case in history."²⁷ Two main Brazilian multinational companies were involved in the case: Petrobras, the state oil

²¹ C. Lindstedt, D. Naurin, *Transparency Is Not Enough...*

²² *Corruption Perceptions Index 2024*, Transparency.org, 2025, <https://www.transparency.org/en/cpi/2024> [accessed: 2024.11.9].

²³ G. Rodríguez-García, *Measuring the Risk of Corruption...*

²⁴ *Ibid.*

²⁵ *Corruption Perceptions Index 2024...*

²⁶ G. Rodríguez-García, *Measuring the Risk of Corruption...*

²⁷ E. Gonzalez-Ocantos, V. Baraybar Hidalgo, *Lava Jato beyond borders: The uneven performance of anticorruption judicial efforts in Latin America*, "Taiwan Journal of Democracy" 2019, vol. 15, no. 1, pp. 63-89, <https://www.airitilibrary.com/Article/Detail/18157238-201907-201907310007-201907310007-63-89> [accessed: 2024.11.10].

company, and Odebrecht, a construction company. Between 2001 and 2016, Odebrecht admitted paying US\$788 million in bribes to politicians and political parties in Angola, Mozambique, and nine Latin American countries (Argentina, Brazil, Colombia, the Dominican Republic, Ecuador, Mexico, Panama, Peru, and Venezuela).²⁸

The economic impact of the exposure of these corruption schemes has been devastating. Petrobras and Odebrecht paid billions in settlements not to the Latin American countries directly affected by the corruption, but to settle class actions brought by investors in New York under U.S. jurisdiction. This paradox underscores a critical issue: the FCPA, a U.S. law not enforceable within Brazil, became the primary mechanism for imposing consequences on these multinational companies.

Economic analysis by Ferraz *et al.*²⁹ reveals the broader sectoral damage caused by the Car Wash investigations. Their study of Brazilian construction companies found a 54% reduction in employment and a 63% decrease in wage bills among firms that were investigated. More troubling were the substantial adverse spillover effects: companies not involved in the investigation experienced reduced access to credit, leading to a 12% reduction in wage bills and 10% decrease in employee numbers. These findings demonstrate that while corruption itself damages economies, the investigation's approach (one that used settlement agreements reached in the United States under extraterritorial application of foreign laws) created ripple effects throughout the regional economy that may have exceeded the original harm.

Weak judicial systems have been identified as a key cause for Latin America's struggle in controlling corruption. The lack of independence and transparency of the judiciary not only enables corruption but also allows undue influence by political and economic elites to actively undermine judicial institutions.³⁰ However, this assessment must be nuanced: as I demonstrate via the Brazilian case, robust judicial independence can serve as a critical bulwark against corruption, even when other institutions falter. The challenge lies not in the absence of judicial structures, but in ensuring their autonomy and effective functioning.

Nevertheless, institutional reforms, transparency measures, and citizen engagement have demonstrated potential to improve corruption control, as evidenced by recent improvements in Guatemala and the Dominican Republic.³¹ Understanding the Latin American landscape from a Latin American perspective, focusing on risk rather than perception, offers an alternative analytical framework that may better capture regional realities. Brazil's integrity system provides a particularly instructive case study

²⁸ B. Miller, F. Uriegas, *Latin America's Biggest Corruption Cases: A Retrospective*, "Americas Quarterly" 11 July 2019, <https://www.americasquarterly.org/article/latin-americas-biggest-corruption-cases-a-retrospective> [accessed: 2024.11.15].

²⁹ C. Ferraz, L. Moura, L. Norden, R. Schechtman, *The unintended consequences of Brazil's landmark anti-corruption campaign*, VoxDev, 2025, <https://voxdev.org/topic/institutions-political-economy/unintended-consequences-brazils-landmark-anti-corruption> [accessed: 2024.11.15].

³⁰ S. Woolston, *What the Corruption Perceptions Index Actually Says About Corruption in Latin America*, InSight Crime, 23 February 2024, <https://insightcrime.org/news/what-corruption-perceptions-index-actually-says-about-corruption-latin-america> [accessed: 2024.11.15].

³¹ *Ibid.*

for examining how institutional mechanisms can address corruption within the region's unique political and legal context. In the following section, I analyze this system in detail to understand both its strengths and limitations in combating corruption and impunity.

3. The Brazilian Integrity System

Integrity systems, as defined by the OECD (2021), comprise a set of public institutions, practices, actions, and policies designed to prevent, detect, punish, and remediate corruption and fraud. These systems are fundamental to healthy political, economic, and social structures, fostering good governance that correlates with higher per capita incomes, lower infant mortality rates, and greater literacy.³² A National Integrity System encompasses a comprehensive set of institutions, practices, and policies aimed at preventing corruption and promoting integrity within a country.³³ In Brazil, the Integrity System encompasses various mechanisms that ensure accountability and promote transparency, with the Judiciary playing a particularly pivotal role in recent years.

The International Federation of Accountants (IFAC) provides a useful framework for understanding accountability in the public sector, as shown in Figure 1.

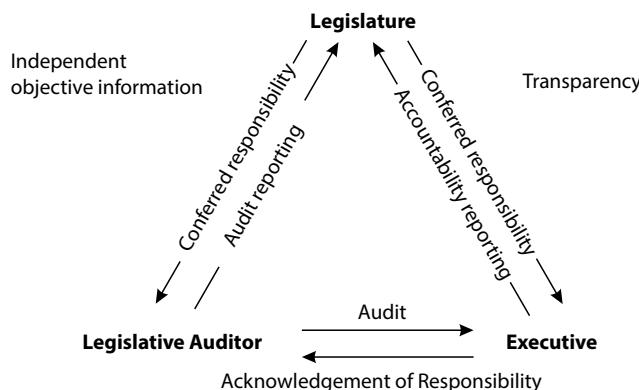


Figure 1. Example of overall accountability process in the public sector

Source: International Federation of Accountants (IFAC), *Governance in the Public Sector: A Governing Body Perspective*, Portal TCU, 2001, p. 6, https://portal.tcu.gov.br/en_us/biblioteca-digital/governance-in-the-public-sector-a-governing-body-perspective.htm [accessed: 2024.09.10].

³² D. Kaufmann, A. Kraay, P. Zoido-Lobatón, *Governance matters*, World Bank, 1999, <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/665731468739470954/Governance-matters> [accessed: 2024.09.21].

³³ R.T. de S. Barreto, J.B. Vieira, *Public integrity programs in Brazil: Indicators and challenges*, "Cadernos EBAPE – Escola Brasileira de Administração Pública e de Empresas" 2021, vol. 19, pp. 442–463.

According to the model in Figure 1, the Legislature sanctions the financial budget and authorises the Executive to execute expenditures. Internal controls within both branches are then audited by legislative bodies.³⁴ However, this framework does not fully reflect Brazil's reality, where the judiciary has emerged as a critical actor in the accountability process because of its independence and oversight role. The above figure offers an essential picture, but it is not complete for the purposes of studying the Brazilian context, since the judiciary plays a very important role in this process, and has recently become perhaps the strongest pillar of the whole structure.

After democratization in 1985, Brazil has made significant strides to improve public governance. Brazil's governance system, established by the 1988 Federal Constitution, is built on a separation of powers among the legislature, executive, and judiciary.³⁵ These branches are independent yet designed to operate harmoniously.³⁶ Notably, the judiciary, as a non-elected body, plays a unique role in maintaining checks and balances by independently overseeing the actions of the elected branches (the executive and the legislature).

3.1. The Brazilian Federative System

Brazil's federative system is unique in its three-tiered structure – federal, state, and municipal levels – granting significant autonomy to municipalities and to states and the federation. This arrangement, rooted in the country's size and historical development, was formalized in the 1988 Constitution and grants local governments significant political and administrative independence, contributing to the complexity and robustness of Brazil's governance structure.³⁷

This three-tiered system shapes the country's judicial organisation and jurisdictional distribution. The executive and legislative branches operate at all three levels, with direct elections ensuring democratic representation across federal, state (twenty-six states plus a Federal District), and municipal (5,568 municipalities) governments for a four-year term.

Federal and state elections are held simultaneously, electing both chief executives and legislative representatives. The federal legislature is bicameral, consisting of the Chamber of Deputies and the Senate, while municipalities also maintain their own legislative bodies, a unique feature of Brazilian federation organization. This decentralized

³⁴ International Federation of Accountants (IFAC), *Governance in the Public Sector: A Governing Body Perspective*, Portal TCU, 2001, https://portal.tcu.gov.br/en_us/biblioteca-digital/governance-in-the-public-sector-a-governing-body-perspective.htm [accessed: 2024.09.10].

³⁵ Article 2 (Brazil 2022).

³⁶ Brasil, Tribunal de Contas da União, *Referencial Básico de Governança: Aplicável a Órgãos e Entidades da Administração Pública*, 2nd ed., Brasília 2014, https://www.gov.br/economia/pt-br/acao-a-informacao/acoes-e-programas/integra/gestao-do-conhecimento/publicacoes/referenciais-externos/referencial_basico_governanca_organos_entidades.pdf [accessed: 2024.09.21].

³⁷ E.R. Lewandowski, *Evolução do estado federal no Brasil* [in:] *Doutrina: edição comemorativa 20 anos*, Brasília 2017, pp. 319–331, <https://www.stj.jus.br/publicacaoinstitucional/index.php/dout20anos/article/view/3429> [accessed: 2024.09.21].

approach enables governance tailored to diverse regional needs but adds complexity to accountability mechanisms.

Competences of the federative entities are distributed by the Constitution and usually, but not necessarily, respect territorial aspects: from local (municipalities) to regional (state) and national (federation) levels. Some competences are exercised collectively by all of them.

Understanding this federative complexity is essential to analyzing Brazil's judicial system, particularly in corruption cases where jurisdictional questions often arise, as is evidenced in the Car Wash Operation.

3.2. The role of the judiciary in accountability

While the accountability framework outlined by the IFAC (Figure 1) emphasises the legislature and executive, Brazil's judiciary has become a cornerstone of its integrity system. As a non-elected body, the judiciary provides an impartial check on the activities of the executive and legislative branches, ensuring compliance with constitutional principles. This role has become increasingly prominent as the judiciary adjudicates cases involving corruption, fraud, and abuse of power. The judiciary plays a decisive and unique role in Brazil's system of checks and balances. Its transparency practices further enhance its accountability: the publication of all judicial acts, accessible to the public, reinforces trust and enables scrutiny. The National Council of Justice's publication of detailed statistics on judicial performance exemplifies a commitment to openness unmatched by many other countries.

The judiciary in Brazil is administratively and financially autonomous. A National Council of Justice (CNJ) was established in 2004 to enhance compliance and oversight. Notably, the system guarantees a double degree of jurisdiction, ensuring that facts are adjudicated at least twice – a principle integral to the adversary system and full defence.³⁸

Brazil's judicial system includes specialized (labour, electoral, and military) and common (federal and state) branches organised across multiple levels (first instance, appellate courts, and superior courts). A general overview of the system, with its impressive numbers, is set out in Table 1. The different colours separate the specialized (light grey) from the common (dark grey) branch.

As Table 1 illustrates, Brazil's judicial organization reflects the federative complexity discussed earlier. The system encompasses over 21,000 judges across five distinct branches, organised hierarchically with multiple levels of review. This multi-layered design, while potentially cumbersome, serves as a safeguard against judicial overreach: each level provides checks on the others, and the National Council of Justice (CNJ) ensures oversight across all branches. However, as the Car Wash Operation demonstrated, this same institutional arrangement can create jurisdictional ambiguities that may be exploited or mishandled.

³⁸ Article 5, LV (Brazil 2022); A.S. Pedra, *A Natureza Princípialógica do Duplo Grau de Jurisdição*, "Revista de Direito Administrativo" 2008, vol. 247, pp. 13–30.

Table 1. Brazilian Judicial System

Constitutional Jurisdiction	STF Supreme Court					National Council of Justice (CNU)
	TST Superior Labour Court	TSE Superior Electoral Court	STM Superior Military Court	STJ Superior Court		
2 nd Instance	TRT (24)	TRE (27)	-	TRF (6)	TJ (27)	TJM (SP/MG/RS)
1 st Instance	Labour Judges (3.599)	Electoral Judges (2.836)	Military Audits (38)	Federal Judges (1.917)	State Judges (12.472)	State Military Audits
Judicial Branch	Labour Justice	Electoral Justice	Military Justice	Federal Justice	State Justice	
	Specialized Justice (Federal)			Common Justice		

Source: Adapted from Judiciary Functional Structure [s.d.].

Two branches deserve particular attention for their role in combating corruption. Federal Justice adjudicates crimes against federal interests, including money laundering, corruption involving federal entities (such as Petrobras), and crimes that cross state or national borders. The Car Wash Operation fell primarily under federal jurisdiction due to the involvement of federal crimes and of the state-owned oil company. This branch includes Federal Regional Courts (TRF) as appellate courts and the Superior Court of Justice (STJ) as the highest ordinary court for federal matters.

Brazil's specialized electoral judiciary branch is particularly noteworthy for its dual role in adjudicating disputes and providing consultative guidance. Its implementation of electronic voting systems and biometric registration has positioned Brazil as a global leader in election security, reinforcing public trust in democratic processes.

This robust institutional Integrity System is reinforced by a comprehensive set of laws aimed at combating crime. In 2013, Brazil enacted Law No. 12,846, known as the Anticorruption Act.³⁹ But before that, a set of other pieces of legislation already set out to track corruption. Brazil first defined corruption as a criminal offence in its 1830 Criminal Code. This definition has since been updated, most recently in 2003, under the current 1940 Criminal Code. In 1990, the Law of Crimes against the Economic Order⁴⁰ defined crimes related to the economic order, including tax evasion and crimes against public finances.

³⁹ Brazil. Law No. 12,846 of August 1, 2013. Lei Anticorrupção [Anticorruption Act]. Diário Oficial da União, August 2, 2013, https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2013/lei/l12846.htm [accessed: 2024.09.21].

⁴⁰ Brazil. Law No. 8,137 of December 27, 1990. Lei dos Crimes contra a Ordem Econômica [Law of Crimes Against the Economic Order]. Diário Oficial da União, December 28, 1990, https://www.planalto.gov.br/ccivil_03/leis/l8137.htm [accessed: 2024.09.21].

After 1988, when the new democratic constitution came into force, a set of laws and regulations to enable democracy and reinforce combatting corruption were created. The first stronger instrument was the Administrative Improbity Law;⁴¹ its aim is to punish public officials for illicit self-enrichment, causing damage to public finances, or violating the principles of public administration. Sanctions can include fines, loss of office, suspension of political rights, and prohibition from contracting with the public sector. Inspired by rules from the Basel Committee on Banking Supervision (1975), and from the Securities and Exchange Commission in the United States, the Brazilian Central Bank created Resolution No. 2,554/1998. This contains elements such as internal control and the promotion of an ethical organizational culture.⁴²

The Anti-Money Laundering Law⁴³ establishes penalties for money laundering and outlined the obligations of financial institutions to report suspicious activities. It has been updated over the years to enhance its effectiveness, particularly during the Car Wash investigation. In 2000, the Fiscal Responsibility Law⁴⁴ enforced fiscal transparency and accountability for public spending. It establishes rules for fiscal management and determines that public officials are accountable for actions that result in budget deficits or fiscal mismanagement.

Regarding elections, a crucial piece of legislation aimed at improving the country's political environment was enacted in 2010: the Clean Record Act.⁴⁵ This law disqualifies candidates from running for public office if they have been convicted of crimes such as corruption, misuse of public funds, or administrative misconduct. Its primary goal is to prevent politicians with compromised records from holding office. However, there has been some controversy surrounding this specific aspect. It renders individuals ineligible even before a final judicial review has taken place, which raises concerns about potential conflicts with the presumption of innocence outlined in Article 5, LVII, of the Brazilian Constitution, which states, "no one shall be considered guilty before the criminal conviction becomes final and unappealable." I return to this issue in the analysis of my main theme, the Car Wash Operation.

⁴¹ Brazil. Law No. 8,429 of June 2, 1992. Lei de Improbidade Administrativa [Administrative Improbity Law]. Diário Oficial da União, June 3, 1992, https://www.planalto.gov.br/ccivil_03/leis/l8429.htm [accessed: 2024.09.21].

⁴² J.P. Ceren, V. Moura do Carmo, *Crítica ao compliance na lei brasileira de anticorrupção*, "Revista do Direito Público" 2019, vol. 14, no. 3, pp. 87–109.

⁴³ Brazil. Law No. 9,613 of March 3, 1998. Lei de Lavagem de Dinheiro [Anti-Money Laundering Law]. Diário Oficial da União, March 4, 1998, https://www.planalto.gov.br/ccivil_03/leis/l9613.htm [accessed: 2024.09.21].

⁴⁴ Brazil. Complementary Law No. 101 of May 4, 2000. Lei de Responsabilidade Fiscal [Fiscal Responsibility Law]. Diário Oficial da União, May 5, 2000, https://www.planalto.gov.br/ccivil_03/leis/lcp/lcp101.htm [accessed: 2024.09.21].

⁴⁵ Brazil. Complementary Law No. 135 of June 4, 2010. Lei da Ficha Limpa [Clean Record Act]. Diário Oficial da União, June 7, 2010, https://www.planalto.gov.br/ccivil_03/leis/lcp/lcp135.htm [accessed: 2024.09.21].

Immediately after the Anticorruption Act, the legislature also passed the Organized Crime Law,⁴⁶ defining criminal organizations and establishing means for their prosecution. It also permits the use of plea bargains, which became crucial in investigating corruption during the Car Wash operation.

Established in 2017 by the Office of the Comptroller General of the Union, the Brazilian Integrity System, together with the Ethics Management System of the Federal Executive Branch (2007),⁴⁷ functions effectively,⁴⁸ even though public perception – often shaped by media coverage⁴⁹ – has a different picture. There is surely space for improvement, but it is essential to differentiate between perceived corruption and the actual instances of wrongdoing or prosecution efforts.

Marques and Oliveira-Castro⁵⁰ argue that the perception of corruption is higher in countries with excessive regulation compared to those with less rigid regulatory burdens. Greater regulation creates more opportunities for the misuse of power as an instrument to enable the covert practice of corruption behind the entire set of rules and regulations.

One of the main criticisms regarding impunity in corruption cases is a perceived delay in judicial proceedings, along with the statute of limitations. A comprehensive study conducted for the National Council of Justice by independent researchers⁵¹ reveals that both issues may not be as severe as the media often portrays.⁵² Contrary to popular belief, only 5% of corruption cases are dismissed because of the slowness of the justice system. On average, corruption cases take six and a half years to be resolved, most of that time being spent in the judicial fact-finding phase. The same study found that 95% of federal police investigations between 2003 and 2018 were resolved – 57% of which uncovered no crime, and 38% of which identified guilty parties and moved forward to trial. These numbers suggest that the system is capable of addressing corruption effectively when cases are pursued.⁵³

⁴⁶ Brazil. Law No. 12,850 of August 2, 2013. Lei das Organizações Criminosas [Organized Crime Law]. Diário Oficial da União, August 5, 2013, https://www.planalto.gov.br/ccivil_03/_ato2011-2014/2013/lei/l12850.htm [accessed: 2024.09.21].

⁴⁷ OECD, *The Public Integrity System in the Brazilian Federal Executive Branch*, Paris 2021.

⁴⁸ R.T. de S. Barreto, J.B. Vieira, *Public integrity programs in Brazil...*

⁴⁹ M.B. Marques, J.M. Oliveira-Castro, *Um resgate histórico da corrupção...*; A.J. Maia, *A imprensa como factor explicativo do discurso social da corrupção*, 2010, <https://www.cpc.tcontas.pt/documents/outrous.html> [accessed: 2024.09.29].

⁵⁰ M.B. Marques, J.M. Oliveira-Castro, *Um resgate histórico da corrupção...*

⁵¹ Conselho, Nacional de Justiça, *Justiça criminal...*

⁵² L. Destri, *Justice Is Delayed but (Apparently) Is Not Failing*, Pesquisa Fapesp, 2019, <https://revistapesquisa.fapesp.br/en/justice-is-delayed-but-apparently-is-not-failing> [accessed: 2024.09.29].

⁵³ Conselho, Nacional de Justiça, *Justiça criminal...*; L. Destri, *Justice Is Delayed but (Apparently) Is Not Failing...*

4. The Car Wash Operation

The Car Wash Operation (*Operação Lava Jato*), which began in Brazil in March 2014 and later affected other Latin American countries including Ecuador, Peru, and Mexico, stands as one of Brazil's largest anti-corruption investigations. The operation profoundly impacted Latin America's political and economic landscape. The operation derives its name from a small car wash and gas station in Brasília, *Posto da Torre*, which was owned by a currency dealer called Alberto Youssef, and served as a front for money laundering. Interestingly, the location now houses a laundry service, adding a layer of irony to its history.

The operation uncovered a sprawling corruption network involving politicians, executives, and major corporations. Over seven years (2014–2021), it resulted in more than 165 convictions and recovered approximately \$1 billion for Brazil's state treasury (Marques and Oliveira-Castro 2023).

The operation spanned seven years (2014–2021) across eighty phases, uncovering a systematic scheme whereby:

- construction companies formed a cartel to inflate contract prices;
- Petrobras executives received kickbacks (estimated at 3% of contract values);
- part of the money involved funded political campaigns and personal enrichment;
- the scheme involved billions of reals over more than a decade.

4.1. Jurisdiction and case development

As money laundering is a federal crime, the investigation fell under federal jurisdiction. Following Brazilian law, jurisdiction must be determined through a five-step process.⁵⁴ asks the following questions:

1. Does any of the crimes fall under Military Justice?
2. Are any of the crimes electoral?
3. Does any of the defendants have the right to be tried by a special court?
4. If none of these apply, is the crime under the jurisdiction of Federal Justice (Art. 109 of the Constitution)?
5. Is any of the crimes under the jurisdiction of a jury court?

After jurisdiction was assigned, the operation revealed that money laundering activities performed by Alberto Youssef took place in Paraná, thus falling under the jurisdiction of Curitiba's 13th district court, which specializes in financial crimes and money laundering. Initially, the investigation targeted small-time offenders, but it soon uncovered a sprawling corruption network involving politicians, executives, and major corporations.

Despite the emergence of new facts and actors that should have been treated by other courts, the case remained in Curitiba, resulting in an expanded jurisdiction for

⁵⁴ A. Lopes Jr., *Direito processual penal*, 16th ed., São Paulo 2019, <https://cptl.ufms.br/files/2020/05/Direito-Processual-Penal-Aury-Lopes-Jr.-2019-1.pdf> [accessed: 2024.09.29].

the court and highlighting flaws in judicial procedures, particularly regarding jurisdictional overreach and the handling of confidential information.

The investigation started as a seemingly isolated money laundering case, with money dealers (*doleiros*), including Alberto Youssef. The trail of evidence led to a luxury Range Rover that Youssef acquired for Paulo Roberto Costa, a former director of Petrobras. The money laundering then shifted its focus to the state-owned oil company. After being charged, Paulo Roberto Costa entered a plea bargain and revealed the corruption scheme at Petrobras: bribes (1–5% of contract value) for contracts and kickbacks to political parties. Subsequent evidence revealed that major construction firms (Odebrecht, OAS, etc.) formed a cartel (*Clube dos Empreiteiros*) to rig bids for Petrobras contracts, exposing the corporate side of the scheme and showing corruption was systemic, not isolated. After his arrest, Marcelo Odebrecht, president of the main construction firm involved, implicated ninety-eight politicians, including ministers, senators, and federal deputies in his plea bargain.⁵⁵

In exchange for reduced sentences, Costa and Odebrecht cooperated with the judiciary via plea bargain agreements, providing insider testimony that named names and described the mechanics of the entire scheme, which would be nearly impossible to prove by following a paper trail alone. In some cases, as we will see, no other evidence than testimony was used to convict political adversaries.⁵⁶

The operation indicted 429 individuals and convicted over 150 people, including dozens of top politicians and CEOs and Brazilian President Luiz Inácio Lula da Silva. Petrobras recovered more than 5.3 billion reals (US\$920 million) as part of a series of reimbursements. The operation was stopped in February 2021, as the result of a gradual influence of the then president Bolsonaro's executive actions.

4.2. Public reaction and media influence

Public engagement against corruption in Brazil is a relatively recent phenomenon,⁵⁷ gaining significant momentum during the 2013 protests, against a twenty-cent increase in public transportation fares. These protests were fueled not just by the fare hike but also sparked by dissatisfaction with government corruption and inefficiencies.

As a response, the government introduced a series of legislative measures, as previously mentioned, which became important tools in combating corruption and impunity. This was not the first time that Brazil reacted to corruption; a similar outcry followed the "Budget Dwarves" scandal in 1993. The Car Wash Operation capitalized on this wave of public discontent, reshaping social perceptions of corruption as a serious offence warranting strict penalties.

⁵⁵ P. Sotero, J. Wallenfeldt, *Petrobras Scandal: Summary, Explanation, & Operation Car Wash*, Britannica, 2022, <https://www.britannica.com/event/Petrobras-scandal> [accessed: 2024.11.15].

⁵⁶ *Ibid.*

⁵⁷ M.B. Marques, J.M. Oliveira-Castro, *Um resgate histórico da corrupção e os desafios no seu enfrentamento*, "Revista de Direito Brasileira" 2023, vol. 34, no. 13, pp. 194–219.

Corruption, often classified as a white-collar crime, it is typically perceived by the public as less harmful compared to common crimes, leading to the belief that those convicted should receive lighter penalties. In fact, social perceptions of the severity of a crime play a significant role in shaping the public's response to that crime.⁵⁸ However, the Car Wash Operation marked a significant shift in public opinion, as widespread street protests eventually led to the impeachment of President Dilma Rousseff.⁵⁹

The media played a pivotal role, often framing the investigation as a battle between morality and corruption. The unlawful leaking of judicial information and biased reporting heavily influenced the outcome of the impeachment process.⁶⁰ A study on media editorials revealed a strong bias in favor of Rousseff's impeachment.⁶¹ Despite the Supreme Court's ruling that she had committed no crime, mainstream media continuously linked her party to the corruption scandal. Ultimately, while Rousseff was impeached through a political judgment by Congress, she did not face the typical eight-year political ban, reflecting a public awareness of her legal innocence. Furthermore, research shows that corruption in Brazil was nonpartisan and not limited to one political group.⁶² The leaking of judicial acts to the media involved active participation by Deltan Dallagnol, the Public Prosecutor leading the investigation, and Sergio Moro, the judge presiding over the case.

4.3. Judicial misconduct and political fallout

Revelations about improper collaboration between Judge Sergio Moro⁶³ and prosecutor Deltan Dallagnol⁶⁴ cast a shadow over the operation. Leaked communications published by *Intercept Brasil*⁶⁵ in June 2019,⁶⁶ exposed their coordinated efforts to

⁵⁸ *Ibid.*

⁵⁹ Dilma Rousseff is a Brazilian economist and politician who served as the 36th president of Brazil from 2011 until her impeachment and removal from office on 31 August 2016.

⁶⁰ M.B. Marques, J.M. Oliveira-Castro, *Um resgate histórico da corrupção...*

⁶¹ T.M. Rodrigues, *The Role of the Media...*

⁶² M.P. Bertran, L. Vilaça, I. Rodello, E.M.S. Ribeiro, L. Morilas, *Court's neutrality or bias: Political affiliation among the defendants of the Car Wash Operation*, SciELO Preprints, 2022, <https://preprints.scielo.org/index.php/scielo/preprint/view/4689> [accessed: 2024.10.19]; M.B. Marques, J.M. Oliveira-Castro, *Um resgate histórico da corrupção...*

⁶³ Sergio Moro was a federal judge at the time, in charge of judging all the eighty phases of the Car Wash Operation. In 2018, he resigned from being a judge and was nominated Minister of Justice and Public Security. In 2022, he was elected Senator for the state of Paraná, where he had served as a judge.

⁶⁴ Deltan Dallagnol was a federal prosecutor at the time, in charge of the Car Wash Operation in the Federal Public Ministry from 2003 to 2021. In 2021, he resigned from being a prosecutor to become a politician and was elected Federal Deputy for the state of Paraná. His election as federal deputy was revoked on 16 May 2023 by the Superior Electoral Court of Brazil in a unanimous decision for committing a fraud against the Clean Record act.

⁶⁵ Intercept Brasil, *Vaza Jato*, 2019, <https://www.intercept.com.br/especiais/mensagens-lava-jato> [accessed: 2024.11.10].

⁶⁶ This leak became known as "Vaza Jato," a wordplay on "Lava Jato," the name of the Car Wash Operation. "Lava Jato" refers to express car washes, while "Vaza" means "leak." In addition to the pun, the term also implies a sense of speed.

convict political figures, raising concerns about due process and impartiality. These revelations intensified scrutiny when Moro joined Jair Bolsonaro's⁶⁷ administration after the 2018 elections, suggesting potential conflicts of interest. Dallagnol, the Public Prosecutor leader of the Operation, followed a similar path in 2021, stepping down while facing fifteen ongoing administrative charges related to his conduct. In 2022, he was elected as a federal deputy, but in 2023, he was stripped of his mandate due to his premature and unlawful departure from his previous position.

The Supreme Court responded in 2021 by annulling several convictions, citing jurisdictional overreach and violations of due process. These decisions emphasised the importance of adhering to constitutional principles.

4.4. Transparency, publicity, and trust in the judiciary

As I argued earlier, judicial data is generally public in Brazil; however, constitutional exceptions apply,⁶⁸ and that is where the issue lies. Some judicial proceedings are supposed to remain confidential, particularly those involving high-level government officials. In this case, the procedures involving the president could not have been investigated by this judge because of jurisdictional limitations, and certainly, the leaked information should not have been made public. The release of specific confidential details to the media played a pivotal role in inflaming public opinion against the president, contributing to her impeachment. Furthermore, the leak also impacted the future political landscape, leading to the imprisonment of Lula da Silva, the previous president who was running for president once more; this effectively barred him from the electoral process due to the application of the Clean Record Act. This benefited the newly elected president, Jair Bolsonaro, who later appointed the same judge involved in the leaks to his administration.⁶⁹

After the open political involvement of the two main figures in Car Wash Operation – the prosecutor Deltan Dallagnol and Judge Sergio Moro – became public and the their conversations were leaked by a news outlet, the Supreme Court, in a March 2021 ruling (confirmed in April 2021), decided to annul the related procedures. The Court determined that the lawsuits should restart from the beginning to uphold due process, concluding that Moro had overstepped his jurisdiction.⁷⁰

One final observation: all judgments by the Brazilian Supreme Court are broadcast on a public TV channel, in line with the principles of transparency and the publicity of judicial acts. In this case, key judicial decisions have also been shown on major TV networks, watched by a large portion of the population.

⁶⁷ Jair Messias Bolsonaro is a Brazilian politician and former military officer who served as a member of the Chamber of Deputies from 1991 to 2019 and as the 38th president of Brazil from 2019 to 2023.

⁶⁸ The Brazilian Constitution, article 5, LX, states that "the law may only restrict the disclosure of proceedings if the restriction is required to protect privacy or the interest of society."

⁶⁹ B. Mier, B. Pitts, K. Swart, R.R. Ioris, T.M. Sean, *Anticorruption and Imperialist Blind Spots: The Role of the United States in Brazil's Long Coup*, "Latin American Perspectives" 2023, vol. 50, no. 5, pp. 29–46.

⁷⁰ Brasil, Tribunal de Contas da União, *Referencial Básico de Governança...*

This raises important questions. What are the boundaries of transparency and publicity in judicial proceedings? How can these principles be balanced to uphold due process while ensuring accountability?

5. The role of transparency in combating corruption

Publicity and transparency are foundational to democracy, particularly in the fight against corruption and impunity. As Winston Churchill famously remarked,⁷¹ democracy is the worst form of government, except for all others. Unlike autocratic regimes, democratic systems offer essential control mechanisms like transparency and publicity to mitigate corrupt practices example.⁷²

However, transparency is not an end in itself. It is a means to accountability, which is the cornerstone of democracy. As Schudson⁷³ notes, transparency can be constructive but also harmful under certain circumstances. While accessible information is crucial, its utility depends on who accesses it and how it is used. Empowered groups, often targeted by anticorruption efforts, can manipulate transparency to protect their interests. Tools like jurimetrics, increasingly employed by major law firms, exacerbate this imbalance, showing that greater transparency does not always lead to greater accountability.

The Car Wash Operation, the primary case discussed in this article, provides a cautionary tale of transparency's dual role. In this case, media coverage and leaked judicial acts played a pivotal role in shaping public opinion.⁷⁴ Publicity, in this context, became a tool for swaying social perception, aided by selective media disclosure. Here, publicity itself posed a risk: the judge overseeing the case subverted the system by releasing information to the mass media that was meant to remain confidential, ultimately affecting the course of democratic processes in the country.

The Car Wash Operation reveals a paradox in Brazil's integrity system: while the institutional framework proved robust enough to investigate and prosecute high-level corruption, demonstrating the system's effectiveness, serious procedural violations by key actors (Judge Moro and Prosecutor Dallagnol) threatened its legitimacy. Ultimately, it was the Supreme Court's intervention that preserved democratic principles by annulling contaminated proceedings. This demonstrates that Brazil's integrity system worked not despite these violations, but because its institutional checks and balances, particularly judicial review, were strong enough to correct them. The media played

⁷¹ Even if he became famous for saying the words, the concept was not really his. His exact words were: "No one pretends that democracy is perfect or all-wise. Indeed, it has been said that democracy is the worst form of Government except for all those other forms that have been tried from time to time" (House of Commons, 11 November 1947).

⁷² M.B. Marques, J.M. Oliveira-Castro, *Um resgate histórico da corrupção...*

⁷³ M. Schudson, *The Shortcomings of Transparency...*

⁷⁴ M.B. Marques, J.M. Oliveira-Castro, *Um resgate histórico da corrupção...*

a dual role: essential for transparency and public awareness, yet sometimes amplifying biases and procedural irregularities.

The institution responsible for upholding electoral integrity in Brazil – as well as in other Latin American countries – was the same: the judiciary. An independent and strong Supreme Court was responsible for sustaining the electoral system in 2022 in Brazil, after the incumbent president at the time attempted a coup against it. Bolsonaro was prosecuted and condemned, according to the due process of law, and has been barred from running for office for a following eight years.⁷⁵ The U.S.A. did not take this step and their now convicted former president was reelected and is able to pardon his own wrongdoings.⁷⁶ In the same field, the Mexican Supreme Court stood up against a series of decrees from the president in charge, Andrés Manuel López Obrador, which maintained the independence of the electoral system.⁷⁷ Perhaps there is no correlation, but later (in September 2024) the Mexican Parliament passed a constitutional amendment changing their judicial system: instead of the traditional appointment-based system, grounded in training and qualifications, judges will be elected, with fewer qualifications required to run.⁷⁸ Consequences are still to be tested, but there is a consensus that the changes weaken the Mexican system of integrity.

Courts in Latin America (at least in Brazil, Colombia, Argentina, and Mexico) are increasingly involved in high-profile corruption prosecutions, which serve as critical interventions against backsliding in democratic governance. These judicial actions often reflect a broader commitment to uphold the rule of law and ensure accountability.⁷⁹ These actions became more viable following the third wave of democratization in Latin America, which enhanced judicial independence, allowing courts and judges to impose constraints on the executive, thus fostering democratic resilience to autocratic experiences in the past.⁸⁰

While transparency is vital, it is insufficient on its own. A free press, robust judicial institutions, and an informed and engaged citizenry are equally essential.⁸¹ The media, while capable of manipulation, also serves as a watchdog, highlighting corruption and holding power to account. Judicial systems must strike a delicate balance between openness and confidentiality to ensure both accountability and due process. The

⁷⁵ T. Broner Taraciuk, R. Chavez, *Courts, a Last Line of Defense for Latin American Democracies*, "Americas Quarterly" 18 September 2023, <https://americasquarterly.org/article/courts-a-last-line-of-defense-for-latin-american-democracies> [accessed: 2024.11.23].

⁷⁶ K. Crowley, *Trump Is Headed Back to the White House. Can He Pardon Himself as President?*, USA Today, 2024, <https://www.usatoday.com/story/news/politics/elections/2024/11/06/can-donald-trump-pardon-himself/76091471007> [accessed: 2024.11.23].

⁷⁷ T. Broner Taraciuk, R. Chavez, *Courts...*

⁷⁸ J. Wagner, *Mexico's Contentious Judiciary Overhaul Becomes Law*, "The New York Times" 2024, <https://www.nytimes.com/2024/09/15/world/americas/mexico-overhaul-judiciary-law.html> [accessed: 2024.11.23].

⁷⁹ L. Gamboa, B. García-Holgado, E. González-Ocantos, *Courts against backsliding: Lessons from Latin America*, "Law & Policy" 2024, vol. 46, no. 4, pp. 358–379.

⁸⁰ *Ibid.*

⁸¹ C. Lindstedt, D. Naurin, *Transparency Is Not Enough...*

landscape of corruption in judicial courts across Latin America is marked by significant challenges, including deteriorating perceptions of integrity and ongoing corruption scandals. However, the resilience of independent judicial systems and the implementation of new anti-corruption laws provide a basis for cautious optimism. Continued vigilance and reform are essential to ensure that judicial institutions can effectively combat corruption and uphold democratic principles in the region.

6. Conclusions

The Car Wash Operation offers a compelling case study on the interplay between transparency, publicity, and accountability in combating corruption. Its analysis reveals a critical disconnect: while robust anticorruption frameworks may improve transparency and legal tools, their effectiveness often lags behind public perceptions of impunity. This underscores the need for institutional systems that bridge this gap, ensuring that anticorruption efforts are both impactful and perceived as legitimate.

The Car Wash Operation produced mixed results for Latin America's anti-corruption efforts. While it strengthened some aspects of the legal and institutional framework, improving: (1) corruption prevention mechanisms; (2) investigative techniques; and (3) the resolution of certain corruption cases. It also revealed significant weaknesses in due process protections and the potential for judicial overreach. The operation's legacy thus serves as both a model and a cautionary tale for regional anti-corruption efforts.

The Brazilian Integrity System exemplifies a model characterized by extensive transparency and publicity, which are crucial – though not sufficient – elements in promoting democracy and combating corruption and impunity. While the intricacies of Brazil's judicial system may present challenges to international comprehension, it has proven its capacity to effectively fulfill its role. Similarly, the majority of Latin American Integrity Systems have followed this trajectory, underscoring the significant impact of the third wave of democratization in stabilizing the region.

Globally, the rise of anti-system leaders has tested the limits of democratic integrity systems. The social media, with its algorithm-driven manipulation of public opinion, has emerged as a powerful disruptor, contributing to democratic setbacks such as the election of Bolsonaro in Brazil, Trump in the U.S.A., and the Brexit referendum. These examples highlight a broader decline in public trust, ethical civility, and informed civic engagement – challenges that integrity systems must navigate in their quest to sustain democracy.

Mass and social media have not only shaped public opinion but also highlighted vulnerabilities within democratic governance, where judicial independence and the rule of law are sometimes at risk. Nevertheless, the resilience demonstrated by judicial institutions in Brazil and other Latin American countries underscores their unexpected strength. These courts have increasingly taken on the role of democratic guardians,

ensuring accountability and countering autocratic tendencies despite intense political pressure. However, the dual nature of transparency as both a tool for accountability and a potential disruptor of democratic trust warrants careful consideration. While transparency is indispensable to democratic governance, its misuse – whether by the media or public officials – can destabilize institutions and erode public confidence.

The role of Latin American Integrity Systems in promoting accountability has proven to be crucial. However, constant threats require sustained vigilance and reinforced efforts. While these institutions have demonstrated a degree of stability, they must work to communicate their achievements and importance more effectively to citizens, a task that also relies on constructive media engagement. Transparency has undeniably played a vital role, despite its occasional drawbacks, but it must be complemented by robust judicial institutions to effectively combat impunity and uphold democratic principles.

Ultimately, the fight against corruption and impunity requires more than transparency; it demands strong, independent judicial institutions, constructive media engagement, and active citizen participation. A balanced approach, one that avoids the politicization of justice and fosters accountability through fair and transparent processes, is vital. By reinforcing institutional integrity and promoting democratic values, Latin American nations can navigate current challenges while laying the foundation for a more equitable and resilient future.

Literature

Barreto R.T. de S., Vieira J.B., *Public integrity programs in Brazil: Indicators and challenges*, "CADERNOS EBAPE – Escola Brasileira de Administração Pública e de Empresas" 2021, vol. 19, pp. 442–463.

Bertran M.P., Vilaça L., Rodello I., Ribeiro E.M.S., Morilas L., *Court's neutrality or bias: Political affiliation among the defendants of the Car Wash Operation*, SciELO Preprints, 2022, <https://preprints.scielo.org/index.php/scielo/preprint/view/4689> [accessed: 2024.10.19].

Brasil, Tribunal de Contas da União, *Referencial Básico de Governança: Aplicável a Órgãos e Entidades da Administração Pública*, 2nd ed., Brasília 2014, https://www.gov.br/economia/pt-br/acesso-a-informacao/acoes-e-programas/integra/gestao-do-conhecimento/publicacoes/referenciais-externos/referencial_basico_governanca_orgaos_entidades.pdf/view [accessed: 2024.09.21].

Broner Taraciuk T., Chavez R., *Courts, a Last Line of Defense for Latin American Democracies*, "Americas Quarterly" 18 September 2023, <https://americasquarterly.org/article/courts-a-last-line-of-defense-for-latin-american-democracies> [accessed: 2024.11.23].

Cameron M.A., *The Return of Oligarchy? Threats to Representative Democracy in Latin America*, "Third World Quarterly" 2021, vol. 42, no. 4, pp. 775–792, <https://www.tandfonline.com/doi/epdf/10.1080/01436597.2020.1865794?needAccess=true> [accessed: 2024.09.14].

Ceren J.P., Moura do Carmo V., *Crítica ao compliance na lei brasileira de anticorrupção*, "Revista do Direito Público" 2019, vol. 14, no. 3, pp. 87–109.

Chaves Jr. A., Machado B.A., de Pádua T.A., *The judgment of crimes against humanity in Brazil: Analysis through the critical criminological lens of Lola Aniyar*, "International Journal of Development Research" 2021, vol. 11, no. 11, pp. 47135–47145.

Conselho, Nacional de Justiça, *Justiça criminal, impunidade e prescrição*, Brasília 2021.

Corruption Perceptions Index 2024, Transparency.org, 2025, <https://www.transparency.org/en/cpi/2024> [accessed: 2024.11.9].

Crowley K., *Trump Is Headed Back to the White House. Can He Pardon Himself as President?*, USA Today, 2024, <https://www.usatoday.com/story/news/politics/elections/2024/11/06/can-donald-trump-pardon-himself/76091471007> [accessed: 2024.11.23].

Destri L., *Justice Is Delayed but (Apparently) Is Not Failing*, Pesquisa Fapesp, 2019, <https://revistapesquisa.fapesp.br/en/justice-is-delayed-but-apparently-is-not-failing> [accessed: 2024.09.29].

Fachin E., *Embargos de Declaração no Habeas Corpus 193.726 Paraná*, Supremo Tribunal Federal, 2021, <https://portal.stf.jus.br/processos/detalhe.asp?incidente=6043118> [accessed: 2024.10.20].

Ferraz C., Moura L., Norden L., Schechtman R., *The unintended consequences of Brazil's landmark anti-corruption campaign*, VoxDev, 2025, <https://voxdev.org/topic/institutions-political-economy/unintended-consequences-brazils-landmark-anti-corruption> [accessed: 2024.11.15].

Gamboa L., García-Holgado B., González-Ocantos E., *Courts against backsliding: Lessons from Latin America*, "Law & Policy" 2024, vol. 46, no. 4, pp. 358–379.

Gonzalez-Ocantos E., Baraybar Hidalgo V., *Lava Jato beyond borders: The uneven performance of anticorruption judicial efforts in Latin America*, "Taiwan Journal of Democracy" 2019, vol. 15, no. 1, pp. 63–89, <https://www.airitilibrary.com/Article/Detail/18157238-201907-201907310007-201907310007-63-89> [accessed: 2024.11.10].

International Federation of Accountants (IFAC), *Governance in the Public Sector: A Governing Body Perspective*, Portal TCU, 2001, https://portal.tcu.gov.br/en_us/biblioteca-digital/governance-in-the-public-sector-a-governing-body-perspective.htm [accessed: 2024.09.10].

Intercept Brasil, *Vaza Jato*, 2019, <https://www.intercept.com.br/especiais/mensagens-lava-jato> [accessed: 2024.11.10].

Kaufmann D., Kraay A., Zoido-Lobatón P., *Governance matters*, World Bank, 1999, <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/665731468739470954/Governance-matters> [accessed: 2024.09.21].

Lewandowski E.R., *Evolução do estado federal no Brasil* [in:] *Doutrina: edição comemorativa 20 anos*, Brasília 2017, pp. 319–331, <https://www.stj.jus.br/publicacao/institucional/index.php/dout20anos/article/view/3429> [accessed: 2024.09.21].

Lindstedt C., Naurin D., *Transparency Is Not Enough: Making Transparency Effective in Reducing Corruption*, "International Political Science Review/Revue internationale de science politique" 2010, vol. 31, no. 3, pp. 301–322, <https://www.jstor.org/stable/25703868> [accessed: 2024.09.14].

Lopes Jr. A., *Direito processual penal*, 16th ed., São Paulo 2019, <https://cptl.ufms.br/files/2020/05/Direito-Processual-Penal-Aury-Lopes-Jr.-2019-1.pdf> [accessed: 2024.09.29].

Maia A.J., *A imprensa como factor explicativo do discurso social da corrupção*, 2010, <https://www.cpc.tcontas.pt/documentos/outrros.html> [accessed: 2024.09.29].

Marques M.B., Oliveira-Castro J.M., *Um resgate histórico da corrupção e os desafios no seu enfrentamento*, "Revista de Direito Brasileira" 2023, vol. 34, no. 13, pp. 194–219.

McCann F., *France bans analytics of judges' decisions*, Lexology, 2019, <https://www.lexology.com/library/detail.aspx?g=ff53dfbe-0fe6-4dee-8a1d-990bf8459020> [accessed: 2024.09.14].

Mendilov J., *Introduction [in:] The Fight against Systemic Corruption: Lessons from Brazil (2013–2022)*, eds. M.E. Trombini, E. Valarini, V.E. de Oliveira, M. Pohlmann, Wiesbaden 2024, pp. 1–7.

Mier B., Pitts B., Swart K., Ioris R.R., Sean T.M., *Anticorruption and Imperialist Blind Spots: The Role of the United States in Brazil's Long Coup*, "Latin American Perspectives" 2023, vol. 50, no. 5, pp. 29–46.

Miller B., Uriegas F., *Latin America's Biggest Corruption Cases: A Retrospective*, "Americas Quarterly" 11 July 2019, <https://www.americasquarterly.org/article/latin-americas-biggest-corruption-cases-a-retrospective> [accessed: 2024.11.15].

OECD, *The Public Integrity System in the Brazilian Federal Executive Branch*, Paris 2021.

Pedra A.S., *A Natureza Principiológica do Duplo Grau de Jurisdição*, "Revista de Direito Administrativo" 2008, vol. 247, pp. 13–30.

Phillips T., *Brazil's Supreme Court Upholds Ban on Elon Musk's X over 'Illegal Conduct'*, "The Guardian" 2 September 2024, <https://www.theguardian.com/technology/article/2024/sep/02/brazils-supreme-court-upholds-x-ban-over-conduct> [accessed: 2024.09.14].

Pinto S.R., *Direito à memória e à verdade: Comissões de verdade na América Latina*, "Revista Debates" 2010, vol. 4, no. 1, pp. 128–143.

Rincon R., Sultan A., *Top five takeaways on corruption perception in Latin America: Insights from professionals across the region*, International Bar Association 2024, <https://www.ibanet.org/top-five-takeaways-on-corruption-perception-in-latam> [accessed: 2024.09.14].

Rodrigues J.G., *Publicidade, transparência e abertura na administração pública*, "Revista de Direito Administrativo" 2014, vol. 266, pp. 89–123.

Rodrigues T.M., *The Role of the Media in the Impeachment Processes of Dilma Rousseff (2016) and Michel Temer (2017)*, "Contracampo" 2018, vol. 37, no. 2, pp. 36–57.

Rodríguez-García G., *Measuring the Risk of Corruption in Latin American Political Parties. De Jure Analysis of Institutions*, "Data & Policy" 2022, vol. 4, e42.

Schudson M., *The Shortcomings of Transparency for Democracy*, "American Behavioral Scientist" 2020, vol. 64, no. 11, pp. 1670–1678.

Sotero P., Wallenfeldt J., *Petrobras Scandal: Summary, Explanation, & Operation Car Wash*, Britannica, 2022, <https://www.britannica.com/event/Petrobras-scandal> [accessed: 2024.11.15].

Stavenhagen R., *Human Rights, Democracy and Development in Latin America*, "Economic and Industrial Democracy" 1991, vol. 12, no. 1, pp. 31–41.

STJ (online), *Judiciary Functional Structure*, STJ International – National High Court of Brazil, <https://international.stj.jus.br/en/Brazilian-Judicial-Branch/Functional-Structure> [accessed: 2024.09.21].

Wagner J., *Mexico's Contentious Judiciary Overhaul Becomes Law*, "The New York Times" 2024, <https://www.nytimes.com/2024/09/15/world/americas/mexico-overhaul-judiciary-law.html> [accessed: 2024.11.23].

Woolston S., *What the Corruption Perceptions Index Actually Says About Corruption in Latin America*, InSight Crime, 23 February 2024, <https://insightcrime.org/news/what-corruption-perceptions-index-actually-says-about-corruption-latin-america> [accessed: 2024.11.15].

Summary

Luciana Romano Morilas

Transparency, Accountability, and Judicial Independence in Brazil's Fight against Corruption: Lessons for Latin America from the Car Wash Operation

This article examines transparency, accountability, and judicial independence in combating corruption in Latin America, focusing on Brazil's Integrity System and the transnational Car Wash Operation. Recognizing the limitations of external anti-corruption frameworks and perception-based indices, my research here adopts a Latin American perspective to analyze the region's unique institutional challenges. Analysis reveals a critical paradox: while Brazil's institutional framework successfully investigated high-level corruption across multiple Latin American countries, serious procedural violations by key judicial actors threatened that investigation's legitimacy. Media coverage and leaked documents shaped public opinion, demonstrating transparency's dual role as both essential and potentially disruptive. The Supreme Court's intervention annulling tainted proceedings proved that the system's institutional checks and balances were strong enough to self-correct. I conclude that robust judicial independence, particularly through specialized electoral courts, combined with a free press and an engaged citizenry, is essential for democratic resilience. As anti-system leaders globally test democratic integrity systems, this article offers timely insights for Latin American countries navigating the complex balance between transparency and due process in anti-corruption efforts.

Keywords: integrity systems, public opinion, rule of law, anti-corruption frameworks, media influence.

Streszczenie

Luciana Romano Morilas

Transparentność, odpowiedzialność i niezawisłość sądownictwa w walce z korupcją w Brazylii – wnioski z Car Wash Operation w Ameryce Łacińskiej

W tym badaniu przeanalizowano transparentność, odpowiedzialność i niezależność sądownictwa w zwalczaniu korupcji w Ameryce Łacińskiej, ze szczególnym uwzględnieniem roli Brazylijskiego Systemu Integracji oraz międzynarodowego działania Car Wash Operation. Biorąc pod uwagę ograniczenia działań zewnętrznych struktur antykorupcyjnych i stosowania przez nie wskaźników opartych na ich własnej percepcji, w niniejszym badaniu do analizy tego wyjątkowego wyzwania instytucjonalnego regionu przyjęto perspektywę Ameryki Łacińskiej. Analiza ta ujawnia poważny paradoks: podczas gdy brazylijskie instytucje skutecznie ściągały korupcję na wysokim szczeblu w wielu krajach Ameryki Łacińskiej, poważne naruszenia proceduralne dokonane przez kluczowych przedstawicieli wymiaru sprawiedliwości zagroziły legitymizacji tych antykorupcyjnych działań. Z jednej strony relacje medialne oraz wyciekające dokumenty kształtowały opinię publiczną, a z drugiej pokazywały podwójną rolę transparentności: niezbędną i potencjalnie destrukcyjną. Interwencja Sądu Najwyższego unieważniająca nieprawidłowości proceduralne udowodniła, że instytucjonalne mechanizmy kontroli i równowagi okazały się

wystarczająco silne, aby móc dokonać samonaprawy. Badanie potwierdziło, że dla stabilności demokracji niezbędna jest silna niezależność sądownictwa, zwłaszcza wyspecjalizowanych sądów wyborczych w połączeniu z wolną prasą i zaangażowaniem obywateli. W czasie, gdy przywódcy ruchów antysystemowych na całym świecie testują systemy spójności demokratycznej, niniejsze badanie oferuje aktualne informacje na temat krajów Ameryki Łacińskiej, które starają się utrzymać skomplikowaną równowagę między transparentnością a rzetelnym prowadzeniem procesu antykorupcyjnego.

Słowa kluczowe: systemy integralności, opinia publiczna, praworządność, ramy antykorupcyjne, wpływ mediów.