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Luciano Da Ros and Matthew M. Taylor, *Brazilian Politics on Trial: Corruption and Reform under Democracy*, Boulder: Lynne Rienner, 2022.
Tables, figures, appendix, index, 281 pp.; hardcover \$95

In attempting “to make sense of Brazil’s complex history of corruption and anticorruption since the return to democracy in 1985” (3) Taylor and Ros’ set themselves a daunting task. Afterall, the sheer number of scandals over the last four decades, along with their distinctive characteristics and complexities, would seem to defy systematisation. The idea that frames this book, however, is that the emergence of numerous variegations is in good part attributable to environmental factors of a political/institutional kind. They argue that a “combination of complementary institutions has provided, and continues to provide, motive and means for corruption”. (211) If true, this not only helps explain the past, but also suggests lessons for the future (to which we return later).

Composed of seven chapters, the first raises three basic questions sequentially addressed over the book’s course: first, “what explains the seeming constancy of corruption and scandal in democratic Brazil?” (2); second, “why have reforms and anticorruption efforts not had the desired effect of lessening political corruption?”, and finally, “what are the implications of Brazil’s experience for anti-corruption reformers elsewhere around the world?” (3)

Chapter Two, ‘The Prevailing Elite Cartel Syndrome’, derives its title from Michael Johnston’s work on syndromes of corruption, i.e., where “networks of political and economic elites develop privileged relationships that are protected through corruption”. (13) Da Ros and Taylor argue that features reinforce Brazil’s variant of this syndrome: “coalition presidentialism in a highly fragmented party system, a large developmental state with oligopolistic and intricately intertwined firm structures, and a loosely regulated and opaque yet highly concentrated campaign finance system” .(15) None are individually decisive, but combined they drive corruption forward. Three historical cases of grand corruption (Banestado, Mensalão and Satiagraha) illustrate these connections and underlying patterns (e.g., the presence of repeat player categories (politicians, businessmen, public employees at state firms and external facilitators) and even individuals resent in different scandals across time). The absence of accountability means risks are relatively low and personal rewards immensely high, thereby perpetuating corruption.

Chapter Three, ‘The Incremental Approach to Accountability, 1985-2014’ examines the institution of accountability mechanisms by different presidential administrations. Changes included laws on Civil Public Action (1985), a Public Bidding Decree Law (1986), Economic Crimes Law (1990), Organic Law of the Federal Audit Court (1992), Public Bidding Law (1993), Elections Law (1997), Anti-Money Laundering Law (1998), Reform of the Judiciary (EC45, 2005), Transparency Law (2009), Clean Slate Law (2010), Anti-Corruption Law (2013), and Organised Crime Law (2013). The authors persuasive argue that through incrementalism, i.e., legal, institutional, administrative, financial, and other reforms, accountability increased. They also explain the paradox of why political classes introduced measures that would later catch them out, noting how some were reactive reforms (in light of protests) and others endogenous/organic developments. To these we may also add the law of unintended consequences. All combined, by the 2010’s the institutional capacity of law enforcement had been considerably enhanced.

Capacity, however, is one thing and enforcement another and this sets the stage for Chapters Four, 'Lava Jato and the Big Push, 2014-2016', and Five, 'The Unmaking of Lava Jato and Its Ramifications, 2016-2021'. Much has been written about Lava Jato, or Car Wash scandal. Beginning in March 2014 as an investigation into black-market money laundering at a petrol station (hence the nickname), it morphed into Brazil's largest ever anti-corruption investigation (in terms of number of arrests, imprisonments, money recovered, high-profile companies and individuals targeted). For many Brazilians and outside observers alike, it seemed to mark a decisive break with past impunity, gaining widespread popular support at home and even international praise abroad from anti-corruption bodies like Transparency International and the OECD. Although Chapter Four discusses the details of the scandal, it is primarily concerned with understanding the preconditions that made the investigation possible. These included a reformed institutional terrain (examined in Chapter Three) and the decisiveness of both prosecutors and the leading judge in Curitiba, Sergio Moro, to simultaneously exploit a range of legal and political opportunities. The authors make clear that along with a new political conjuncture, a mobilised and disgruntled populace, and a weakened political class, the Supreme Court (Supremo Tribunal Federal, STF) which they describe as "serving in most cases as a guarantor of elite impunity" (171), was pushed on to the defensive as Moro and prosecutors played it tactically. Other factors, like "new thinkers" on the STF (Joaquim Barbosa, Teori Zavascki, Edson Fachin and Luís Roberto Barroso) opened up further room for manoeuvre.

Like his counterparts in Italy during the Mani Pulite scandal of the early 1990's, judge Moro's approach was highly energetic, single minded, tactical and strategic. Da Ros and Taylor show how he availed himself of every legal and, crucially, political opportunity available whilst avoiding many of the missteps of earlier investigations that had dissipated under pressure. Opportunities assumed orthodox institutionalised forms, but also unorthodox forms like mass mobilisation on the streets. Da Ros and Taylor variously describe this as "judicial policy entrepreneurship" and even a "revolutionary vanguard" (185) which, to paraphrase them, attempted to attack a complex problem (public sector corruption), departed from the status quo, engaged in strategies that circumvented internal opposition, sought support from outside the judicial system and engaged in reforms beyond the courts. (185)

Chapter Five, however, shows that these undoubted strengths also contained critical flaws. According to the authors, judicial activism of this sort was inherently constitutionally limited. To this extent politics always had the upper hand, and always does in such situations. Added to this was the personalism of the methods (many would say cult of personality) adopted by Judge Moro, hence when he left the enquiry was weakened at its apex. In keeping with their monopolisation of litigation, Lava Jato investigators also failed to branch out nationwide. Moro's departure to become President Bolsonaro's Justice Minister (January 2019) weakened credibility, since many concluded his actions and those of the task force in imprisoning Lula before the October 2018 election were politically motivated. The authors note how other conjunctural factors, including the impeachment of Dilma Rousseff (2016) enabled conservative sectors gathered around her vice president, Michel Temer, to strangle the Lava Jato investigation. The authors describe other "self-inflicted" wounds, including the release of a 2016 wiretap whose legal authority had expired, but that nonetheless helped seal Dilma's and Lula's political fate. The subsequent emergence of encrypted text exchanges between judge Moro and prosecutors added fuel to a fire that increasingly smelt of collusion and bias. Political enemies mushroomed, as did controversies about judicial overreach within the legal community itself. Ultimately, the authors conclude that the "executive reined in the autonomy of accountability agencies, and the judiciary reverted to an old tradition of obsequiousness toward elites." (142)

What sense should one make of all this? Chapters Six, 'Judicial Big Pushes in Large Democracies' and Seven, 'Learning From the Brazilian Experience' attempt an answer. The authors conclude that big pushes, like Lava Jato, can generate strong backlashes thereby undermining incremental gains. They also bemoan the unfortunate tendency to generalise anti-corruption successes in small jurisdictions, when issues of scale, literally getting the critical mass together necessary to combat corruption at all levels, both matters and is difficult to secure in large democracies with multi-layered federated structures where veto powers abound and entrenched interests are ready to pounce. Among possible reforms to Brazil's political system, they suggest party and campaign finance and judicial reform, albeit acknowledging the "necessarily vague" (218) nature of their proposals. Against the glamour and overreach of big pushes, especially those driven by the judicial system, they argue the benefits of incrementalism and reconceptualising accountability "as a process more than an outcome". (219) Conceived thus, they argue, challenges can be broken into more bite sized less provocative pieces. Developing "transparency law, improving audits, passing laws governing corporate behavior and improving bureaucratic coordination....did not pose a direct threat to dominant political and economic elites, as they ran in a direction orthogonal to those elites' interests." (221)

Given my critique of Lava Jato elsewhere, it is unsurprising that my reading occasionally diverges from Da Ros and Taylor's. Their direct criticisms of judicial pseudo-objectivity and excessive proceduralism is, in places, overdone and contrasts markedly with their woefully inadequate suggestion that "the media's role in oversight may have been less neutral than desirable". (84) As for the unleashing of civil society's anticorruption zeitgeist, its association with longstanding authoritarian tendencies has helped put not just politics, but also Brazilian democracy itself on trial, with attendant and grave risks. That said, the book offers a nuanced, insightful, distinctive, and plausible reading of events. It represents an invaluable contribution to the literature. Backed by an encyclopaedic knowledge of the area, the authors largely succeed in their ambitious attempt to analytically shape and systematise a field of bewildering complexity without overwhelming readers. Rather than a celebratory reading of anti-corruption efforts and achievements, characteristic of too much literature on the subject, Da Ros and Taylor offer a sober, and therefore welcome, assessment of Brazil's recent past and the challenges that undoubtedly lie ahead.

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