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What U.S. Policymakers Can Learn From Brazil's Anticorruption Gains

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March 2017

[Corruption costs Brazil](#) an estimated 3 to 5 percent of gross domestic product (GDP) annually. Yet, Brazil today is lauded internationally for its efforts to combat graft. An important shift has taken place since the country's return to democracy in 1985. Brazil has seen a [steady increase](#) in bureaucratic audits, civil servants removed from office and fined, and politicians barred from elections for wrongdoing. Over the past five years, trials in two major scandals—the [mensalão](#) scheme of payments by the government to legislative allies and the [Lava Jato \[PDF\]](#) scheme of kickbacks from state-owned companies to corrupt executives and politicians—have altered the public's perceptions about the costs of corruption, as well as the possibility of holding powerful actors to account. These improvements give reason for cautious optimism.

Brazil's progress—[though tenuous](#)—largely reflects homegrown efforts. Still, the nation's path holds important lessons for how U.S. policymakers might assist other countries in their fight against corruption. By enhancing international cooperation capacity, providing targeted technical training, and encouraging the adoption of international norms, the United States can advance the efforts of local reformers in other middle-income democracies.

BACKGROUND

Brazil's successes against corruption have progressed together with its young democracy. Its new democratic [1988 constitution \[PDF\]](#) guaranteed equality before the law and enhanced the public's right to information. While [often flouted in practice](#), these constitutional provisions gave citizens a claim against state abuses and tools to demand better public services. The constitution also provided a useful foundation for anticorruption reforms by allowing citizen-led petitions onto the legislative agenda, leading to prohibitions against vote-buying and against convicted politicians standing for office. Democracy gave voters electoral leverage over politicians, forcing them to address graft concerns. The need for fiscal transparency, especially during the fight against hyperinflation, led to [better public oversight \[PDF\]](#) of government budgets through enhanced public access and stronger rules curbing government spending.

Second, responding to the human rights abuses and policy failures of the authoritarian period, both civil servants and politicians sought to improve the effectiveness of the public sector and build its institutional capacity. Courts, prosecutors, police, and oversight agencies grew in [autonomy, size, and strength](#), enabling them to undertake real efforts against graft. Brazil began slowly shifting away from patronage, adopting rigorous [merit-based examinations](#) and reducing the number of appointees. More budgetary resources permitted anticorruption agencies to move investigations forward. Accountability agencies gained tools for building successful investigations, including new [anti-money laundering \[PDF\]](#), [plea bargaining](#), and [racketeering](#) laws, along with improved fiscal oversight and banking regulations.

Bureaucrats also began working with allies in other countries, leading to the adoption of bilateral and multilateral frameworks that enhance anticorruption efforts. Brazil joined the Organization of Economic Cooperation and Development (OECD) [Anti-Bribery Convention](#) in 2000 and updated anticorruption legislation to correct shortcomings in enforcement of that convention, including by passing a major corporate anticorruption bill in 2013.

Third, civil society groups have kept anticorruption efforts in the spotlight, highlighting problems, proposing solutions, and driving reforms. A free press has pressured elected officials through broad media coverage of malfeasance and has educated citizens about the costs of corruption and potential

solutions. Most recently, in March 2016, two million citizens joined a petition for congress to consider a [ten-point proposal drafted by prosecutors](#) to strengthen anticorruption laws. The combination of media attention and public mobilization has sustained the anticorruption agenda, supporting and promoting legislative change, and defending anti-graft campaigners against pushback.

CHALLENGES

Significant challenges remain. Despite democracy's generally positive effect on anticorruption efforts, Brazil's electoral system encourages corruption. Open-list proportional representation voting and weak party labels fragment the party system and [increase the costs](#) of electoral campaigns, which are among the [most expensive in the world](#). The expense and high degree of intraparty competition also creates incentives for politicians to rely on illicit finance for a competitive edge. To govern effectively, the president has to build a coalition from more than two dozen legislative parties, often relying on perks such as appointments to [plum spots in the public bureaucracy](#), state-owned enterprises, and semiautonomous public agencies. Bargaining chips like these have been used both to build political support, and—as the Lava Jato investigation has shown—to illegally fill campaign coffers and offshore bank accounts.

The courts, even though they are independent and [well funded \[PDF\]](#), move too slowly to effectively punish corrupt actors. Strong rights protections, delay-ridden processes, and endless appeals all [conspire against efficient resolution](#) of even the most egregious cases. The Supreme Federal Tribunal, which adjudicates cases against many federal officials, is poorly equipped to serve as a criminal court, in part because it is congested with more than one hundred thousand cases a year. The first conviction of a sitting federal politician occurred in 2010, twenty-five years after the return to democracy; he remained free on appeal until 2013.

Opponents of anticorruption efforts remain powerful. Politicians who benefit from the status quo have tried to [slow or undermine reforms](#), proposing bills to permit politicians' families to repatriate undeclared foreign assets, give amnesty to defendants at firms that reach leniency deals with the government, and restrict prosecutorial independence. Most recently, the lower house amended to insignificance the ten-point anticorruption petition proposed by prosecutors. Meanwhile, [perceived excesses](#), such as leaked wiretaps and the extensive use of pretrial detention, undermine the goals of anticorruption agencies.

RECOMMENDATIONS

Despite these ongoing challenges, Brazil's anticorruption gains provide guidance for steps the United States can take to effectively support anticorruption efforts in a wide range of middle-income democracies around the world, including South Korea, India, and South Africa.

Expand U.S. cooperation with other countries' law enforcement and prosecutors. The U.S. Department of Justice (DOJ) has cooperated with Brazilian authorities to share information on potential targets and investigations, and advance shared enforcement actions against Brazilian firms such as [Embraer](#), [Odebrecht](#), and [Braskem](#). The DOJ's efforts brought legitimacy and greater effectiveness to Brazilian prosecutorial efforts. Yet the DOJ's Office of International Affairs (OIA)—often the starting point for such cooperation—has been unable to address mounting inbound requests from foreign partners,

leading to significant delays in information sharing. Although OIA resources were recently increased, OIA still needs to make a concerted effort to improve the response time for international requests.

Create a new professional exchange program for anticorruption authorities. The DOJ should create a program similar to the U.S. State Department's International Visitor Leadership Program (IVLP) to provide foreign anticorruption authorities with a network of U.S. counterparts and access to targeted legal expertise about international best practices, innovative uses of similar statutes, and successful reform efforts. The Brazilian judge at the center of the Lava Jato investigation, Sergio Moro, [participated in the State Department IVLP program](#) a decade ago and has noted the useful ties it provided to U.S. authorities. With congressional funding, the DOJ should expand existing exchange programs to provide deeper training beyond today's frequently ad hoc and boilerplate introductions, which are seldom tailored to the specific training needs of foreign authorities. Even at their most basic, such programs help anticorruption campaigners fight the isolation that often besets them at home.

Advocate for the adoption of stronger anticorruption prosecutorial tools and efficient judicial procedures in partner countries. In Brazil, the adoption of plea bargaining, the strengthening of antiracketeering statutes, and the enhancement of anti-money laundering laws over the past decade were vital to building cases against private and public sector officials alike. A fledgling law on [corporate leniency agreements](#), modeled on U.S. non-prosecution and deferred prosecution agreements, has been used to significant effect in the Lava Jato investigation. The DOJ and U.S. Agency for International Development should encourage the adoption of similar tools and procedures, tailored to local institutions, while sharing lessons learned from international efforts to increase the effectiveness of anticorruption prosecutions.

Direct U.S. programming and funding to support middle-income countries' efforts to build and train a professional civil service. In Brazil, merit-based hiring, higher salaries, and better budgets have increased the quality of police, prosecutors, tax collectors, and other agencies' work in the fight against corruption. Homegrown efforts to increase professionalization should be complemented with training on international best practices on anticorruption, which could be developed by the State Department's Bureau of International Narcotics and Law Enforcement Affairs, in consultation with the DOJ's International Criminal Investigative Training Assistance Program and the Office of Overseas Prosecutorial Development Assistance and Training.

Encourage middle-income democracies to join multilateral anticorruption bodies. Committing to the standards of international anticorruption bodies—including the OECD Anti-Bribery Convention—helps lock in periodic reviews of anticorruption enforcement, provides access to best practices, and drives reform. Multilateral frameworks such as the Financial Action Task Force and the Anti-Bribery Convention have the benefit of demonstrating that anticorruption is a multilateral effort, rather than an imposition by a single country.

By taking these steps, the United States can enhance middle-income countries' ability to stem corrupt practices that threaten economic development, institutional stability, and the integrity of global business transactions. Absent such efforts, the path toward effective anticorruption efforts in middle-income nations such as Brazil may be unnecessarily difficult and subject to reversal.

About the Author

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