Inside the Car Wash: The Narrative of a Corruption Scandal in Brazil

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Abstract

In March 2014 a corruption scandal emerged in Brazil with unprecedented political and judicial repercussions. Dubbed the ‘Car Wash’ (Lava Jato in Portuguese), the investigation has uncovered large-scale bribery, kickbacks, and money laundering involving the state-run oil company Petrobras. This paper looks in depth at the mechanics involved in the corruption flows, presenting a theoretical model to discuss the links between campaign finance, state capture, political exploitation, and overcharged public contracts channelled back to campaigns, politicians, parties and senior bureaucrats. Although dozens of high profile politicians and businessmen have now been jailed, one of the major repercussions of this investigation is the Brazilian Supreme Court decision to ban corporate donations to electoral campaigns. Using analytical narrative based on secondary data analysis, such as campaign finance records, government payments orders, and police and prosecutors’ reports, this paper also questions whether this decision has an impact on corruption. It remains unclear whether, and if so how, the banning of corporate donations will work as an effective deterrent of campaign finance fraud.

1. Petrobras: from a darling exception to another politically captured SOE

Petrobras, the Brazilian state-controlled oil company, was once defined as ‘the most autonomous and corporately coherent organisation within the state enterprise system’ (Evans 1992:172). Indeed, the Brazilian state-giant corporation used to be referred to as a ‘darling exception’ (Almeida and Zagaris 2015:87) when its performance was compared to the common deficiencies of state-owned enterprises (SOEs), which are often politically captured in order to maximize particularistic interests as well as dragged into distrust because of a lack of efficiency and profitability.

This notwithstanding, the aforementioned Petrobras’ coherence and reputation began to fall apart in March 2014, when Brazil saw the emergence of a corruption scandal with unprecedented political and judicial repercussions. Dubbed the ‘Car Wash’ (or Lava Jato, as a high pressure wash is known in Portuguese), the criminal investigation has uncovered large-scale bribery, kickbacks, money laundering, and an illegal campaign financing scheme involving the state-controlled oil company, but
also former Petrobras top-level directors, bureaucrats, politicians, and businessmen. The nickname came about because of one of the four black-market currency dealers, initially the main targets investigated for money laundering and tax evasion due to bank transactions involving large sums of money, allegedly used a petrol station and its car wash to launder some of the money in Brasília, the capital of Brazil.

The investigation, however, moved towards Petrobras almost by chance. Mr. Paulo Roberto Costa, a former Petrobras director responsible for billion-dollar procurements, was driving an expensive imported Land Rover given to him by one of the money launderers, who was arrested in the first phase of the investigation. While Mr. Costa was in a federal police station explaining his relationship with Mr. Alberto Youssef, the money dealer who bought the car, his two daughters and sons in law were collecting documents at his office. When the police arrived there to execute a search warrant, the room was almost empty. CCTV inside the elevator recorded Mr. Costa’s relatives going up and down with bags full of papers. As a result, Mr. Costa was temporarily arrested charged on attempting to destroy evidence and his family were placed under investigation. Released a few months later, he was again arrested for keeping non-declared bank accounts overseas. In exchange for home detection and electronic monitoring, the former Petrobras director decided to enter into a plea-bargain. He signed a collaboration agreement to present evidence regarding what he did and saw after being appointed in 2004 by politicians to head a department in the Brazilian oil company.

From the day Mr. Costa became a whistle-blower in 2014 to February 2016, the Federal Prosecution Service brought 37 criminal charges against 179 people. The charges amount to a total of 6.4 billion BRL (around 2.6 billion USD in 2012 dollar value) in bribes paid from 2003-2012, although no final figure has yet emerged. There are 84 sentences imposed to a combined 825 years in prison. In addition, the federal prosecutor service asked the Supreme Court to open 28 criminal procedures against 49 politicians. This list includes 14 senators, 22 members of the Lower House and 13 former congressional members. Petrobras employees, politicians, including a sitting senator and top-level businessmen, CEOs of the most important construction firms in Brazil that were larger campaign donors, as well as governmental contractors, were also sent to jail as a result of the ‘Car Wash’.

Another 43 people, among them some of these executives, also signed collaboration agreements and provided evidence that they paid bribes and made campaign donations (both on and off-the-books) in exchange for being awarded public contracts in different agencies from different sectors. The confessions have boosted new fronts in the investigation, stressing the links between the corruption schemes and political campaign finance. After focusing on the companies, the prosecution team and police officers are now targeting political campaign suppliers. In February 2016, for instance, an arrest warrant was issued for the campaign strategist who worked for President Ms. Dilma Rousseff and the former President Mr. Luiz Inácio Lula da Silva. Two weeks later Mr. Lula was one of those who were detained to be questioned by the police and had his house raided during the 24th phase of the Car Wash. The former President was not arrested but compelled to testify.

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2 For updated figures, see http://lavajato.mpf.mp.br/atuacao-na-1a-instancia/resultados/a-lava-jato-em-numeros-
3 In Brazil, all congressional members, ministers of cabinet and the president enjoy special privilege jurisdiction, meaning that they are investigated only by the Supreme Court in criminal cases.
However, the warrant to detain the most prominent Brazilian political figure raised a lot of criticism about possible judicial abuses coming from the task force.

Besides dozens of high profile politicians and businessmen members of an up to now ‘immune elite’ – among them the most traditional and largest campaign donors – becoming inmates, one of the major repercussions of this investigation is the Brazilian Supreme Court decision to ban corporate donations to electoral campaigns. Until last year, corporations, mainly from the construction, financial and industrial sectors, were the big political financiers and their participation in campaign financing in Brazil had been increasing dramatically. The donations from corporate entities for candidates running for presidency, senate and lower chamber raised from 66.49% in 2006 to 76.47% in 2014 (TSE 2015). The 2016 elections to select mayors and local council representatives in 5,570 municipalities in Brazil will be the first one since 1994 that only individual contributions – limited to 10% of the person’s gross income earning during the year preceding the election – to incumbents and parties is allowed.

Hence, the ‘Car Wash’ investigation is a rare and effective cooperation between the Federal Police, the Federal Prosecution Service and the Federal Judiciary with both unprecedented and theoretically unexplored changes in Brazil. The investigation’s main findings challenge at least two conventional understandings among scholars:

1) As a state-run company, Petrobras is a successful case of insulation from political exploitations (Evans 1992).

2) Persons who make on-the-books campaign donations are far less likely to tolerate corruption (Pereira et. al 2011).

Indeed, the whistle-blower Mr. Paulo Roberto Costa was a dedicated engineer who took a formal exam to become a Petrobras bureaucrat in 1979. In May 2004 he became the head of the refining and supply department after being politically appointed by politicians from PP and PMDB, parties of the ruling coalition in the federal sphere. He confessed that he overcharged contracts and gave them to companies that are campaign financiers. According to him, it was part of the deal to keep his position. Mr. Costa also received bribes and kickbacks to engage in acts of corruption. Other long-time career bureaucrats in the state-run oil company, heading important departments in the state-run oil company such as the international affairs and services departments, have already been convicted or are being investigated for the same behaviour. In addition, the investigation showed that the construction companies were part of the corruption scheme, sometimes being pressured by politicians to contribute in campaigns; sometimes pressuring to get public contracts; always in exchange for campaign donations and bribe/kickbacks payments. They also colluded in a cartel that not only decided which of its member companies would win a contract but also to split these overpayments as bribes and electoral donations among Petrobras’ own top-ranking executives, Congress members and party leaders.

This paper looks at the mechanics involved in the corruption flows within the Brazilian state-run oil company. Based on official data such as 2010 campaign finance records, government payments orders, the Car Wash police and prosecutors’ reports, as well as in the already signed criminal sentences, the paper presents a theoretical model to describe the narrative of the scandal that is directly linked to illegal campaign financing and state capture. It also tests theoretically possible repercussions of this corruption scheme revealed by the Car Wash investigation with the prohibition of corporate donations to incumbents and political parties. Therefore, the method used here will be analytic narrative (Bates et. al 1998) as the actors, their preferences and strategic actions, as well as their key decisions, points, and
possibilities will be described through a narrative approach. In particular, this paper points out that, based on the model of corruption revealed by Petrobras scandal, it remains unclear whether and how banning corporate donations will work as an effective deterrent of campaign finance fraud.

The rationale applied here is straightforward. Incumbents and political parties seek funds for improve the chances to keep their offices and influence at the same time that corporations seek benefits such as contracts, operational licences, loans, taxes deals and/or any other kind of subsidies. The interaction among these actors will keep shaping public policies, often in particularistic ways and at the expense of ordinary people. Hence, banning corporate political finance per se does not guarantee that state capture, bribes for contracts, and non-reported contributions will stop immediately. It does not necessarily mean less corruption nor greater accountability if there is no efficient control or punishment mechanisms. Although remarkable, the Car Wash judicial procedures (and subsequently outcomes) seem to be more of a great exception than a new paradigm in Brazil.

This paper is set out as follows. First, the background of how campaign financing works in Brazil is presented, and some background information about the beginning of Car Wash investigation as well as theoretical expectations guiding this research are set out. Second, the data, the methodology and the hypotheses to be discussed are set out. Section 3 develops the corruption scheme mechanics to the model estimation and it presents detailed description of both. Following on from that, the next section goes further by exploring predictions regarding possible scenarios pushed by the Supreme Court’s decision in banning corporate political and electoral financing. A discussion of which hypotheses are the strongest predictions of corporations, politicians and bureaucrats following up behaviour regarding acts of corruption will follow. Section 5 presents conclusions regarding the single largest corruption investigation ever undertaken in Brazil together with its probable impact, and suggests avenues for further research.

2. Background and Theory

In the electoral system currently in effect in Brazil, the president, governors, and mayors are elected by absolute majorities; senators, in turn, by simple majorities. In cities with more than 200,000 voters, a runoff is required between the two most voted candidates (president, governors and mayors) if no one receives an absolute majority in the first round (50 per cent plus at least one vote). In addition, Brazil uses a version of open-list proportional representation to elect the 513 members to its Lower House (Câmara dos Deputados), state council representatives and city council members. Parties (or inter-party coalitions) Parties can nominate one-and-a-half candidates per seat in each district, and multiparty alliances can nominate twice as many candidates as there are seats. Seats are held by the candidates who obtained the most votes from each list. It is important to emphasise that inter-party coalitions function as a single list, i.e., the most voted-for from within the coalition, regardless of their own party, are elected. (Samuels 2001b; Nicolau 2006)
Since democracy was restored in Brazil in the late 1980s, the Brazilian electoral system’s main characteristics have promoted increasingly competitive and expensive elections completely self-centred in the candidates. In addition, according to Samuels (2001a; 2001b), as Brazilian parties’ organisation is weak and most of them present programmatic incoherence, the electoral campaigns are ‘highly individualistic’ and, therefore, predictably expensive. Indeed, incumbents must raise individually all their funds to advertise and differentiate themselves from the others. ‘Money enhances candidates’ viability in Brazil, and a lack of money severely limits many candidates’ competitiveness’ (Samuels 2001a:42).

In order to allow more fund raising, campaign finance laws changed in the early 1990s. Before Law No. 8,713 was passed in the National Congress in September 1993, businesses, foreigners and labour unions could not make political contributions; individual donors could contribute only to parties, but not directly to incumbents. Only the restrictions regarding the unions and foreigners were retained. Hence, politicians started legally receiving money from parties, individuals, and corporations. There is no limit to raise funds. As the Law fixes a percentage and not a value – companies can donate 2% of their annual gross revenue and individuals can finance up to 10% of their annual earnings in the year before the election – big business groups (and also wealthy individuals) can not only provide a much larger amount but they usually contribute using different companies of their conglomerate.

Since 1994, however, both parties and candidates have been required to submit to the electoral courts balance sheets detailing all contributions and expenses. Nonetheless, it remains unclear how reliable this data. Indeed, books can be easily cooked and there is a lack of efficient control and punishment mechanisms to those who do not declare properly all donations and services delivered. Yet the so-called the on-the-book donations and expenditures represent a rich source of information. Held by the Electoral Court, the dataset allows many scholars to track donors and suppliers and to analyse the relationship between money, elections and democracy in Brazil.

Despite the foregoing, researches on the relationship between private donors and politicians in Brazil remain relatively at an inception stage (Speck 2011). In one of these few attempts to analyse campaign finance throw the private donor point of view, Speck (2011) used the data from 2010 Brazilian elections and concluded that corporate donors have a higher success rate than individuals in financing winners who run office for presidency and for a seat in the Senate and in the Lower Chamber. Corporate donors allocate on average 2/3 of their resources to the winning candidates. In the case of candidates running for the executive branch (governor and president), companies are more cautious and usually allocate resources more equally between winners and losers. According to Speck, this behaviour can be explained by the fact that corporations want to avoid the risk in the majoritarian elections to be on ‘the wrong side’ after the run regarding both candidates, who come from a political elite, and parties, which usually mediate these kinds of contributions. Therefore, he concludes that corporations are driven more by economic interests than by ideology.

Indeed, in Brazil, the lack of ideology and partisanship as well as institutionally weaknesses of parties suggest that politicians need to be personally close to those who fund their campaigns. In addition, in a country where particularism has been considered for a long time a core and remarkable internal characteristic, donors pragmatically seem to be more likely to financing who can delivery policies of their interest. Pereira et. al (2011) state that the relationship between donors and politicians requires trust and we do not need to assume that all campaign donors look for only honest incumbents. ‘Wealthy contributors have no interest in giving a
politician a free ride – they want to get their money’s worth. If they detect that they are wasting their money, they will search elsewhere for a reliable investment’ (Pereira et. al 2011:83).

Boas et. al (2014:427) showed that contributing to ruling-party legislative candidates can buy police outcomes. They state that corporate donors specialising in public-works projects received at least 14 times the value of their donations to winner incumbents affiliated to the Workers’ Party (PT) in government contracts. The scholars’ findings come from the results of 2006 elections for the Lower Chamber and from a dataset that includes 7,375 firms donating to 1,504 candidates as well as all executive branch expenditures by beneficiary firm from January 2004 to September 2006. Boas et. al did not make the same link between donors to the presidential candidate – who sometimes have more discretionary power to order which company can sign each contract than legislators – and the governmental contracts. Yet, from their findings, it is possible to infer that the capture of the State by economic groups is directly linked to escalation of the cost of campaigns combined with the also increasing proportional value of donations made by private corporations to members of parties who run a government. In addition, politicians might be induced to ‘favour wealthy special interests at the expense of those very same ordinary citizens’ (Bayley 2004:653).

Indeed, the Brazilian studies on private campaign finance provide empirical support for theories that state that firms give more money to politicians and parties that can deliver contracts and/or their preferred policies (McMenamin 2013; Schneider 2013). In contrast, as Boas et. al (2014) highlighted, the empirical literature focused on the US electoral system and elections have found inconclusive links between corporate donations and policymaking. In fact, the nature of institutions and of the political economies in Latin America provides elements to infer that firms not only seek benefits from governments or politicians but also are willing to pay for it. Linked to single families or to multinationals, the biggest firms instinctively required performance to be limited as little as possible by market or political regulations. Based on the statements of businessmen and bureaucrats from Petrobras investigated for the corruption scandal in the oil company, this study will also point out that the relationship between corporate campaign donations and public policy is very strong, especially if there is any perspective to transform the ‘investment’ (campaign donations) in governmental contracts, beneficial regulations or any other kind of particularistic outcome to reach or keep their dominance (Schneider 2013; Boas et. al 2014).

As the electorate rules, the political finance regulation also shapes the quality of democracy as well as the legitimacy and competitiveness of an election. Therefore, private contributions have raised concerns, especially because of the capacity to promote distortions on politics and police making. In an attempt to fix that, in the past 30 years the State has become the main electoral financier in different countries, which in no way guarantees corruption free nor no cases of illegal financing in almost all Western democracies (Ware 2004:459-462; Ribeiro 2009). However, besides the need for fairer and more balanced competition for votes, the increase of State contributions and subsidies have been motivated precisely by issues of corruption, and also by the natural behaviour of corporations to ensure its own survival on the markets. In short, as politicians seek office and donors seek certain inputs (Bayley 2004).

In general, as Nichols (2011:79) noted, although there are other goals, a ‘fundamental purpose of campaign finance regulation is to reduce corruption’. Latin
America has a long-standing tradition of campaign regulation in line with global trends (Casas-Zamora 2005) at the same time it has been experiencing several electoral reforms. In Brazil, most of the attempts to reform the electoral regime have been pushed by corruption scandals.

For instance, between 2003 and 2005, politicians and public officials diverted federal public funds, mainly from advertising contracts, to buy political support in the National Congress for the government of the then President Mr. Luiz Inácio Lula da Silva as well as to pay off debts from election campaigns of the parties members of Lula’s coalition. The scheme, brought to the public eyes in 2005, became a corruption scandal known as mensalão (or ‘big monthly’ allowance, although payments were not necessarily made each month). The prosecution brought charges against 40 people and 25 of them (politicians, bankers, businessmen and political advisors) were convicted in 2012. One of the first repercussions of this scandal, however, was the restriction of political advertisement in 2006, when the Electoral Court banned billboards, distribution of gifts such as t-shirts, stickers and key chains with the name of the party or of the incumbents. Rallies with musical gigs became illegal as well. The Court also established that the campaigns should fix a previous limit for its costs, among other changes. The expected outcome was making elections cheaper. It did not happen though, as each election is more expensive than the past one.

Since March 2014 Brazil has seen another massive investigation targeting parties and politicians members of central government coalition. The Car Wash investigation sent to jail Mr. José Dirceu, the former chief of staff of Lula’s government who was also convicted for the mensalão scandal. After staying some months in a prison, he was under home detection when was arrested again in August 2015 and since then he has being kept in prolonged temporary custody allegedly to be part of this new scandal involving Petrobras.

Indeed, the Car Wash investigation started as an unfolding of mensalão scandal. Mr. José Janene was the leader of the PP party in the National Congress when his name was involved in the mensalão. Although he was one of the 40 defendants in the Criminal Action 470 (mensalão case), further investigation was requested regarding his transactions and networking in Paraná, his home state in Brazil. Janene, who died in 2010, was responsible for appointing Mr. Paulo Roberto Costa as the director of supply and refining in Petrobras. In addition, Janene kept a close relationship with Alberto Youssef, the black market money dealer who was convicted in the past by the same judge who is now heading the Car Wash investigation. To some extent, some of the characters of this scandal have known each other for a long time. The Judge Mr. Sérgio Moro, for instance, signed plea bargain agreements with Mr. Alberto Youssef years before. Mr. Moro was also a Supreme Court attorney advisor during part of the mensalão trial, due to his expertise in anti-money laundering mechanisms.

Based in Curitiba, Mr. Moro is the judge analysing the acts of those non-elected suspects investigated by a group of federal police officers and federal prosecutors. In Brasília, the capital of Brazil, the case involving authorities with jurisdictional privilege is with Mr. Teori Zavascki, member of the Supreme Court who has already signed search and seized warrants against elected politicians such as the speaker of the Lower House and of the Senate as well as against the former president of Brazil Mr. Fernando Collor. The most complicated cases, such was the temporary custody of the senator Delcídio do Amaral, have been discussed and decided by a group of members of the Supreme Court.
It was the Supreme Court that decided to declare corporate financing unconstitutional. To guarantee more money for the 2016 elections, the National Congress then amended the federal budget increasing almost three times the amount of money to be spent as Electoral Fund. In other words, the legislators increased from R$ 311 million to R$ 819 million the State contribution. By law, 5% of this public funding is split by all political parties and the rest is divided proportionally among the number of seats parties have in the Lower House. Campaign financing in Brazil, therefore, allowed both private and public as individuals to donate.

The Supreme Court’s decision was announced in September 2015, after being on hold for 16 months. One of its members, Mr. Gilmar Mendes, asked for more time to consider the issue, arguing that the Brazilian National Congress should rule on the matter before the Supreme Court. Indeed, two weeks before the Supreme Court decision, the National Congress passed a bill allowing private money for parties. This specific topic, however, was not sanctioned by the President Ms. Dilma Rousseff. Although it is hard to expect that legislators – who are most of the time potential candidates running for re-election – will reduce the possibility of raising funds for their campaigns, the National Congress decided to keep the presidential veto.

It is also important to highlight that there is no pattern regarding direct state funding. In Latin America, for instance, there are many different formulas and rules shaped by domestic peculiarities. In addition to the fact that there is a lack of empirical and conclusive evidence about the effects of state contributions on political life and campaigns, public money financing campaign has a controversial cost to taxpayers (Casas-Zamora 2005). Yet, when the Brazilian Supreme Court voted 8-3 to allow election donations to parties and incumbents from individuals but not from companies, most of them stressed not only the situation in which economic power dominates political power in an illegal way but also quoted the Car Wash investigation main findings and outcomes up to now.

Five out of the ten largest donors to political parties in the 2014 elections, for instance, are important governmental contractors and are also being formally investigated by allegedly engaging in corruption acts in the scope of Car Wash. Indeed, as it will be shown, with few exceptions, most of them donated similar amounts to the rivals Workers’ Party and PSDB. These donations are part of the balance sheet parties presented to the Electoral Court and, therefore, are on-the-book records. This somehow contradicts the assumption made by Pereira et. al (2011) that businesses that contribute ‘above-board’ campaign funds have made a conscious decision to contribute legally, directly and publicly to candidates campaign and, therefore, they are less likely to tolerate corruption and are more likely to withdraw support from politicians accused of illegal activity. They do not consider, however, that part of the on-the-book donation comes from overcharged public contracts, as the Car Wash investigation has already pointed out. Although there is no doubt that the exposure of corruption is bad for business, it is important to keep in mind that donors’ interests might be related to acts of corruption as well.

In addition, the Petrobras case showed that the state-run oil company is not that insulated from political influence neither is it a ‘pocket of efficiency’ (Evans 1992), as scholars highlighted in the past. Created in 1953 during President Mr. Getúlio Vargas’ government, the oil company was one of many state-controlled SOEs set up in the 1940s and 1950s in sectors such as electricity, steels and chemicals that were considered fundamental for economic development. Many scholars have stressed that the deficiencies of such model increases at the same time as the
importance of a SOE (Schneider 1992; Evans 1992; La Porta & López-de-Silanes 1999; Pargendler et. al. 2013; Musacchio and Lazzarini 2014; Lisboa and Latif 2014).

It is important to stress that in 1997, as part of the privatisation and liberalisation processes that marked the 1990s in the whole of Latin America, Petrobras lost its oil monopoly in Brazil. The SOE also opened part of its shares to both ordinary Brazilian workers and to foreigners, listing them on major stock exchanges (New York in 2000 and Europe two years later). At first glance, by issuing shares to private investors, Petrobras opened itself to scrutiny and external monitoring (OECD 2015) as well as being pushed to improve its governance practices and transparency.

However, particularism is one of the core characteristics of Brazilian state capitalism, which has also been plagued by rent-seeking (Lisboa and Latif 2014; Musacchio and Lazzarini 2014). Indeed, this scandal provides evidence of how the role of the state as an economic actor is still very strong in Brazil, and at the same time it is not immune from typical deficiencies of SOEs. Indeed, Petrobras has been used to reach political objectives such as artificial control of consumer prices as a reaction to economic crisis or even to accommodate political allies in order to build up a coalition government. It does not mean that it started in the past ten years, although what has been brought to the public eyes illustrates how particularistic practices jeopardise an SOE’s profitability and efficiency, affecting its credibility.

In short, instead of using the state apparatus to healthily foster structural changes, the Car Wash investigation revealed that Petrobras was being used to attend particularistic inputs at the expense of the people. That is why the Petrobras case fits properly in the definition of corruption provided by Michael Johnston (2005). According to him, corruption is ‘the abuse of a trust, generally one involving public power, for private benefits which often, but by no means always, come in the form of money’ (2005:11). Indeed, the private gain can be directly to parties, politicians and bureaucrats, CEOs, high-level executives or even their relatives or friends. Moreover, it can be, for instance, a gift, a trip, or a contract in a public or private sphere where there is a collective interest involved. Although ‘trust’ can be guaranteed by different mechanisms such as election, appointment, heritage, marriage or education level, here it can be seen as the power or even position held by someone with certain responsibilities and expectations to be fulfilled, in order to provide goods for a collective (public or private).

3. Research Design, Hypotheses and Data

The method used here will be analytic narrative (Bates et al 1998) as the actors, their preferences, and strategic actions, as well as their key decisions points and possibilities will be described through a narrative approach. This method allows for a range of explanations about the dynamics of the corruption scheme revealed by the current investigations involving the Brazilian state-run oil company and an exploration of the predictions regarding possible scenarios pushed by the Supreme Court’s decision in sentencing corporate financing unconstitutional.

The inspiration comes from Ashworth (2006) and Gehlbach (2013)’s work on formal models for political science, although it will be presented not by formulas but through a narrative. The model presented here will explain the corruption dynamics within Petrobras which have already been exposed and, therefore, it assumes that companies support politicians expecting public contracts or other particularistic
benefits once they are elected. It is possible to assume that election outcomes can be manipulated through campaign spending (Gehlbach 2013) as well as through donations.

An important point to make is that Brazil will experience its first election with this new scenario – with no corporate money – in October 2016. There is therefore no data available regarding how the relationship between politicians, companies and bureaucrats will be redesigned under the new campaign financing rules. Thus, due the lack of data, the second part of this study will be an exploratory theoretical exercise that aims to discuss the hypotheses presented below.

Considering that 1) the judicial outcomes of Operation Car Wash (i.e., prolonged temporary custody, fines and convictions) are not corruption deterrents *per se*; and 2) the same scheme can be emulated in any other agencies, banning corporate campaign financing will potentially:

**H1 – Have no impact on corruption**

Individuals still can donate up to 10% of their gross income earned during the year preceding an election. Therefore, politicians can still pressure companies’ representatives to make donations using their own names or employees’ names, pay bribes and kickbacks in exchange for assigning overcharged public contracts (or any other kind of benefit). The corruption scheme mechanics remain the same, including campaign finance fraud, as extra money from overcharged contracts will keep being laundered through on-the-book individual contributions.

**H2 – Reduce corruption regarding campaign finance fraud**

Part of the money received from overcharged contracts cannot be laundered as legal contributions anymore as politicians cannot pressure companies to make campaign donations in exchange for signing public contracts (or any other kind of benefit). Companies can still collude among themselves to fraud public procurements and also pay bribes to get public contracts but it will reduce the probability for campaign finance fraud as well as for money laundering through campaign donation.

**H3 – Create more incentives for other frauds, such as slush fund and non-reported donations**

As corporations need public contracts and politicians need campaign donations, there is the possibility to continue pressuring for money to be sent illegally to politicians and political parties to cover elections expenses in exchange for signing public contracts (or any other kind of benefit). Therefore, the occurrence of slush funds/illegal and non-reported campaign donations can potentially increase.

The data regarding the campaign financing used here come from the 2010 elections held by the Electoral Court. The data related to the governmental contracts comes from the payments already made to private companies available on the federal government Transparência website, held by the Office of the Comptroller General, which is the anti-corruption agency with the federal executive branch. Using the unique tax-identification numbers (CNPJs) of all donor firms, it is possible to cross with the all-direct federal-government expenditures (*gastos diretos*) and identify the direct payments made by the central government to these firms in 2010 and 2011. These payments, however, can be considered underestimated, as they do not include, for instance, payments made by state-run or state owed corporations neither payments...
made to subsidiaries. Therefore, contracts signed between these firms and Petrobras are not available on the Transparência. Here, however, the research will use data released by Petrobras to the special committee in the National Congress that investigated the company. This data lists contracts and payments made from 2005 to 2014 to all corporations now under suspicion. Although there will be figures and tables in this study, it is limited to descriptive statistics.

The model that describes the mechanics of the Petrobras corruption case is based on the police and prosecutor service reports and also on the judiciary sentencing remarks regarding the Car Wash investigation. Once the suspects became defendants, in other words, once the charges brought against him were approved by the judge, most the documents also became public and with open access. In turn, contents of the collaboration agreements are also supposedly kept secret until approved by the judge, although some leaks have occurred.

Most of the documents used here are available on the Federal Prosecutor Service website and also on the Federal Judiciary Court in Curitiba, some of them are available on newspapers websites. Although there are agreements already made with 43 defendants and suspects, this study focuses on the statements made by Mr. Paulo Roberto Costa (former director of Petrobras), Alberto Youssef (black market money dealer), Pedro Barusco (former manager of Petrobras), Augusto Ribeiro de Mendonça Neto (executive from Toyo Setal), Julio Camargo (executive from Toyo Setal), Dalton Avancini (CEO of Camargo Corrêa), Ricardo Pessoa (UTC owner), Gerson Almada (former-vice-president of Engevix) Fernando Baiano (lobbyist) and Mario Goes (lobbyist). These statements were made in three different situations: plea agreements, during criminal trial, or in hearings at the special committee that investigated the Petrobras case in the National Congress. Overall, they are didactic, they clarify the mechanics of the corruption flow as well as provide evidences that support the link between campaign finance, state capture and particularistic interests for both incumbents and corporations through bureaucrats in a SOE that was believed to be insulated from political interests.

3. From inside the Car Wash to a descriptive model for a corruption scheme

The two-year investigation’s main findings and documents allow us to both design and explore the mechanics of the corruption flow brought to the public eyes by the Car Wash investigation. Briefly, politicians conspired to appoint top officials at Petrobras who colluded with a cartel of private companies to routinely overcharge on construction and maintenance contracts. The cartel not only decided which of its member companies would win a contract but also split these overpayments among Petrobras’ own top-ranking executives, Congress members and party leaders. Part of the money received through the overcharged contracts also went directly to political campaigns, laundered as recorded donations; the scheme also had middlemen hired through shell consulting firms to distribute the bribes and kickbacks.

Flow-chart 1 below is a reduced version of the chart already made available by the Federal Prosecutors Office (MPF). It illustrates only the ‘bribe’ part of corruption scandal, providing a simplified view of how captured senior Petrobras employees


6 See http://lavajato.mpf.mp.br/entenda-o-caso
steered padded contracts to select construction firms which, in turn, channel back part of the money received from the state-run company to middlemen and politicians.

Chart 1 – The Money Path on the Petrobras corruption scandal

![Chart 1](http://lavajato.mpf.mp.br/entenda-o-caso)

These mechanics occurred in at least three departments in Petrobras, according to the witnesses and whistle-blowers’ official statements. Mr. Paulo Roberto Costa was politically appointed/captured by politicians from the Progressive Party (PP) to head the supply and refining department. Mr. Renato Duque was appointed/captured by members of the Workers’ Party (PT) to manage the services department. Finally, Mr. Nestor Cerveró and, later, Mr. Jorge Zelada were appointed/captured by politicians from the Brazilian Democratic Movement Party (PMDB) to run the international affairs department.

As top-level bureaucrats they controlled the contracts and selected the contractors in their areas. Companies overpriced their services fuelling this extra money to politicians, bureaucrats and middlemen as well as to pay the transactions costs. Between 1.5% to 3% of the contracts signed between the state-run company and the corporations become bribes or kickbacks to be split among not only members from the parties who appointed the bureaucrats but also from other coalition members. These amounts were periodically and regularly transferred to political agents and also episodically, especially in times of elections or choices of party or congressional members leaders.

The testimonial of Paulo Roberto Costa illustrates how systemic and institutionalised this flow was. He stressed that in the case of the services department, the money went entirely to Worker’s Party members. In his case, in the supply and refining department, the bribes were split as follows:

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7 Information in brackets was added by the author to provide extra information and context.
‘2% was sent directly to the Workers Party (to Mr. João Vacari [Workers’ Party treasurer]) and the other part of it (the remaining 1%) was transferred to the political group who appointed him to the board, PP. Even this remaining 1%, sometimes, it was necessary to share it with the Workers Party, PMDB and, once, with PSDB [the opposition party]. According to the rules, this 1% should be split as follows: 60% for the party, 20% to cover operational costs (such as companies to provide receipts, middlemen payments etc.) and 20% to himself and, sometimes, to Mr. Alberto Youssef. The highest bribe values were transferred directly to the politicians without the intermediation of any middleman’ (Mr. Paulo Roberto Costa in the collaboration agreement No 21 in September 2, 2014).

The former Petrobras manager, Mr. Pedro Barusco, suggested that bribes have been paid in the state-run company since the mid 1990s. He said he started charging bribes for authorising contracts as a ‘personal initiative’ in 1997, during the government of President Mr. Fernando Henrique Cardoso (PSDB), and he estimates the Workers’ Party received up to 200 million USD with the corruption scandal in the period between 2003 and 2013. Mr. Barusco agreed to delivery 97 million USD, amount he confessed he had pocketed illegally.

‘This is a path with no return. You start it, you go, go and it will turn a sword pointed to your the head. There is no way to get out of this’ (Mr Pedro Barusco, former Petrobras manager during hearing in the National Congress on October 3, 2015)

Businessmen who also signed collaboration agreements confirmed that there was no contract without paying bribes in Petrobras. It was mandatory to keep business working:

‘We entered a highway called Petrobras, where there were tolls [for accessed passages]. You are traveling; you will be paying tolls’ (Gerson Almada, former-vice-president of Engevix in testimony in the Federal Court, on March 18, 2015)

Mr. Paulo Roberto Costa confirmed all statements made to policy officers during his trial. He also highlighted that the corruption scheme is not limited to Petrobras. In fact, it is widespread in the federal government.

‘[Illegal] Transfers to political groups are institutionalized and encompass all the public works in Petrobras and in any other public agency or government enterprise. Therefore, kickbacks come from a percentage of the profit of the company,
previously established and guaranteed due to the lack of effective competition […] (Mr. Paulo Roberto Costa in his collaboration agreement No 21 in September 2, 2014)

Investigators who followed the money state that from the contractors it went to middlemen in three different ways: by cash, international transfers or, more commonly, to shell companies through fake consulting contracts. Following on from that, the extra money from the overcharged contracts was delivered back to politicians and senior bureaucrats by at least five already identified different forms. According to the investigators, bribes were channelled back by people who transported cash hidden under their cloths or in private jets, by electronic transfers to accounts of third parties, usually people pointed out by the real beneficiaries, by international transfers to shell companies in tax havens in the name of the beneficiaries or their relatives, by contributing both on and off-the-books to parties, politicians and incumbents mainly in the electoral period and, finally, as gifts such as pieces of art and properties.

However, the evidence provided to date show that the corruption scheme does not limit itself to bribes or kickbacks. It does not seem to be a simply an active-passive corruption model. There are many other acts of corruption (and, therefore, crimes) linked to the scheme. It is possible to point out at least three other well-defined interconnected corrupt acts: cartel practice, influence peddling and illegal campaign finance.

Firstly, the investigations confirmed cartel practices as the companies organised themselves to eliminate competition from others who were not part of the group. In a normal scenario, contractors should compete with each other in bids to get Petrobras contracts and then the state-run company would hire the one who agreed to do the work at the lowest price. Competition for entry into government service is, in part, a competition for rents (Krueger 1974). In addition, rent-seeking has corruption as its dark side and it has always been a well-know facet of public agencies where there is lack of efficient accountability. Under the Car Wash scope, the contractors were part of a ‘club’ that transformed real competition into apparent competition. The competition for Petrobras public works was adjusted in secret meetings, in which it was decided previously who would present proposals for each contract.

‘Gerson de Mello Almada, deputy CEO of Engevix, confessed, although reluctantly, the existence of the cartel and the fraudulent adjustments of bids by contractors (event 473). He tried to minimise it [cartel practices] arguing that the price was set by Petrobras and there was no perfect operation because there was not always agreement or other outside companies could hinder the group’s plan. However, his statement confirms the essential points that large contractors, including Engevix, adjusted their preferences in major bids for not messed up each other, dividing, in practice, the public works. Although Petrobras still make a price estimative, the fraudulent ruse allowed the company to which the preference has been set to present its proposal without real competition with other contractors participating in the cartel.’ (Judge Mr.
Sérgio Moro sentencing against Engevix representatives on December 14, 2015

The cartel also had written rules reproducing a football league⁸. The three-page document with ‘rules of the game’ and entitled ‘sportive championship’ was provided by Mr. Augusto Ribeiro de Mendonça Neto, an executive from Toyo Setal who signed a collaboration agreement. The document is a pure metaphor of the cartel rules, its goal was clear highlighted: ‘The championship aims to prepare the teams to national and international championships, always intending to break records and to get the best awards’. In addition, in an attempt to conceal the cartel practices, the written records of the distribution of public contracts were registered, sometimes, like bingo and its distribution of prizes. In one of documents seized in the office of one of the companies that are being investigated the headline is ‘Reunion Bingo’ and companies are combined in different groups as Comperj participants. Comperj stands for Complexo Petroquímico do Rio de Janeiro, one of Petrobras refining units that is being expanded in Rio.

Secondly, the corruption scheme was also about influence peddling. Indeed, the illegal practice of using influence and connections to get senior positions, to obtain favours and preferential treatment as well as to get money for campaigns in exchange to public contracts was largely used. For instance, regarding senior bureaucrats investigated by Car Wash, they only got their positions because of political connections.

‘There is a limit in the career where technical competence is not enough to progress. To reach to the [Petrobras] board level, it is necessary be political appointed as it happens in all government companies. Once taking up the post of director by political appointment, the political group always requires something in return’ (Mr. Paulo Roberto Costa in his collaboration agreement No 01 on August 29, 2014)

In addition, according to the witnesses, in order to keep a seat on the directors board, it was mandatory attend the political group demands.

‘Once nominated for the post of Petrobras supply director, appointed by PP, I became to be demanded by the political group to provide funds to PP, PMDB and PT, at different times, using revenues from the company I worked for. […] In the event of failing to meet the demands of the political group, it means my immediately output to another one who meets the requests.’ (Mr. Paulo Roberto Costa in his collaboration agreement No 01 on August 29, 2014)

Characters like Paulo Roberto Costa, called by Schneider (1992) as ‘political técnicos (technicians)’, starts within the state apparatus as the technicians through formal tests and technical qualifications but, then, they are captured and promoted by

⁸ See the ‘rules of the game’ provided by one of the whistle-blowers on http://lavajato.mpf.mp.br/entenda-o-caso/documentos/arquivo-1-regulamento-futebol [Accessed on March 2, 2016].
politicians to act as liaisons between the state and the private sector. Political técnicos are ‘a hybrid or swing social types’ who bring either technical or political influence to the policy-making process (Schneider 1992:63). As the scholar stressed, it goes beyond patronage and clientelism practices at the same time it represents complex arrangements between the already blurred line between public and private political and economic life in Brazil.

Regarding the corporations, preferential treatment and contracts were guaranteed only to those who provided money to both politicians and political technicians. This money, however, came from the profit that should be fixed from 10% to 20% but it was already overestimated in an extra 3% to be fuelled into bribes or campaign donation. If there was no percentage fixed for the political group or it was not paid properly, the company was sanctioned by not being called for other public procurements as well as by creating obstacles to execute the current contract.

‘The rule of the game was: if you did not pay bribes […], you would not succeed or you would not get contracts with Petrobras’ (Julio Camargo, in a statement made on February 2, 2015)

Thirdly, both investigators and the judge Mr. Sérgio Moro categorically stated several times that part of the money pocketed by companies financed parties and campaigns as on-the-record as well as slush funds. At least five of whistle-blowers have also provided evidence and testimonials connecting the overcharged contracts to campaign finance. However, it is hard to track as well as to identify which campaign donation is and is not part of the scheme. These companies are at the same time the large contractors and they traditionally donate to different parties and politicians in every single election.

As Speck (2011) highlighted, corporations often split their on-the-records funds more equally with big parties and to both winner and losers candidates. Indeed, although the majority of suspects are related to parties’ members of the coalition that supports the Workers’ Party in the National Congress, there are also a few allegations of bribes for opposition politicians, which are also being investigated. However, on their own, the lists identifying donors, donations and their beneficiaries are not enough to allow us to go much further, although it is useful to highlight their official level of participation in campaign funding.

For instance, Table 1 shows that, among the top 20 largest donors in 2010 Elections, in which there are eight construction companies. All of them are being formally investigated under the scope of Car Wash. Their executives were arrested and some of them signed collaboration agreements.

Table 1 – Largest donors in 2010 Elections by the unique tax-identification numbers (CNPJs) and social security number in BRL*

<table>
<thead>
<tr>
<th>Donor</th>
<th>Sector</th>
<th>Total Donations in BRL</th>
<th>Number of donations</th>
<th>To Candidates (%)</th>
<th>To Parties/Committees (%)</th>
</tr>
</thead>
</table>

*Data as of 2010 Elections.
The main figures of registered campaign funds illustrate how important these corporations are as donors, especially the construction companies. Indeed, among the donors there are for instance, two banks from the same group, one political party and one individual contributor. They all were ranked by the amount they contribute combining all the donations made by the same tax-identification numbers (CNPJs).
and social security numbers (CPFs). However, some of the corporations have more than one company, sometimes with the same name, although with different unique tax-identification numbers (CNPJs). The figures, therefore, can be slightly underestimated. Notwithstanding, it is possible to observe that the majority of the largest donors preferred to contribute to parties and political committees than to fund a candidate straightforward. This practice has been known as occult donation as the donors cannot be directly connect with any candidate, although some them contribute to the party but informally point out the name of the beneficiary.

From these figures, it is possible to infer that companies are the actors more able to meet the demand of incumbents and parties for resources. Mr. Paulo Roberto Costa, however, sheds light on another perspective regarding the incentives to corporate donations. He compared campaign fund to a loan, which will be charged by companies that had contributed with high interest rates when winners start running their offices.

‘There is no donation that companies do not want to recover [the money afterwards]. [...] If they donate R$ 5 million, they will want to recover R$ 20 million. There is no free lunch’ (Paulo Roberto Costa, former director of Petrobras Supply, explaining the scheme in the National Congress special committee).

Indeed, Petrobras significantly increased the annual payments made between 2005 and 2014 to the suspect companies and to the consortia of which they are members. Chart 2 illustrates that upward trend on the annual payments identified as “contracts” to those corporations who are being formally investigated. It rose from 0.39 billion in 2003 to 17.2 billion (or, from 0.68 billion to 22.08 billion if adjusted by the inflation in the period, in BRL), increasing by over 4,000%. Unfortunately, there is no data available from past years or figures regarding all the payments made in the same period to compare whether the trend is similar or to identify any pattern. This notwithstanding, the increase is substantial.
The pick of 2010, the year of national elections, and the year before, is also remarkable and suggestive, although it is necessary to investigate in-depth these payments in order to make any inference. 2012 also held elections for mayors and local council representatives. In addition, it is important to point out the significant decrease in 2014, the year when the investigations started. However, some of these companies now under suspicion still have contracts running as well as around 24 billion BRL, combined, to be paid by Petrobras.

Table 3 allows us to compare the amount donated to all candidates and parties by the eight constructors among the largest campaign donors in 2010 elections and the payments they received also in 2010 from both Petrobras and the direct administration of the Federal Executive branch. However, it is not possible to state whether and, if so, which part of these donations were made to get back these specific payments or any other subsidies. Yet, Table 3 provides, at least, an illustrative overview of the amounts that are likely to attract corporations.

Table 3 – Constructors among the 20 largest donors in 2010 elections and their respective contract payments from Petrobras and the federal government central administration in the same year (in BRL)

<table>
<thead>
<tr>
<th>COMPANY</th>
<th>CAMPAIGN DONATION 2010</th>
<th>PAYMENTS FROM PETROBRAS 2010</th>
<th>PAYMENT FROM THE CENTRAL GOVERNMENT 2010</th>
<th>TOTAL PAYMENTS/DONATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>CONSTRUCOES E COMERCIO CAMARGO CORREA</td>
<td>103,212,120.00</td>
<td>610,218,294.51</td>
<td>98,163,749.17</td>
<td>6.86</td>
</tr>
</tbody>
</table>

*See http://www.camara.gov.br/proposicoesWeb/prop_mostrarIntegra;jsessionid=792ED13B204CBC89D3A268C7CD8439D8.proposicoesWeb1?codteor=1348214&filename=DOCCPI+203/2015+CIPETERO+%3D%3E+RCP+3/2015. Chart includes payments referent to contracts, but not those classified as pedidos, which values are residual.*
Considering only the transactions made in 2010, the eight constructors among the largest electoral donors at that year received from 9 to 42 times more in payments from Petrobras identified as contracts and from the central administration from the federal executive branch than the amount they donated to all candidates and parties. These are just the rough figures. It is important to stress that this comparison does not consider a lot of variables such as that payments depend on the contract specifications, the public works in which these companies are involved are really massive and expensive, these corporations need special machines and have a lot of employees. Yet the investigators pointed out that, despite the regular payments to the political agents, it was also identified random payments, especially in times of elections or choices political leaders. There are suspicions that the scheme also as used to pay campaign debts after elections 10.

The 2014 campaign financing figures, in turn, show that corporations are by far the largest campaign donors: 70.6% of all on-the-book contributions were made by private companies. Individuals were responsible for 21.2% of them, while political parties, candidates and the State Party Fund made the rest (Estadão Dados 2014). The Car Wash investigates five out of the ten largest corporate donors that contribute to political parties in the 2014 elections. They all are constructor firms that allegedly engaged in corruption acts. In addition, candidates broke the spending record in 2014. Only three parties – PT, PSDB and PMDB – out of 32 reached combined 2.9 billion BRL in expenses, around 60% of the total amount (4.92 billion BRL) spent on the 2014 campaign (O Tempo 2014).

Finally, the corruption mechanics also shows its links to patronage as it encompasses, in addition to redistribution of incomes and ‘take there, give here’ practices, the distribution of high level jobs to those bureaucrats who accept to be part of the scheme. It had affected the coalition as alliances were made less by ideology or political affinity and more by a mercantilist point of view. There were clear monetary incentives for parties to be part of the coalition. The dispute among parties within the coalition for top level positions in state-run companies, ministries and other public agency goes beyond power and prestige, it is also about money and who to channel

10 The Federal Prosecutor Service brought charges against Mr. Renato Duque (director of services), Augusto Mendonça (executive of a construction company) and João Vaccari (treasurer of the Workers’ Party by reallocating resources from Petrobras to elections donations to PT and to the Publisher Gráfica Attitude. See criminal procedure number 5019501-27.2015.404.7000 at the Federal Court in Paraná.
public money for support private benefits. All these findings together raise, therefore, serious questions about the quality of democracy in Brazil.

Until now, however, only one politician – senator Mr. Delcidio do Amaral (who spent almost three months in jail accused of interfering in the investigations) decided to sign a collaboration agreement. Dozens of politicians under suspicion not only have not become whistle-blowers, but also deny that they have received or done any wrongdoing. In turn, parties and politicians deny all the charges and suspicions, including any illegality on political and campaign finance. In contrast, Petrobras says it was a victim, although its internal checks and balances mechanisms, apparently, were not able to identify, curb and punish the majority of the illegalities. Employees, executives and representatives of the construction companies who decided to collaborate stress they were forced to ‘pay to play’, putting themselves, somehow, in the position of ‘victim of extortion’.

Yet, the main critique regarding the investigation is not related to the quality of evidence provided but to the way in which plea-bargaining is being dealt. There is a lot of criticism surrounding the circumstances in which they were signed and to the benefits offered to who decided to collaborate. Used to comfortable places and fancy food, businessmen were being kept in prolonged temporary custody, challenging the lawyers’ old strategies and arguments to release their clients quickly. Defence lawyers say their clients were being forced to collaborate. Prosecutors defend themselves saying most of the agreements were signed by suspects who were not in jail anymore. They also claim that only a small percentage of the suspects are still in jail. In addition, it is important to highlight that almost all the appeals to release the temporary inmates are being rejected by superior courts. Yet, there are complaints regarding to who are being targeted, as until now members of the opposition parties seem to be spared.

Despite the critiques, the empirical and judicial evidences presented thus far represent a potential starting point to build up a theoretical model. It is useful in order to explore who are the major actors already exposed, and what their respective preferences are. In addition, it is important to analyse their strategic actions in a multi-dynamic corruption flow defined here as ‘campaign finance quid pro quo’. The Latin sentence quid pro quo means something for something or a favour for a favour. Indeed, it synthesises the trade of something of value for something of value, in this model case, public offices, high level positions, contracts, taxes, public policies, subsidies and, of course, money. It assumes that there is an explicit although informal ‘rule of reciprocity’ that creates the opportunity for campaign finance quid pro quo and for corruption, e.g., as the elected official will act gratefully and illegally to help some of those who contribute to this person to get elected – votes are not taking under consideration, just money to finance the campaign for votes and, consequently, victory on the ballots.

3.1 - A model for corruption: ‘campaign finance quid pro quo’

The model presented here by Figure 1 has the structure of a simple signalling game and it considers the three actors as single individuals. It was so designed because one of the whistle-blowers in the Petrobras scandal stated that each contractor had its own mechanism to send the money to the political groups. However, I am aware that there are collective arrangements, involving the same actors combined and in a larger number. In short, as any theoretical model, it simplifies and rationalises complex relationships at that same time it represents an important ground base to
understand the timing of events as well as incentives, preferences and actions of an ‘electoral quid pro quo’.

The inspiration comes from Ashworth (2006) and Gehlbach (2013)’s work on formal models for political science, although the form to present the model originates from Bates et al.’s (1998) analytic narrative. The model, as Figure 1 illustrates below, assumes that a company supports an incumbent expecting benefits (in this specific model, contracts), once he or she is elected. The retribution for the campaign donor depends on a senior bureaucrat captured and appointed by the elected politician to head a strategic department in order to manipulate the decisions and to guarantee the efficiency of the ‘campaign finance quid pro quod’. Otherwise, there are two other possible scenarios where the donor does not see his or her interests attended.

**Figure 1 - ‘Campaign Finance Quid Pro Quo’ model**

**ACTORS**
- C = Company
- P = Politician
- B = Bureaucrat Y, Z

**PREFERENCES**
- C = contract
- P = re-election and $ (campaign donation and bribes = X)
- B = keep position and $ (bribe and gifts)

**STRATEGIC ACTIONS**
- C = pays $ to P and to B
- P = appoints B
- B = gives contracts (c1) or not (c2)

As Figure 1 illustrates, there are three possible scenarios involving three strategic agents: a Company (C) that seeks for contracts and is keen to pay to improve the chances to get them; a Politician (P) who needs money to advertise his or her in an electoral campaign and increase the chance to get elected/re-elected; and a Bureaucrat (B) who gives contracts and depends on politicians to keep his or her high-level position.

There is, indeed, an aggregated uncertainty regarding the election outcome as P supported by C can fail and lose elections. There is empirical evidence, however, that companies allocate resources equally on the candidates with higher chances to win (Speck 2011). Therefore, the model starts from a company and its transactional cost (X) to bargain over contracts. X can be both recorded campaign funds and/or
slush funds to a politician. Once (re)elected, P can or may not be able to appoint or to keep a certain Bureaucrat in a certain position. There is a higher chance of appointing Bureaucrat “Y” if P is affiliated to parties that are part of the ruling coalition. In turn, once Bureaucrat “Y” gets the position he or she has the discretionary power to give or not contracts to whom, somehow, contributed for the politician victory as well as to B’s appointment.

Scenario 1, therefore, can be cyclical at the same time that it represents a perfect equilibrium for the trio C₁, P₁, B₁ who act to reach their respective preferences: get the contract; be (re)elected, set policies and get money; and, finally, keep the position and get money. Scenario 2 favours another company as B “Y” decided to give the contract to someone else different from that one which invested in the politician. It can be used to force C₂ to start contributing as a campaign donor or to force C₁ to increase its contribution to not ‘lose’ contracts anymore. Scenario 3 favours another Company and another Bureaucrat (“Z”) as P was not able to appoint the person who would distribute the contracts. It can represent the failure of the model or it could beneficiate a third group of actors.

In short, this model highlights the essence of the action: the exchange relation between companies and incumbents that depends on the act of a bureaucrat. As Evans (1992) noted, this can be seen purely from a neooutilitarian political economic point of view in what the action of the State brings negative consequences:

‘Incumbents require political supporters to survive and the supporters, in turn, must be provided with incentives sufficient to prevent their shifting support to other potential officeholders. Incumbents may either distribute resources directly to supporters, through subsidies, loans, jobs, contracts, or the provision of services, or use their rule-making authority to create rents for favoured groups by restricting the ability of market forces to operate. […] Incumbents may also exact a share of the rent for themselves’ (Evans 1992:143).

Nonetheless, this dynamics described by Evans (1992) should be seen as a result of a domestic institutional arrangement in what the rules influencing how this relationship between politicians and supporters works. Due to weak internal checks and balances mechanisms as well as lack of efficient accountability, the model considers that the benefits of engaging in these acts of corruption are bigger than the probability of getting caught and punished. Such rationality explains how interest group pressures can prevail despite of a multi-institutional accountability system (Power and Taylor 2011) with different public agencies performing three primary roles (oversight, investigation and punishment in both administrative and judiciary spheres).

Furthermore, although it is based on the corruption scandal in Petrobras, it is possible to infer that the model can easily be emulated in other captured public agencies. In fact, the investigation turned up evidence of similar mechanics different sectors, such as energy (the nuclear plant Angra 3), sport infrastructure for the 2014 Football World Cup (Maracanã stadium refurbishment) and transport (the North-South railway), involving different public agencies.

4. Exploring the Future: The Possible Repercussions on Corruption

Based on this ‘campaign finance quid pro quo’ model, this section will explore possible outcomes for banning corporate fund to politicians and parties in Brazil.
According to Gehlbach (2013), it is possible to assume that election outcomes can be manipulated through campaign spending. It means, according to the scholar, that incumbents need money to transmit information about them through advertising in an attempt to convince people to vote on them. Candidates go after organised interests promising to provide benefits and to attend particularistic interests if elected to raise funds. Seeing the advertisement, voters infer that a certain candidate is a good type. Thus, incumbents still need money to increase their chances to grab the largest amount of votes possible.

To discuss the hypotheses below, it is considered that the same scheme turned out by Car Wash investigation can be emulated in any other agency by any incumbent seeking office and connected to certain bureaucrats and with companies keen to pay to have its interests attended. It also considers that revelations as well as the imprisonment of powerful elites representative under the scope of the Car Wash are not, *per se*, a natural deterrent to the acts of corruption already identified. Politicians, bureaucrats and businessmen can still challenge the rules and take the risks if they believe the benefits are still higher than the respective risks. Therefore it is important to ask whether and, if yes, how banning corporate fund in the political arena could impact on corruption.

There are three exploratory possibilities:

Firstly, **Hypothesis 1 (H1)** states that the Supreme Court’s decision has no impact on the *quid pro quo* corruption. Individuals are still allowed to donate up to 10% of their gross income earnings. Therefore, instead of using corporations to transfer funds, the donations would be made through the owners of the companies and their employees’ accounts.

The same actors can carry on both their preferences and strategic actions, including cartel practices, payments of bribes and kickbacks and illegal campaign finance. It means that companies’ executives and owners will keep investing in politicians who will keep promising particularistic advantages if elected. The corruption scheme mechanics keeps the same, including overcharged contracts and part of the extra money being channelled back to support incumbents. The vicious circle will be sustained with recorded donations with money pocketed from state agencies. The total numbers of individuals as campaign donors will probable increase; although in terms of amount they might be smaller if compared to past elections.

Secondly, **Hypothesis 2 (H2)** suggests campaign finance fraud can be reduced by limiting who can donate to politicians and parties. Companies might still collude among themselves in cartel practices to fraud public procurements. They also will keep paying bribes and kickbacks to get public contracts. The ban imposed by the Supreme Court, however, reduces the probability for laundering the extra money pocketed with overcharged contracts through recorded campaign donations.

It affects just one part of the scheme, the one in which companies used to make formal contributions. Yet, once companies cannot donate anymore, it is more difficult to make and to justify any formal and on-the book transfer to politicians. It makes this transaction more risky and, therefore, costly.

Finally, **Hypotheses 3 (H3)** presents the possibility that the banning attracts more incentives to other different kinds of illegalities, increasing, for instance, the occurrence of slush funds and non-reported donations. As corporations still seek for
rents and politicians depends on funds to increase their chances to be elected, the interest groups’ pressure will change neither their preferences nor strategic actions.

However, in order to keep the mechanics of the quid pro quo corruption, other illegal practices will appear to cover elections expenses in exchange for signing public contracts. Due the lack of effective control and of strong audit procedures in the Electoral Court, it is likely that other illegal mechanisms start to be explored by those who prefer to insist in quid pro quo to raise electoral funds. Eventual loopholes on the legislation can be also explored to maintain the corrupt practices.

Indeed, the Electoral Court does not have enough trained personnel to audit every single campaign record. Therefore, the occurrence slush funds/illegal and non-reported campaign donations and expenditures can potentially increase. New creative scams can also be developed to circumvent the current prohibition.

In short, it is very hard to predict the major repercussions of the new rule on the fight against corruption and against state capture by interests groups. The three hypotheses presented above are not unrealistic and they all are possible outcomes, even in different proportions. Therefore, it still remains doubtful what effect banning corporate funds will have on campaign fraud. It is even less likely that the prohibition will curb other kinds of corruption such as bribes and kickbacks payments, influence peddling and economic frauds such as cartel practices.

5. Final Thoughts

This paper was an attempt to delve inside the Car Wash investigation, detailing its main findings and outcomes. The investigation is leading to important disclosures about corrupt practices and their mechanics. At the same time, it has been incarcerating powerful and rich people who usually gain the most advantage from judiciary backlog and the rule of law’s main weaknesses such as incalculable loopholes and postponing procedures. It remains unclear, however, whether the convictions will be confirmed. As Power and Taylor (2011) have already noted, scandals in Brazil involving politicians often play out with a ‘depressing script’: after grandiloquent discoveries, they often become cold cases in courts and, subsequently, end up in impunity at the same time they help to increase the tolerance on corruption.

Indeed, the Car Wash investigation is an emblematic example of how the multi-institutional anti-corruption system has been improving and how institutions are strong in Brazil. However, there is no sign that the investigation and its major repercussions will be able to regenerate Brazilian politics and politicians nor will it fix old rent-seeking practices. Banning corporate funding for candidates and parties seems to be a fragile (and not necessarily efficient) attempt to curb a bigger problem: institutionalised and systemic corruption that has been threatening even those agencies and enterprises that once were called ‘pockets of efficiency’ (Evans 1992).

Bibliography


