

U4 Helpdesk Answer

U4 Helpdesk Answer 2020:02

Sectoral corruption in Brazil

A look at the health, agribusiness and construction sectors

In Brazil, sectoral approaches allow actors to design sector-specific strategies to address the country's many corruption challenges. In the health sector, major issues persist in the procurement of goods and services, as well as with clientelism. The agribusiness industry has been damaged by corrupt dealings between companies and health inspectors. Land grabbing, especially in the Amazon, remains a huge problem. Meanwhile, the construction sector has been hard hit by Operation Car Wash, forcing companies to adopt/improve compliance programmes. Self-regulation initiatives have arisen in both the construction and health sectors. There is plentiful research material on global interventions in this area.

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Query

Could you provide an overview of corruption and anti-corruption initiatives in the health, agribusiness and construction sectors in Brazil?

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Introduction

Brazil has undergone a period of tremendous change since Operation Car Wash in 2014. Yet, while investigations have reached numerous high-level public officials and businesspeople, the pace of systemic anti-corruption reforms has, so far, been slow (Transparency International Brazil 2020). Several economic sectors have been hard hit by these investigations, which revealed extensive corruption schemes between the public and private spheres, chief among them, the construction sector.

Punitive efforts have also sparked increased awareness about the need for the private sector to implement preventive measures. Compliance programmes have been disseminated among medium and large-sized companies, though their effectiveness remains a point of concern (Transparency International Brazil 2018). Companies have also begun engaging in collective action efforts and self-regulation with the goal of promoting integrity.

The government has played an important, if still limited, role in this process. The anti-corruption law provides some incentives for companies to

MAIN POINTS

- There are advantages to sectoral approaches in assessing and addressing corruption.
- Governments are the biggest clients for healthcare companies in Brazil, and corruption still presents a substantial risk in procurement proceedings.
- The agribusiness sector has been rocked by a recently uncovered corruption scheme, pushing integrity to the forefront of the sector's agenda.
- Construction companies were at the centre of corruption schemes uncovered by Operation Carwash, prompting increased scrutiny over their activities.
- Self-regulation and governmental initiatives designed to promote integrity have emerged in all three.

implement compliance programmes; the State-Owned Enterprises (SOEs) Law required SOEs to implement corruption-prevention measures; and, recently, a new procurement law was passed by the house of representatives (though it has not been enacted yet) (Transparency International 2019c).

Beyond legislation, the office of the comptroller general has created a programme called [Empresa Pró-Ética](#), which promotes (and publicly recognises) the implementation of compliance

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programmes in private companies. For the 2019 edition of the programme, healthcare and construction companies were awarded the Pró-Ética seal.

The 2019 Corruption Perceptions Index (CPI) score for Brazil is an indication of the challenges the country faces in its efforts to curb corruption. In the latest CPI, Brazil maintained its lowest score (since 2012), with 35 (out of 100). Since 2014, the country has been falling in the rankings and reached its lowest standing in the historic series – 106 among the 180 countries and territories surveyed.

Sectoral approaches to anti-corruption

The literature recognises some specific advantages to sectoral approaches in assessing and addressing corruption.

For one, research and experience have demonstrated that “corruption manifests itself differently in different sectors”. It therefore follows that anti-corruption strategies should take sector-specific considerations into account to address the problem (U4 2013).

Secondly, focusing on a particular sector allows efforts to be prioritised according to which areas might suffer from more acute (or pronounced) problems, and which may be more vulnerable or offer the possibility of quick (and easier) wins (U4 2013). Often, political or economic considerations can lead to a greater focus on a sector of strategic importance in a country or region. The Sustainable Development Goals framework also offers some guidance on which sectors are more relevant or in greater need of attention.

Finally, sectoral approaches can be easier to conduct as the relevant stakeholders – ministries and agencies, companies, NGOs – possess a greater ownership of the process and its results and, thus, can reap the potential benefits of success directly.

In all, “well-designed approaches in priority sectors allow for the generation of tangible results for citizens by grounding cross-cutting or general good governance measures in concrete service delivery and the corresponding line ministries” (U4 2013). This promise is what has drawn many donor agencies to sectoral approaches.

Sectoral approaches should, of course, take into account wider anti-corruption strategies to ensure not only their sustainability but also to avoid overlap and waste.

Health sector

In general, the effects of corruption on the health sector have been well documented. Estimates indicate that around 6 per cent of global health expenditure is lost on fraud and abuse, totalling more than US\$450 billion (Mackey et al. 2018).

Among its many negative impacts, “corruption reduces immunisation rates, delays the vaccination of new-borns, discourages the use of public health clinics, reduces satisfaction of households with public health services and increases waiting time at health clinics. Corruption reduces public resources available for medical equipment, drugs, and salaries, thereby undermining the quantity and quality of health services and of patient care. It increases the risks of malpractice and hospital infections. It distorts health policies, denies citizens access to hospitals, medicines and qualified staff and undermines efforts to combat major health

challenges, such as malaria and HIV/AIDS” (Transparency International 2017).

In Brazil, the number of people who admitted to paying bribes to access public hospitals and health centres is fairly low. According to the 2019 Global Corruption Barometer, only 5 per cent of Brazilians paid bribes to access health services (Transparency International 2019b). A possible explanation is that modernisation and digitalisation reduced the potential for bribes (especially facilitation payments) to grant access to appointments, free medicine, exams and surgeries in public clinics and hospitals. Overburdened, health services are only able to deal with a fraction of the demand. Due to modernisation, they have become interconnected and, to provide services to patients, they must follow the order that is automatically set according to objective criteria. These systems are often organised and maintained by the Unified Health System at the federal level.

That does not mean, however, that these systems are immune to corruption or that they reach 100 per cent of patients (G1 2018). There are many reported cases of politicians and public officials offering individuals and groups preferential treatment or direct interference to help them access healthcare services. For example, recently, Rio de Janeiro’s mayor, Marcelo Crivella, was taped at a private gathering with supporters, offering to help them skip the queue to get eye surgery in public hospitals (O Globo 2018a).

During the election period, this is particularly egregious as candidates promise surgeries (O Globo 2018), medicine and exams in exchange for votes (Congresso em Foco 2016). Although there is insufficient evidence to say how widespread this practice is, it does happen across the country, in big

cities and rural communities (Gazeta Gaúcha 2016; Crítica 2017).

One of the ways to prevent corruption in access to health services is transparency. The (lack of) transparency in the queuing system varies widely across Brazil (O Globo 2018b), which is why there are bills under consideration by the congress to settle this issue by making it mandatory for governments to publicise the lists of people waiting for medical procedures (Senado Federal 2019).

Corruption in the health sector also manifests itself in other areas, such as procurement and hiring practices. For example, Operation Car Wash revealed a large corruption scheme in Rio de Janeiro’s health secretariat and in regional hospitals (Agência Brasil 2018).

The Car Wash Taskforce in Rio de Janeiro uncovered a scheme through which companies were able to benefit from public contracts related to the supply of prothesis and other medical equipment and, in turn, paid bribes to the officials in charge of the proceedings and to politicians (O Globo 2018c). The call for tenders was designed, from the start, to limit competition, and a cartel of suppliers ensured that only those companies involved in the scheme would be awarded the contracts. If another company was to take part in the bid, officials would find a way to disqualify it and, if it happened to be awarded the contract, the company would often not be paid on time.

In fact, the suppliers’ interests would often take priority over the public’s interests. That meant supplies would often be bought even if they were not needed. A batch of prothesis, for example, was destroyed because it expired before being used. Officials would also make sure these companies were being paid, even if that led to other suppliers being left unpaid. The overall impacts of corruption

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went beyond the inadequate distribution of resources and affected the health policy decisions made at the hospital level. Suppliers would often be swapped with no regard to quality or compatibility (France & Brandão 2019).

Anti-corruption initiatives

Within the Ministry of Health, some measures have been taken to curb corruption. In 2018, an [integrity plan](#) was adopted and a structure was put in place to analyse corruption risks and to implement measures to address them. In 2019, a directory for integrity was created within the ministry to oversee its initiatives in practice.

As for private initiatives, the [Instituto Ética Saúde](#) (Ethics and Health Institute) plays an important role in promoting integrity and good governance. Formed after the signing of an integrity pact between Instituto Ethos and the Brazilian Association of Importers and Sellers of Medical Implants in 2015, the institute now includes a host of companies and organisations from across the health sector.

The institute also provides guidance on a host of topics including integrity programmes, public procurement participation, and the relationship between healthcare professionals and companies. It also makes training material on compliance and ethics in the health sector available.

Furthermore, it has begun evaluating and certifying integrity programmes in health companies through the QualiES programme. This aims to evaluate the development and effectiveness of integrity programmes and to provide feedback to interested parties, according to the standards set out by the institute and auditing companies.

It also provides a channel for whistleblowers, from whom it receives complaints and reports of wrongdoings. By November 2019, the institute had received over 600 reports, which were forwarded to the authorities and/or to its ethics committee, which, in 55 instances, presented warnings or recommendations (Institute Ethics and Health 2019).

Corruption in the health sector remains a point of concern for several international organisations, including the World Health Organization (2019) and the European Commission (2017), as well as research institutions and journals, such as the Cochrane Library (2016) and The Lancet (García 2019).

Globally, Transparency International's Health Initiative works to promote transparency, integrity and accountability in the pharmaceutical and health sectors. It recently published the Ignored Pandemic report, where it details the most frequent types of corruption, its impacts and specific measures to overcome it (Transparency International 2019a).

Initiatives also deserving of note are the [European Healthcare Fraud and Corruption Network](#), the [Global Health Care Anti-Fraud Network](#) and the [Medicine Transparency Alliance](#).

Agribusiness sector

The size of the agribusiness sector in Brazil leads to increased risks (and responsibilities) when it comes to corruption. It is responsible for more than one-fifth of the country's GDP and nearly half of its exports.

One of the major issues in Brazil's agribusiness sector is the involvement of major landowners in land grabbing. Illegally acquired public lands are

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used for farming and grazing, usually after they are cleared by loggers. Fires also play a role in the clearing of land in forest areas. This problem is particularly serious in the Amazon region and it seriously affects indigenous populations.

Corruption in land registries and other public institutions allows for land deeds and other documentation to give the impression of legality to the occupation and trading of these areas (Greenpeace 2005).

For example, recent investigations by the federal prosecutor's office (Ministério Público Federal – MPF) found, in September 2019, a corruption scheme within the land policy secretariat in the state of Amazonas. The scheme also included the public security secretariat, where employees, using the official geo-processing system, identified unoccupied public lands that could be sold. This information was passed on to the land policy secretariat, which linked these lands to interested parties: businesspeople and big landowners. Land deeds, often pertaining to lands located in environmentally protected areas or indigenous reservations, were illegally written and awarded in exchange for bribes (Diário do Amazonas 2019).

A recent unrelated corruption case deeply affected Brazil's meat industry. Operation Carne Fraca, unleashed in March 2017, investigated a scheme involving most of the country's meatpacking units. According to investigators, a criminal organisation developed inside the agriculture ministry, working in close connection to, among other companies, JBS and BRF Brasil Foods – two of the world's biggest food conglomerates. In exchange for bribes, inspectors favoured meatpacking units in several ways: permits were granted to allow units to

continue functioning despite irregularities; food certification was given to produce that did not comply with health and sanitation codes; and administrative proceedings of interest to the companies involved were steered in their favour (MPF 2017).

The bribes were paid to inspectors and other public officials in several ways. Some were included in the companies' health insurance, as if they were their employees. Others used the companies' vehicles and kept some of their products (MPF 2017).

At a higher level, there is also an indication that politicians were involved in the scheme. Following a plea bargain, which remains under seal as investigations continue, information was provided on the involvement of several public officials, including congress members, with the criminal organisation in the Ministry of Agriculture (G1 2019). The fact that the companies mentioned by investigators donated close to US\$100 million to politicians in the 2014 elections also raised some red flags (UOL 2017), and there is indication that two political parties – MDB and PP – benefitted from the kickbacks (BBC Brasil 2017).

As a result of Operation Carne Fraca (and other investigations), JBS's parent company – J&F – signed a leniency agreement¹ with federal prosecutors, which, among other provisions, determined that the company must improve its compliance mechanisms.

Anti-corruption initiatives

In 2018, the agriculture ministry launched the Brazilian agribusiness compliance programme

¹ <http://www.mpf.mp.br/df/sala-de-imprensa/docs/acordo-leniencia>

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([Selo Agro+ Integridade](#)) to recognise (and, thus, encourage) efforts in the agribusiness sector to promote and implement integrity standards.

Following a public announcement of the programme's rules, companies and cooperatives are invited to present documentation attesting that they comply with the requirements to receive this recognition from the ministry. These requirements refer to three issue areas: corruption control, compliance with labour laws, and sustainability.

As it relates to countering corruption, interested parties must demonstrate, among other issues, that: the company has implemented an integrity programme (or at least that a compliance department has been created); that they have approved and widely publicised a code of conduct or a code of ethics; that there is an effective channel for whistleblowers; that employees and senior management had received training on these anti-corruption tools; and that the company is not being sued for any wrongdoing (Ministry of Agriculture 2019).

Adherence to these requirements is verified by employees of the Ministry of Agriculture and confirmed by a steering committee made up of civil society organisations, trade associations and public institutions.

In 2018, 11 companies received the *Selo Agro+ Integridade*. In 2019, that number grew to 15.

Construction sector

There are several reasons for the pervasiveness of corruption in the construction industry, chief among them the volume of funds that flow through projects, the difficulty of assessing the quality of the final project until long after the contract has been concluded, the intricacies of the procurement

processes and the fact that governments are usually both clients and regulators (International Growth Centre). The Infrastructure Transparency Initiative (CoST) estimates that around 10 per cent to 30 per cent of the global construction output is lost to corruption (Matthews 2016).

In Brazil, the construction sector, and, especially, its interaction with governments, have been the focus of Operation Car Wash since 2014. Several corruption schemes have been unearthed by investigators over the past few years. However, Operation Car Wash also revealed the modus operandi of the relationship between construction and engineering companies and the public sector.

For starters, it became clear that the biggest construction companies in Brazil had formed a cartel to defraud procurement proceedings conducted by state and federal governments and, especially, SOEs. This meant that most bids for projects were neither fair nor competitive. Often, companies would decide among themselves who would present the winning bid and the others would participate with the sole objective of pretending to compete (CADE 2018).

Corruption of public officials and politicians was an integral part of this corruption scheme. Bribes (usually a percentage of the contract awards) were allegedly paid to SOE employees, ministers, governors, congress members and presidents alike. The goal was not only to ensure that public contracts were awarded to the companies involved but also to guarantee that a project was implemented, that the auditing and monitoring of the public works were not effective and that additional contracts were readily signed. While some bribes were directly related to a particular contract or administrative act, often they would serve as payment for an official (or members of a

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political party) to generally favour the paying company in a host of issues and contracts (Ministério Público Federal 2020).

The bribes flowed to public officials, politicians and political parties. They were used for personal gain as well as to illegally fund electoral campaigns (though they were sometimes disguised as official campaign donations).

These schemes were replicated outside Brazil, as the investigations showed that Brazilian construction companies acted in the same manner across Latin America and elsewhere (Charleux 2017).

As a result of these investigations and criminal proceedings, several of the biggest construction companies in Brazil have signed leniency agreements with prosecutors and the comptroller general's office. As per the anti-corruption law, these agreements require, among other things, that companies improve upon their compliance and corruption-prevention mechanisms. Beyond legal requirements, this is absolutely essential if these companies are to recover economically and reputationally.

The Transparency in Corporate Reporting (TRAC) analysis conducted by Transparency International Brazil (2018) revealed that construction companies are the ones that fare better in the Reporting on Anti-corruption Programme dimension. The construction and engineering sector reached an average score of 9.1 (out of 10). This means that they generally provide substantial information on their anti-corruption programmes.

As mentioned, construction companies have been subjected to added scrutiny in the Operation Car Wash investigations. Thus, this particular result can be considered a consequence of the

requirements put forth by investigative authorities and leniency agreements. When considering the organisational transparency dimension, the average score of companies in the sector fell to 6.6, though it is still above the 5.7 average for Brazilian companies (Transparency International Brazil 2018).

Anti-corruption initiatives

The UN Global Compact in Brazil has spearheaded collective action efforts in the construction sector and, in May 2018, it launched a publication – *Integridade no Setor de Construção* – aimed at discussing the main risks of corruption in the construction sector. It is the result of the work done by the Anti-corruption Working Group, in partnership with Instituto Ethos and several Brazilian construction companies.

The publication presents 13 real life situations that companies and their employees might face, possibly leading to corrupt practices. For each situation, the guide presents what can be done to prevent such circumstances, what should be done when it actually happens and which structural changes are called for to prevent them from ever taking place (UN Global Compact 2018).

In October 2019, the Infrastructure Self-regulation Brazilian Institute (IBRIC) was launched. It is driven by (and is a result of) collective action by construction companies interested in promoting ethics, transparency and integrity in the sector. Countering corruption and promoting competition are also the institute's stated goals. It is currently being headed by three organisations: Instituto Ethos de Empresas e Responsabilidade Social, Fundação Getulio Vargas and the International Finance Corporation.

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So far, the IBRIC has launched a letter of principles to which more than 30 companies and organisations had pledged by the end of 2019.

In the public sphere, some recent measures adopted by the federal government are worth mentioning. The infrastructure ministry created an undersecretary for governance and integrity and published its integrity plan, in which a host of measures destined to prevent corruption and promote integrity are laid out.

As it relates to global initiatives, two of them are especially deserving of attention (Transparency International 2016). The [Infrastructure Transparency Initiative](#) (CoST) works in 18 countries with the goal of promoting disclosure, validation and interpretation of data from infrastructure projects. Ultimately, it aims “to inform and empower citizens, enabling them to hold decision-makers to account”.

Secondly, the [Global Infrastructure Anti-Corruption Centre](#) (GIACC) is “an independent not-for-profit organisation which provides resources to assist in the understanding, identification and prevention of corruption in the infrastructure, construction and engineering sector”. Among other things, it provides anti-corruption training, hypothetical examples of how corruption takes place in construction projects, anti-corruption programmes and measures and advice on how companies and individuals should deal with corruption.

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The U4 anti-corruption helpdesk is a free research service exclusively for staff from U4 partner agencies. This service is a collaboration between U4 and Transparency International (TI) in Berlin, Germany. Researchers at TI run the helpdesk.

The U4 Anti-Corruption Resource Centre shares research and evidence to help international development actors get sustainable results. The centre is part of Chr. Michelsen Institute (CMI) in Bergen, Norway – a research institute on global development and human rights.

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