POLICY BRIEFS ON LAVA JATO

Lava Jato in Perspective:
An Interview with Deltan Dallagnol

Conducted by
Paul Lagunes

Edited by
Paul Lagunes
Jan Svejnar
ABOUT THE PROJECT

Lava Jato or Operation Car Wash refers to Latin America’s largest known corruption scheme in living memory. Related events began unfolding in Brazil in March of 2014. Construction companies were colluding with employees of Brazil’s state-owned oil company to win public works contracts. The oil company’s employees took bribes, while politicians obtained kickbacks as personal gifts or campaign donations.

The relevant scholarship had warned that corruption could result in public works being constructed at inflated costs. However, such warnings were ignored, and so the people involved in the scheme managed to steal billions in state funds. Prosecutors further revealed that bribes paid by the region’s largest construction group extended to eleven other countries besides Brazil.

In spite of the continued interest among policy practitioners and academics, there are key questions about Lava Jato that remain unanswered. For instance, how did the construction company that led the corruption scheme choose the countries in which to do business? According to the international press, the scheme played a role in the 2014 World Cup, but was corruption also at work in the planning and execution of the 2016 Rio Olympics? Also, what is motivating some of the key actors fighting corruption in Brazil, and what can be done to avoid similar corruption scandals in the future?

To answer these and related questions, the Center on Global Economic Governance (CGEG) at Columbia University’s School of International & Public Affairs has collected a series of policy briefs on Lava Jato-related themes. This project is proudly cosponsored by the Center for Development Economics and Policy (CDEP), Columbia Global Center in Rio, and the Latin America Initiative at Rice University’s Baker Institute for Public Policy with the goal of shedding light on a complex problem that has affected the lives of millions.

Lava Jato in Perspective:
An interview with Deltan Dallagnol

Deltan Dallagnol obtained his Bachelor of Law degree at the Federal University of Paraná. Then, in 2013, he obtained a Master of Law degree at the Harvard Law School.

Dallagnol began serving as a federal prosecutor at the relatively young age of 22. Now, in his mid-thirties, he is leading the Lava Jato investigation. As of this writing, more than 200 people have been charged, and a number of the country’s economic and political elite have landed in jail.

However, some criticize Dallagnol and his team for committing rights violations, showing excessive dependence on evidence drawn from plea bargains, and undermining Brazilian democracy by going after elected government officials, especially from left-leaning parties. During a press conference, Dallagnol controversially projected a PowerPoint slide with arrows that pointed from words like *governabilidade corrompida* (corrupt governance) and *enriquecimento ilícito* (illegal enrichment) to a single name: *Lula*. Lula responded to this...
particular action with a defamation lawsuit,\(^8\) and expressed concern that the Workers Party was being portrayed as a criminal organization.\(^9\)

Faced with these criticisms, Dallagnol has been noticeably responsive.\(^10\) He actively attempts to explain certain aspects of the investigation to the public. With regards to the first concern, Dallagnol suggests that much of the opposition to the investigation’s tactics has focused on the use of pretrial detention. However, he counters by noting that the technique has been used sparingly—that is, on only 10% of those charged in the investigation.\(^11\) On the subject of plea bargains, Dallagnol offers assurances that no suspect has been convicted solely based on evidence provided by cooperating witnesses.\(^12\) He also insists that laundering schemes have grown so complex that it is exceedingly difficult to track financial transactions. Finally, with regards to the third concern, Dallagnol questions the extent to which many elected officials have not only failed to pass laws to limit corruption, but, instead, have attempted to grant themselves amnesty against criminal investigation.\(^13\) In fact, in late November of 2016, while Brazilians were distracted by a national tragedy, legislators in the Lower House passed an amendment that would limit the authority of prosecutors and judges investigating politicians in corruption cases.\(^14\)

---


\(^11\) Martocchio, Panel Event with Deltan Dallagnol.

\(^12\) Ibid.

\(^13\) Ibid.

Because legislators have apparently not done enough to inhibit future corruption scandals, Dallagnol and his team of prosecutors led a movement that sought to pass legal reforms to curtail the impunity long enjoyed by politicians. The bill is known as the *10 Measures Against Corruption* and was delivered to Congress as a public initiative endorsed by over two million Brazilians.

So, what motivates this particular prosecutor and his team to deepen their investigation in the face of criticism? What moves them to go so far as to propose legal reforms aiming to curtail corruption? The interview here attempts to uncover some of Dallagnol’s stated motives as head prosecutor of the Lava Jato investigation. The interview took place in the city of Curitiba on December 11, 2017.

Paul Lagunes: Deltan thank you again for speaking with me. What I think I’m trying to mainly understand—because I have been following your work for some time—what I’m trying to understand is what somebody in your shoes, what do they need to consider when deciding whether to take a similar track or similar strategy as you have. To take on such a commitment, what they should consider. Let me break it down into a few questions and we’ll build up into this. So, I think where I would begin, Deltan, is by asking you: when you were asked to take on this case, first, did you expect it to be as large as it has been? How surprising has it been for you, the size of this and the number of years that have gone by since it first started? Have you been surprised by that?

**Deltan Dallagnol:** Sure. Also, we were aware that corruption is widespread in Brazil. However, one thing is to know that its widespread, another thing is to—one thing is to know that there is a monster somewhere, another thing is [to have] the monster in front of you and [to stare at] the monster in the eyes, so it’s [scarier]. And when we began this case we had no expectations about the results. Or, to the contrary, we had the expectation that it would be another failure because the story of the people who worked on [previous cases] is the story of failures against corruption. However, this case had a different result [for many reasons]. We had a lot of lucky strikes. [This case also benefited from] a lot of institutional and [legal] developments, we had […] strong support [from] civil society, and we had, in this case, people who had an entrepreneurial spirit and who developed a new model of investigation. And this new model of investigation has four main pillars: [first,] cooperation agreements with defendants; [second,] cooperation within the federal prosecution office, among different institutions in Brazil, and international cooperation; third, the strategy of phases; and fourth, a new communication strategy. So, this is the reasons why I think that this case was able to develop….

**PL:** So […] you knew the monster was there—you knew corruption exists, [but] facing it is a different matter. I’d like to maybe delve into that a little bit. […] As you were describing [earlier] –a prosecutor gets used to losing cases because it’s difficult, so perhaps one surprise is how successful this case has been. In terms of the monster itself, what has surprised you about it? What did you not know when you first accepted […] about that monster, about corruption?
Based on the research [done] by academia and by institutions such as Transparency International, we knew that corruption was widespread. But, one thing is to know that it’s widespread, another thing is to really see, to uncover millions and millions—or billions of reais [...] and to discover that the champion companies of Brazil, they were not champions because they were economically efficient but [because they enjoyed an unfair advantage]. So, they were champions not because they ran faster, but because they [began the race] ahead of the starting line. Besides that, we knew that there was a lot of corruption in the political system, but one could hardly imagine that we would uncover corruption in the dozens of political parties that exist in Brazil. In Brazil we have the highest number of political parties in the world—we have 35—and [this one investigation into a single company has implicated 26 political parties and 415 politicians]. [T]he Odebrecht Corporation implicated almost one third of the senators, almost one third of the secretaries of state, and almost a half of the governors. I think that this is unimaginable in almost any country of the world. This makes the Watergate scandal seem like a couple of kids playing in the sandbox.

And those are the implicated—again you’re surprised by the success. How does that success look like today in terms of prosecutions?

We have charged, so far, approximately 300 people with crimes such as corruption, money laundering, and criminal organization. More than 115 are convicted to serve more than 1,800 years in jail. Seven former congressmen were convicted and arrested in Curitiba.

Accumulated?
DD: Accumulated, yea. And we have been able to have defendants agree to return to society more than 10 billion reais—more than 3 billion dollars—in a country where the rule is not to recover any cent in any corruption case. When I talk about this, more than 10 billion reais, I’m talking about commitments made by cooperating defendants [...] to give back this money and more than 1 billion and a half reais [has already been] returned. This is unprecedented in Brazil. It is something that even the most optimistic [...] would never expect could happen in Brazil. At some point in this case, a person stopped me on the street to say that he [...] cried when he saw on the television that one of the [major] entrepreneurs in Brazil was arrested because he thought that it could never happen in Brazil, that some people here were—and they indeed were—too big to jail. And the Car Wash case is leveling people. It’s a strong step in the direction of the rule of law.

PL: Has it been decided what is going to happen with those 10 billion reais, or 3 billion dollars? 80 percent of the fine that Braskem and Odebrecht are having to pay—that I understand the Securities and Exchange Commission of the United States collects—80 percent of it is returned to Brazil. Do I understand correctly?

DD: They are crediting what is paid in Brazil up to 80 percent of the total amount.

PL: Has it been decided what will happen with the 80 percent?

DD: Yea. In each cooperating agreement we identify the victims and the money goes back to the victims, almost all the money. According to Brazilian law, it’s possible to reserve about 10 percent
of the amount, or a certain percentage of the amount, to invest in the anticorruption efforts and anti-money laundering efforts. But the major part of the money is going back to the victims.

**PL:** So, Petrobras will get an amount of that?

**DD:** Yea, Petrobras is going to get most of it; however, we have other victims too. And when you ask about what scared us, in the beginning we were scared by the size of the scheme within Petrobras. It was already dreadful; however, [...] we [also] discovered [that] this scheme was not limited to Petrobras. This was a scheme that was present in many offices of the government, but not only the federal government – also the state and municipal governments. We discovered that the political system is rotten, and that dishonest political parties and politicians [...] pick persons to be invested in public positions so that these persons can collect money. They can collect bribes, and these bribes are used to enrich themselves and to fund illicit campaigns. And what is more dreadful is that this ties Brazilians to corruption—this makes us slaves of corruption, because this money is invested [in reelecting] these same corrupt politicians, and then these corrupt politicians [...] commit more corruption. And then with more corruption it’s more likely that the corrupt politicians will stay in power and that they will be able to extend their powers and to influence society…. So, it’s a very vicious and dangerous cycle which we are in, and it’s a challenge for us Brazilians right now how we could step outside this problem.

**PL:** So, you were surprised to see how large eventually this case became…how the corruption was so deeply penetrated in so many different parts of the state—the senate you mentioned, the congress you mentioned, the ministries you mentioned, Petrobras itself but not just Petrobras. So,
is it fair to say that one of the things that most surprised you about this was the size […] of the case?

DD: Sure, sure. [As prosecutors,] we are used to [uncovering] corruption in specific contracts, and it was already surprising when Paulo Roberto Costa signed the first cooperating agreement. The first cooperating defendant of this case came to us and said that there was corruption not only in the contract that we were looking at, but also in the other contracts [held by] the construction company. [But] not only the contracts of that construction company—*all* the contracts of *all* the construction companies in his field of Petrobras. And, when we talk about the fields of Petrobras, such as the one that was run by Mr. Costa, some of them had budgets that were greater than many of the ministries in Brazil, many of the secretaries of state in Brazil. And beyond that, he said that corruption was widespread also in other fields of Petrobras…. [So,] when you ask yourself why a director of Petrobras, who earned more than $30,000 per month, why would he accept to commit corruption? That was a very high-level salary…. This is a person who doesn’t need corruption—it’s not an issue of surviving, it’s an issue of luxury, this pattern of salary. But the fact is, the reason why he had accepted to commit corruption was not to enrich himself only—of course he enriched himself—but the reason was that, if he did not accept it, he would not even be there. The criteria for selecting people to be in this kind of position in Brazil, in our coalition presidentialism and in our crooked system of financing campaigns, is that the person has to be committed to [collecting] funds. This is a major problem.

PL: Could anyone that you can think of have predicted, when you first accepted the case, that this would be as large as it eventually became?
**DD:** Impossible to predict. In the very beginning, we could not even predict that it would appear any politician or political parties.

**PL:** Let’s go back to that moment when you decide to take on this case. Let’s say the version of you today gets to speak to the version of you then. Would you tell you, of the past, you should take this case or you should not take this case? And, if you take this case, what do you advise [the you of] the past? […]

**DD:** I would for sure tell myself to take this case, because the reason […] I decided to take this case was to try to serve society against crimes that harm it so much. As with [my] other colleagues who work with me on this case, I had a lot of reasons to say no to the invitation. I was focused […] on teaching at that time. My first kid was born less than six months earlier, and this case was absolutely unknown—had no glamour and [represented] only a huge pile of work. I had a lot of reasons to say no. I was not obliged to [take] this case. But I decided to accept the challenge because of the damage that white collar crime causes to our society. And [my] colleagues who accepted the challenge at that point, too, they had no incentive—they would not earn [additional income] for accepting this case. And, knowing what happened—look, at that point, we were expecting failure…. So, if I could see the relative success—it’s a success, even if relative—that we achieved, I would even more [strongly] recommend to myself to accept this case. And, if I could give some advice to myself—because, so far, we did not have huge setbacks—I would be worried that changing something in the past could impair the results. Because it was [such a] sensitive equilibrium—a case that was destined to failure became a case of relative success—[that]
I would be [...] afraid that changing something could change totally the result. So, I think that I would refrain from giving any tip that could change the outcome.

**PL:** Now let’s say that there’s somebody in another country who is invited to a similar operation, and he or she calls you and asks you, “Deltan, I need advice. I need to understand before I accept this, what are some of the personal costs and what can I expect to be some of the personal gains from taking on a case like this, assuming it would be similar to Lava Jato.” Assuming it could be similar: personal costs, personal gains.

**DD:** I would say that we are not usually prepared for the visibility that a case like this puts on you, and I would say at the same time to keep in mind that this visibility passes—now it’s here, then it’s there. It’s very fickle…. This visibility [has some positive features, to be sure]. It creates a window of opportunity for contributing to anticorruption changes in the law, in the government, and in the market. So, I would suggest that he keep one eye on the case and another on the anticorruption [reforms] that he may contribute to, so that the case may [contribute to] more permanent benefits for society. We have tried to keep that in mind here. [But the visibility also presents some challenges.] I would warn that the person [will] be subjected to a lot of pressures, a lot of stress, a lot of demands. Not in the sense of judicial demands, but in the sense that the press would require information all the time, that the person would be subjected to false accusations all the time, people would dig [into] their past in order to accuse the person of everything that would be possible or even impossible—changing facts, lying about the person. [So,] that the person should be prepared for all that and, still, it is worthwhile if you can contribute […] to the improvement of the rule of law and welfare of [citizens].
PL: These pressures happened to you?

DD: They happened to someone who worked on the case.

PL: They dug into their past, they made some false accusations about them, they attacked their reputation.

DD: Yea, just to give a one example. They married me—false news, fake news—married me with two different women along this time, one of them I had never met, just in order to make connections, to say that I was kind of politically connected to somebody. They were totally absurd, but in times of fake news and post-truth, the repetition of lies may become a kind of truth to a lot of people. So, they can [cause] damage. [Fortunately], we have not [experienced significant damage], although a lot of people tried to circulate fake news about some of us. Of course, they do not do so because they dislike us [personally], but because damaging us is a way [of attacking] the credibility of the investigations and accusations against powerful people. However, I would say that even if the person is subject to this kind of situation, that it is worthwhile to fight against corruption to serve her country. Regarding the gains….

PL: Can I summarize the costs? You’re highlighting especially the potential costs to reputation. Was there anything else, if you were to list it? What are the additional costs?
**DD:** I would say there is a reputation cost, because they will try to lie about you in order to attack the credibility of the case…. There is also a personal cost, because you have to devote yourself and your time to this case—this case just sucks your time, it drains your time, and you’re going to have little time for yourself and your family. And there are also personal risks for you and your family—safety risks. However, I would say all these costs are worthwhile because you may help your country to [take one] step in the correct direction, in the direction of the rule of law. I would say we are not at the point [where we can claim victory]; however, there is only one correct thing, one right thing to do: it’s to fight. And when you fight against corruption, you are fighting for your country, and when you fight for your country you are fighting for the people who you love the most [on] earth—you are fighting for your family, for your friends, for your loved ones. And I would say that this is the major gain—a sense that you are contributing to a better world and to a better country, to a better society. And I think that’s what I would say.

**PL:** You’ve been very clear, Deltan, in that this effort has been a shared effort, that the operation has been successful in large part because of the team behind it. Could you name a few of the many people—and again just a few that come to mind right now—a few of the many people that have contributed to the current success of Lava Jato?

**DD:** One federal police chief, a *Delegado de Polícia Federal*, Márcio Anselmo, [was the man] responsible for [leading] this case [during] the first phase of the operation. He almost [singlehandedly] conducted the initial investigation against the money laundering agents, and this would not [have been] possible without all the support from his immediate superior, a *Delegada de Polícia Federal*, Erika Marena…. She is an amazing woman—very dedicated, very correct,
very straightforward, very clear in her thoughts—who [provided] strong support that created the environment which allowed this case to develop. Judge Moro was also [crucial] for this case…. [S]ince the beginning, I have to say, he [has been] a very impartial judge and firm judge. However, he has some personal characteristics that were core for this case to happen. He has a good academic background—he knows the [subject] matter with which he works deeply. The second characteristic would be that he is a very practical person. He converts very easily his knowledge into practical decisions…. This makes him a very quick person, he is very quick in making decisions. Third, he’s a good manager of his court; even if he was technically good and quick, the management of the case does not depend only on him but also on his team, and he has been a very good manager of his own team. Third, I would highlight the role of Roberto Leonel. He is the IRS or revenue service intelligence chief [for] the region of Paraná and Santa Catarina, and he is located in Curitiba. He is the person with whom I learned, in 2004, [how] to investigate money laundering—to trace money, to track money. He is very committed. You can see that his heart is concerned with this kind of crime. He puts his life [into] his work. And, without him, for example, we would not [have found] very good evidence against Mr. Costa and his relatives, when the federal prosecution office had already fully engaged in the investigation, and this was core for the cooperation agreement…. Finally, we had a general prosecutor [Rodrigo Janot] who agreed to create the task force and this was a very unlikely event—and there are about 20 unlikely events which were important for this case to happen that I describe in my book—and he created the task force. In this task force we had people with different [backgrounds]—people [who studied] at Harvard, Cornell, the London School of Economics, Coimbra, Sevilla—and we had already people with [extensive] experience [investigating] money laundering, corruption, and people who had a deep knowledge in cooperation agreements of defendants. Here in this task force, we had, for example, Carlos
Fernando dos Santos Lima, who [obtained] a Master’s of Law degree [from] Cornell. He was the person who for the first time [prepared] a cooperation agreement with a defendant back in 2003 in the Banestado Task Force…. I would highlight the participation of these two police chiefs, Judge Moro, the revenue service intelligence leader, and of the task force with multiple prosecutors with different capacities, abilities, knowledgebase, and experience.

**PL:** One last question, Deltan. I see several books on your desk. Which is one that you would highlight right now that has been particularly helpful to you during this time, during this operation, during this experience, and why?

**DD:** Wow. I think that the teachings of Susan Rose-Ackerman and Robert Klitgaard about the rational choice theory helped to form my worldview on corruption. Particularly when they say that the person who decides to commit or not to commit corruption weighs the costs and the benefits—and weighs factors such as the likelihood that they are going to get caught, the amount of the punishment, the benefits that they [would gain from] corruption. That helped me to see that, even with Car Wash, Brazil will [maintain] a good environment for corruption to flourish unless we change the rules. According to some estimations, 97 of each 100 cases of proven corruption end up in impunity. The Car Wash case […] is a point outside of the curve. If we want for corruption to be a highly risky crime, if we want that corruption is not worthwhile in Brazil, we need to change this environment. Of course, this involves not only changing the rules within the criminal justice system, but also promoting other reforms, such as in the political system, so that we can effectively achieve what we work for. That is, a country with lower levels of impunity and corruption.
PL: Than you, Deltan.

DD: Could I add something? Because sometimes people look at us and think that we are working [for the sake of] punishing people, but what inspires us is not punishing people, even though this is a matter of justice. What inspires us is compassion, doing our best to make the resources of Brazil—Brazilian resources—go to people who need them the most. For us, fighting against corruption is a way to realize human rights. It’s a way of serving our society so that it can reach better levels of social and economic development.

PL: So, Deltan, I appreciate that. I think what I’m trying to understand […] is the cost-benefit [that] people like you [conduct in your minds]. People […] who take on personal risks to their security, to their reputation, their time commitment with improbable success in many cases—I think those are kind of the costs behind this. The benefit that I keep hearing is that of a greater good. I’m hoping there is also some substantive benefit—you mentioned this person on the street who calls to you in tears or says that at some point he teared up when he saw somebody who would typically be above the law actually face the law. So, I’m sure that that gave you a sense of personal benefit, to see not that this particular individual faced the law, but that your fellow countrymen sees a system that is working, that is [generating] a level playing field…. That gives you some satisfaction, to see that your fellow countrymen see a system that’s working as it should. Is there any career benefit that will come from this?

DD: Hardly. Not for the people who work on this case. In Brazil, the public [sector does not offer] significant promotions or something like that. There are a lot of people in the federal prosecutor’s
office who do not want promotions at all. For you to have an idea, if I accepted a promotion, I would earn 5 percent more, but I would have to move to another city with my family. Curitiba is one of the lowest cost cities in the country, and probably I would spend much more money [in another city]. It would cost me more [to move]. And, there are not a lot of career incentives. When you look at the people who are involved in this case, they are people who [were] hard workers in the previous cases, too. But, in the previous cases, they did not reach any level of success. What happened is that these people were very stubborn—they persevered—and at a certain point, one case reached a level of success and these people were there. We are talking about very resilient people. We worked before with Judge Moro in several previous cases and they were not in any way similar to this one in the level of visibility or in the level in which people were recognized for [their work]. However, in the same way, the public agents which worked in this previous case…they worked with this same level of strength and dedication, sense of duty maybe.

**PL:** If I may? I think you’re seeing what I’m trying to understand, and again…

**DD:** Yea, we would need a psychologist, and probably there would be different theories on that. Some theories would say that in the end, every person will act egoistically, because even when you give money for charity there are personal benefits to doing so, you feel better.

**PL:** So, […] can I just ask in terms of your salary, the salary of the people you’ve introduced me to, would you say it’s a salary that’s termed competitive? It’s below what you think people could be paid? Is it above?
**DD:** This is an interesting point, because people here receive less money than if they had not accepted to work in this case. People here are making less money than if they were in their original positions. In our career right now, when somebody goes on vacation you can substitute that person and you’re going to receive an increase in your salary in that month. That means [that], in practice, people could earn a significant increase in their salaries [over] the years, substituting other people who [take a] vacation. And they are giving up that possibility [by remaining] here, since that incentive is not available in a task force. And some of them [are even] paying to work here because [their home is elsewhere]. [One of the prosecutors, for example, is] paying all the expenses of her home [in Porto Alegre], she is paying the expenses of her home here, and she is having the same salary as if she were working [back in Porto Alegre]. So, she has the same salary, but with additional expenses for being here, and not earning that difference that she could earn if she was substituting people on vacation. So, the fact is that for serving the country, for being part of this work, people have accepted to receive less money.

**PL:** And people who might argue—I’m not saying this is what I believe—I’m saying for some people who might argue, that you and Judge Moro, others are doing this for prestige, what would you respond?

**DD:** I would say that we worked as hard in many other previous cases with no prestige as a result.