

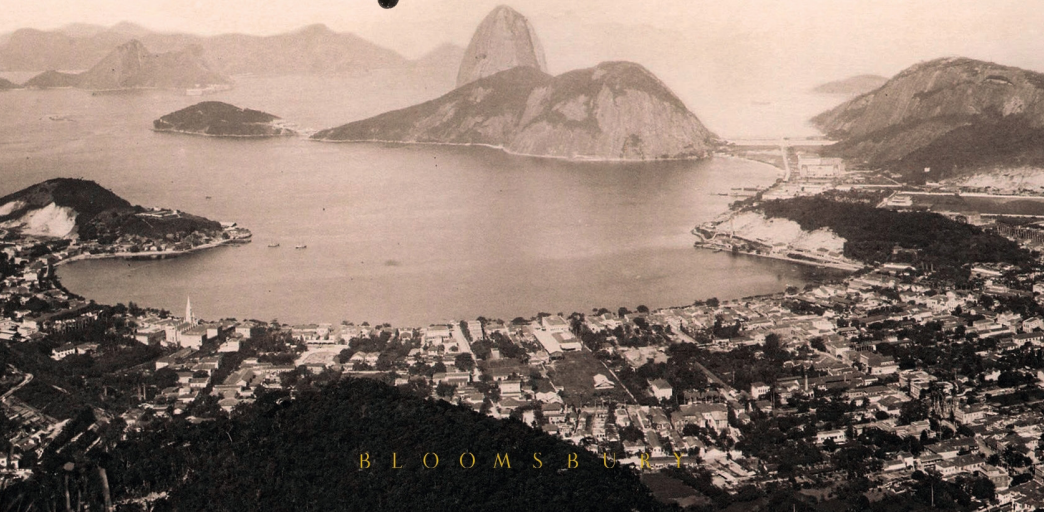


**A FINANCIAL TIMES
BOOK TO READ IN 2022**

**JORGE PONTES
MÁRCIO ANSELMO**

OPERATION CAR WASH

**BRAZIL'S INSTITUTIONALIZED CRIME
AND THE INSIDE STORY OF THE BIGGEST
CORRUPTION SCANDAL IN HISTORY**



B L O O M S B U R Y

OPERATION CAR WASH

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**Brazil's Institutionalized Crime and The
Inside Story of the Biggest Corruption
Scandal in History**

Jorge Pontes and Márcio Anselmo

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*This book is dedicated to Lilibeth (Jorge Pontes)
and Lilian (in memoriam) (Márcio Anselmo)*

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FOREWORD

Robert I. Rotberg

Most analyses of corruption, especially criminalized corruption, are outside jobs. Only occasionally are we rewarded by a consummately revelatory inside job. Fortunately, this book is a compelling inside job written by two longtime stalwarts of Brazil's Federal Police command. Jorge Pontes and Márcio Anselmo present a blow-by-blow account of the pursuit of the perpetrators of the Lava Jato (Car Wash) grand corruption conspiracy that ensnared presidents of the republic, parliamentarians, as well as the heads and secondary personnel of the nation's largest construction companies, its state-owned petroleum corporation, and a bevy of others.

The authors reveal in some detail how critical cases were investigated, suspects turned, plea bargains made, and detentions perfected. The book is full of inside information about telephone and wiretapping, surveillance methods (and mistakes), and of evidence lost and suspects who got away, thanks to tip-offs from politically ingratiating superiors. On the basis of specific conclusions drawn from material presented within this book, the twelve-year prison sentence for popular former president Luiz Inácio Lula da Silva should not have been overturned—presumably for political reasons—by Brazil's Supreme Court in 2021, allowing Lula to contest again for the national presidency in 2022. The authors, both ranking police chiefs with extensive knowledge of the many (at least thirty-two) phases of the Lava Jato case, provide strong arguments that Lula and President Dilma Rousseff were fully aware of a range of corrupt governmental involvements (above and beyond Lava Jato) and were thoroughly implicated in the knowledge of grand corruption. From the Federal Police optic, as presented in this book, there is little question that kleptocratic grand corruption, and state capture by criminal conspirators, was a constant of governmental procedure at least from the time of President José Sarney in the 1980s.

Lava Jato, and its exposure by the Federal Police and its successful prosecution in a series of exemplary cases tried in the federal court in Parana State, proved an opportunity to end the political impunity that had long crippled attempts to curtail corruption and strengthen

honest dealings throughout South America's largest country. *Operation Car Wash's* authors have much to say about how impunity has long protected their country's criminal political operatives from disclosure, arrest, and punishment, and how the successes in that regard, advanced by the temporarily exemplary outcome of the Lava Jato cases, have now been undone by Lula's release. Overturning his imprisonment means that criminal business in the Brazilian state has again regressed to the mean—to the detriment of probity and the rights of all Brazilians (not just the privileged elite) fully to enjoy human rights and sustainable economic rewards.

Pontes and Anselmo are critical of many of the ways in which the Federal Police itself has been compromised politically. Several chapters are devoted to recommending methods by which the Federal Police could be insulated from political interference and manipulation, and provided with resources sufficient to take on the problems and threats of grand corruption more effectively. They suggest better budgetary and sector priority allocations, and the decriminalization of many small-scale narcotics dealings. Pontes was a pioneer in investigating environmental crimes, of which Brazil has an abundance. Both authors advocate expanding and streamlining the operations and jurisdictional responsibilities of the Federal Police in Brazil (as compared to the Civil Police and several specialized police forces) so as to transform the Federal Police into an organ of the state more closely resembling the US Federal Bureau of Investigation.

The authors characterize a central feature of Brazil's economic and political life as institutionalized crime. It delays development. Perniciously, "no mafia can compare with a criminal organization that occupies the nation's institutions and wields the power to create taxes, draft budgets, appoint authorities, and approve laws." Within parliament, democracy is damaged repeatedly by the ability of those who work for the criminalized state to pass laws and deliver speeches extolling their results. "Not only do our legislators produce laws in the service of shady interests," they say, but they also neglect to refine the national legal framework. Legislative fraud is rife. And so the nation suffers and deteriorates. Graft is the star by which the nation's course is set. Major kickback possibilities overshadow real developmental needs, deepening the economic inequality of which Brazil is a global champion. Overpricing and price-padding are the norm. Procurement fraud is rife. Taxpayers are cheated endlessly.

Trust in government is essential to democracy. Tragically, Brazil now embodies the obverse, with its citizens—especially in the aftermath of

the Covid-19 pandemic—endlessly believing that their government is up to no good. As the authors say, “The endless succession of scandals, absurd delay[s] in any penal process coming to completion, and [a] general sense of impunity form a vicious circle that leads to an overbearing feeling of impotence.”

This book is a powerful indictment of Brazil’s version of state capture. As it demonstrates from start to finish, criminal pursuits with corrupt goals pervade the very workings of the Brazilian state, but this is far from unique in the world; the same could be said of President Jacob Zuma’s South Africa, President Vladimir Putin’s Russia, Prime Minister Najib Razak’s Malaysia, and (nearly) President Donald Trump’s United States. The original Portuguese version of this book was published before the ascendance of the Bolsonaro regime in Brazil, but little has improved since.

As suggested in the book’s conclusion, there are several ways that Brazil might resist further state capture and begin to reform its political and economic infrastructure. But unless those lessons, and the lessons of Operation Car Wash, are learned well, Brazil will continue to fail in taking its rightful place as an accomplished leader of the Global South, while its people will be the ones to suffer the consequences.

Even more than a powerful critique of the worrisome Brazilian political morass and its perpetuated corruption, this book is a powerful illumination of how good governments go bad and what can and should be done to save nations in parlous situations across the globe. Anticorruption crusaders everywhere will learn mightily from it.

Robert I. Rotberg, 2021*

*Professor Robert I. Rotberg is President Emeritus of the World Peace Foundation and Founding Director of the Harvard Kennedy School’s Program on Intrastate Conflict. He was the first Distinguished Fulbright Professor of International Relations at the University of São Paulo. His books include *Anticorruption* (2020) and *The Corruption Cure* (2017) and is also editor of *Corruption in Latin America: How Politicians and Corporations Steal from Citizens* (2019).

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The facts and analysis present at this book are sustained in open access documents. In the case of names mentioned, quoted or referenced who are accused, the presumption of innocence, in observance of individual rights are always preserved. The judicial truth is the jurisdiction of the courts, which by law will decide whether the defendants are innocent or guilty. The opinions expressed are those of the authors and do not reflect official opinions or policies.

A NOTE ON THE TEXT

The Portuguese word *delegado*—the Federal Police rank of the authors—signifies a role in the Brazilian police and judiciary which has no direct equivalent in Anglophone world, encompassing as it does the aspects of all of the roles that we know variously as *investigator*, *detective*, *commissar*, *prosecutor* or *chief*. With the caveat that none of these sufficiently captures the nuance of the Brazilian *delegado*'s position, for the purposes of clarity the translator has settled on “Police Chief”.

Chapter 1

THE ARREST OF MARCELO ODEBRECHT

What do they think they're doing? What sort of country is this?

Renato Duque, former director of services at Petrobras, in conversation with his lawyer after being arrested by Operation Car Wash in November 2014

Márcio Anselmo: We'd been executing a search warrant at the office of Marcelo Odebrecht for some hours already when Agent Prado, a colleague at the Federal Police (FP) who'd been working with me since the start of Operation Car Wash, called my attention to a document he'd come across.

"Boss!"

I didn't get the chance to answer.

"Yes?" said the businessman.

It might not seem like much, just a momentary mix-up, but, for me, it clearly showed just how accustomed Marcelo Odebrecht was to the subservience of others. He continued to behave arrogantly even in jail, as if still surrounded by staff.

The arrest of the owner of Odebrecht, the largest construction company in the country, on June 19, 2015, was a milestone in the history of Operation Car Wash, the police operation which had begun the previous year and would become the most significant in modern Brazilian history. Investigations into the involvement of major construction-sector players in a scheme defrauding contracts with the oil giant Petrobras were advancing steadily, but we still needed proof implicating the largest of them all.

The situation created public distrust, and we began to suffer a great deal of pressure to deliver, precisely because we had so far found nothing concrete on Odebrecht. For this reason this phase of Operation Car Wash was baptized "*Erga Omnes*": asserting the law "for all."

Pressure aside, everything happened in its own good time and in pace with the evidence we managed to obtain. Even with an arrest warrant for Marcelo in hand, the preparations for its execution were far from simple.

We had his address, but we needed to know the exact location in order to spring the operation, and we couldn't identify which house was his without first entering the gated community he lived in. So, pretending to be a prospective buyer of one of the mansions, an undercover cop accompanied by a real-estate agent and driving a luxury car gained the access we badly needed. Through some apparently innocuous small talk he managed to ascertain which properties belonged to Odebrecht and various other wealthy families: "So-and-so lives in that house, and the so-and-so's in that one over there said the realtor, eager to land a juicy sale."

It was a really big day and like every major operation, the team was on tenterhooks. In the weeks leading up to the arrest, we took all the care in the world to prevent leaks. In order to avoid escape or some preemptive judicial action, we had to keep this absolutely under wraps right down to the last minute. Even within the team, only a handful of investigators knew that Marcelo Odebrecht's arrest was imminent.

Most of the agents found out who the target was only on the day of the operation, already outside the gated community. We went there in three squad cars, one of which was armored, in case we had to crash the gate, which we didn't. There were nine of us in all, but only Agent Prado and I knew exactly how things would go. In the armored vehicle were myself, Prado and the driver, another cop. At six o'clock that morning, we arrived and informed security that we were there to execute a warrant. We met with no resistance whatsoever. Minutes later we were knocking on the door of the "Prince," as Marcelo was known in the inner circles of the country's construction industry. The executive opened the door himself. After a year of Operation Car Wash, everyone knew who was who on our team, and Marcelo recognized me immediately. We went through all the usual motions: I showed him the search warrant and asked him to accompany me. My first impression of him was that he was a cold sort of guy. However unflustered he may have come across then, I think he was stunned all this was actually happening.

That morning, four other Odebrecht directors were arrested too: Márcio Faria da Silva, Rogério Araújo, Cesar Rocha, and Alexandrino de Salles Ramos de Alencar.

Our first step was to confiscate all the cellphones on the property, and Marcelo's contained the hard core of his entire life. Later, during the analysis of the documents and objects apprehended during the search, we discovered that his cellphone was encrypted all the way through. It took us ages to decipher it and unblock the content. There were

times it took two weeks to decode just five lines. One of our agents, Gabriel, spent over a year working to crack these codes. Marcelo created encryptions for absolutely everything on his phone, from company strategies to corrupt governmental institutions, down to reminders to spend time with his daughters.

At around eight, Marcelo's lawyer arrived, Dora Cavalcanti, and she was already apprised about the arrest warrant issued against her client. His lawyers had a minutely crafted contingency plan in place. When the teams started their raids early in the morning, a member of the company's legal team rang around to "possible targets" to check if "everything was okay." One thing that really struck me was that Marcelo's wife asked me if his imprisonment would be the five-day job or "the real deal." By that stage, everyone knew the difference between a jail term and preventive detention. Despite the apparent surprise, they were, in a sense, prepared for that eventuality.

That was one of the longest, most tiring days of the whole operation. After hours at Marcelo Odebrecht's home, we took him to the Federal Police Superintendency in São Paulo and from there to Curitiba. At around 11:30 a.m., Dora Cavalcanti arrived with hot lunches for Marcelo and the other executives.

On the way to the superintendency, Marcelo paid close attention to every detail. While waiting for the plane to Curitiba, his lawyers handed him Judge Sergio Moro's dispatch determining his imprisonment. Marcelo read it through and with a pen in hand underlined passages while complaining out loud about supposed errors and already drawing up a line of defense. However, like dozens of other such decisions, the determination was extremely well grounded in the investigation's discoveries. So much so that the preventive detentions of Marcelo Odebrecht and the other executives were upheld under appeal by other courts.

Once the arrest warrants had been executed, the teams proceeded to Odebrecht headquarters, on the banks of the Pinheiros River in São Paulo, in order to help with the searches that would continue throughout the day. The company occupies an impressive building, and I was amazed at the quality and functionality of the installations—something unthinkable in the "white elephants" built to house public organs and probably at far higher cost.

I arrived at Odebrecht around midday and the place was bedlam. A HQ had been set up for the operation in one of the meeting rooms and that was where all the seized material was kept. The company's twenty or so lawyers accompanied the search and tried to create as many obstacles

as possible. It was a large team, including some illustrious names, such as Dora Cavalcanti and Augusto Botelho, successors of former justice Minister Márcio Thomaz Bastos. There were others too, who I didn't know.

Sparks flew between the police and Odebrecht's lawyers at times and for a very clear reason: "We're paid to cause problems, that's our job," the lawyers kept saying. Without doubt, the sensation I had was that Odebrecht had a far better structure in place than we did. The first team to arrive at the building consisted of roughly fifteen police officers, though these were joined later by other teams. At a certain point, we realized that Marcelo's laptop had disappeared from his office. We questioned the lawyers about this, and a laptop duly reappeared. The problem was, how could we be sure this was the executive's real computer?

The arrest of Marcelo Odebrecht and the other executives was a watershed moment for the operation in terms of successfully unveiling corruption schemes within the government.

Other arrests followed, and these would lay bare just how deep and promiscuous ran the company's relations with politicians and the occupants of key public posts.

The second symbolic moment was the arrest of the marketeers João Santana and Mônica Moura under Operation Acarajé¹ in February 2016. The pair were the most famous political marketing team in Brazil, the arch symbols of the limitless splurging fueled by the multimillion-dollar election campaigns financed by kickbacks on public works contracts with major construction companies. As staff and the marketeers themselves would admit over the course of the investigations, Odebrecht covered the astronomical costs of João Santana's services on ex-president Dilma Rousseff's victorious election campaign in 2010, when Operation Car Wash was already underway.

The third episode of note in unmasking and dismantling the criminal scheme at Odebrecht was another arrest made under Acarajé, albeit one that drew far less attention than that of Santana. Maria Lúcia Tavares was a secretary with decades of service at Odebrecht, and she became a key witness in outlining exactly how the company operated.

It was Filipe Pace, an inspector on the Car Wash team, who found his way to Tavares. Though one of the youngest members of the crew, he was a natural-born investigator with a bloodhound's nose for a lead. Incidentally, it had been Pace who'd traced a handwritten note found