Status, Hierarchy, and Sentencing in Corruption Trials

Luiz Vilaça
Assistant Professor of Sociology
Bowdoin College

Abstract: Research consistently finds that defendants' class and social status shape their treatment in the justice system, with high-status offenders often receiving more lenient outcomes. This pattern may reflect disparities in access to high-quality legal representation, judicial perceptions that distance elite actors from "ordinary" criminality, or evidentiary challenges faced by prosecutors when pursuing cases against elites. Yet existing scholarship has not systematically examined whether these dynamics hold in the context of large-scale corruption prosecutions. Unlike trials of street crime, grand corruption trials are rare and seldom culminate in convictions of powerful political and corporate elites. I expect that, in these cases, judges may actually adopt a more punitive stance toward high-level executives and public officials to signal institutional resolve, making these cases exemplars in order to deter future corruption. To test this theory, the study draws on an original database of 1,053 defendants prosecuted in Brazil's *Operação Lava Jato* (Operation Car Wash), the largest corruption and money laundering investigation in the country's history. I measure defendants' elite embeddedness with indicators of firm size and hierarchical position within the organization. Employing regression models with judge and crime fixed effects, I assess whether and how defendants' elite embeddedness influences their likelihood of conviction, sentence length, and fines.

Prior studies consistently show that economic and political elites tend to enjoy advantages in the justice system, and that their economic or political status tends to translate into more lenient treatment. For example, studies find that defendants with lower income and education levels are more likely to be incarcerated, receive longer sentences, and are less likely to obtain probation or diversionary alternatives (Albonetti, 1997; Ulmer & Johnson, 2004). One key mechanism driving this disparity is unequal access to quality legal representation: wealthier defendants are more able to retain private counsel, which is consistently associated with more favorable outcomes compared to court-appointed or public defenders (Smith & Toya, 2007; Spohn, 2009). Research also highlights the role of extralegal bias, where judges and prosecutors may consciously or unconsciously associate socioeconomic disadvantage with greater culpability or risk, contributing to disparate sentencing (Kramer & Steffensmeier, 1993; Starr, 2012).

Collectively, these findings demonstrate that sentencing processes stratified by social class, raising enduring concerns about equity and justice in criminal courts.

However, prior studies have not examined this question in the context of corruption trials, in particular grand corruption at the highest levels of the government and corporations. Trials and sentencing in cases of grand corruption often diverge markedly from those involving ordinary street crimes, in ways that can challenge the widespread assumption that high–socioeconomic-status defendants systematically receive more lenient treatment. Grand corruption cases are typically highly visible and politically charged, attracting intense media scrutiny, public outrage, and close monitoring by prosecutors, judges, and oversight institutions. This heightened visibility can raise the reputational and career stakes for legal actors, creating incentives to demonstrate impartiality or even toughness when dealing with elites.

Building on the literature on corruption prosecutions, the paper tests an alternative hypothesis about status and punishment: in the specific context of grand corruption, judges may be systematically more punitive toward elite defendants rather than more lenient. I theorize that defendants' *elite embeddedness* affects their sentencing outcomes in ways that challenge the predictions of theories showing how defendants of lower socioeconomic background receive harsher treatment in courts. I conceptualize elite embeddedness as the degree to which a defendant is situated within influential organizational hierarchies and resource-rich institutions, such that their individual authority (e.g., hierarchical position) and the structural power of the organizations to which they belong (e.g., firm size) jointly condition legal treatment and sanctioning outcomes. While elite embeddedness may be correlated with socioeconomic status, it is analytically distinct, as it reflects organizational power and institutional positioning rather than individual background characteristics such as education or income.

I expect that high elite embeddedness is associated with more severe punishment because it signals to the judge higher blameworthiness. This expectation builds on the insight from the focal concerns perspective—according to which judges have three main concerns when sentencing: blameworthiness of the offender, protection of the community, and practical constraints (Steffensmeier and Demuth 2006; Steffensmeier, Ulmer, and Kramer 1998). I expect that judges will not only see elite-embedded defendants as more blameworthy, but also as the actors who need to be held accountable to protect society from future corruption. In other words, punishing elites more harshly can serve an exemplary function, transforming powerful defendants into cautionary cases meant to discourage future corruption and restore public trust in the legal system.

In addition to providing a heuristic about defendants' blameworthiness, I test two other mechanisms through elite embeddedness affect sentencing outcomes. First, I test the mechanism of *collaborating* with authorities. We know from prior research that one big driver of sentencing outcomes refers to whether defendants cooperated with investigators, for example by signing a plea bargain deal. It may be, for example, that prosecutors are more interested in doing plea bargain deals with defendants with lower elite-embeddedness because these defendants can typically reveal incriminating information about other defendants who played a more important role in the scheme. I also test whether elite embeddedness also enable defendants to play a more *central position* in the criminal network, which should increase their chances of being convicted or receiving harsh sentences. It is possible, for example, that defendants with high elite embeddedness play major and more important roles in criminal schemes than those with low elite embeddedness.

I test this framework drawing on an original database that tracks the sentencing outcomes of defendants prosecuted in the *Operação Lava Jato* (Operation Car Wash) in Brazil, the largest bribery scandal in the country's history—and according to some, in the world's history (Pressly 2018). This investigation, which was active from 2014-2021, uncovered a widespread scheme of economic and political corruption involving actors ranging from politicians and top business executives to public officials and illegal money operators (Da Ros and Taylor 2022; Lagunes and Svejnar 2020). The investigation initially revealed a corrupt scheme in which a cartel of large construction companies offered bribes to the directors of Petrobrás—a state-owned oil refinery—as well as to politicians who appointed these directors (Lagunes & Svejnar, 2020). As the investigation expanded to different cities, prosecutors uncovered similar schemes across several public agencies, resulting in over 200 convictions, in addition to the recovery of more than 5 billion US dollars (Ministério Público Federal 2020).

Lava Jato offers a unique opportunity to unpack theoretically and empirically how elite embeddedness affects sentencing outcomes. First, because the case uncovered a massive scheme of bribery between public and private-sector organizations, it resulted in charges against both politicians and business actors from a variety of different positions, ranging from lower-level employees such as secretaries to higher roles such that of a Chief Executive Officer (CEO). For example, at the top of the hierarchy, Marcelo Odebrecht, former CEO of Odebrecht, was sentenced to 19 years and four months in prison for corruption and money laundering (Reuters, 2018). At the other end of the organizational spectrum, Maria Lúcia Tavares, a secretary at Odebrecht, was convicted for managing spreadsheets and accounts used to track illicit payments, playing a key operational role in sustaining the bribery system despite her low formal status within the firm (BBC News 2016). The investigation also reached mid-level executives such as Jorge Zelada, former director of international relations at Petrobras (CNN 2021). The coexistence of top corporate leadership and lower-tier managers within the same criminal scheme allows me to compare sentencing outcomes of defendants of low and high status convicted for the same crimes and involved in the same scheme. Holding constant the legal classification of the offense, the circumstances of the case, and the broader political and institutional context, this design isolates variation in defendants' elite embeddedness, thereby enabling a cleaner assessment of whether and how elite status shape judicial decisions.

I built an original dataset that traces the entire trajectory of the universe of crimes and defendants treated in the lower courts of all states in which the case was prosecuted (Paraná, Rio de Janeiro, and São Paulo). Whereas existing data collection efforts focus on pre-trial detentions and search warrants (Rodrigues 2020) or sentencing decisions made by a specific judge (Da Ros et al. 2024), this one includes all decisions made by prosecutors and judges from the moment in which charges were presented until a sentencing decision was released. In total, the dataset comprises 3,154 cases in which 1,053 defendants were charged. I collected information about the sentencing outcomes of each defendant—whether they were convicted, prison time, and fine—by manually going over the hundreds of charging documents and sentences. I also collected biographical information about each defendant, allowing me to not only construct a variable for the key treatment analyzed in this paper (elite embeddedness) but also to create variables that can account for potential confounders, such as defendants' sex or status as an elected official, both of which have been shown to affect sentencing outcomes in white-collar crime cases (Steffensmeier, Schwartz, and Roche 2013; Vilaça, Morucci, and Paniagua 2024).

I estimate logistic regression models to calculate the effect of elite embeddedness on probability of conviction. I estimate fixed effect models clustering cases at the level of the 1) *judge* who sentenced the case, 2) *crime* the defendant was charged with, 3) the *state* in which the defendant was charged, and 4) the *charge* document that lists all individuals involved in each scheme that was part of Lava Jato and the crimes for which each one was charged. Because of the selection effect in which only defendants who were convicted receive a sentence, I use the linear regression analysis drawing on Heckman selection models when estimating the effect of kinship ties on sentence and fine (Bushway, Johnson, and Slocum 2007).