

**BRIBE AND CO. :**  
**THE INSTITUTIONALIZATION OF CORRUPTION IN A MULTINATIONAL**

**ABSTRACT**

Although research on Multinational Enterprises (MNE) has added significantly to discussions of misconduct by complex organizations, existing studies have largely focused on external sources of corruption, leaving behind the role of multinationals as central actors. Our paper addresses this gap drawing upon a case study of corruption by Odebrecht, one of the largest Latin American construction companies, who created a whole department to operate its bribes. We try to understand the complex phenomenon of corruption and focus on how it occurs and persists within a multinational organization through decoupling from the original organization and then persists through the institutionalization of deviant practices.

Keywords: Corruption, EMNE,

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## **INTRODUCTION**

How and why multinationals enter different national contexts and thrive internationally are central questions in International Business (IB) research. Answers to these questions centre around two broad arguments: the first focuses on the idea that multinationals from developed countries expand to foreign markets using their unique resources and capabilities (Peng, 2001). The second contends that these multinationals avoid investing in countries in which institutions are weak and corruption is high (e.g. Meyer, Estrin, Bhaumik & Peng, 2009; Uhlenbruck, Rodriguez, Doh & Eden 2006; Lee, Yin, Lee, Weng & Peng, 2015).

More recently, the recognition of emerging market multinationals (EMNEs) as important actors in the global market has motivated questions and explanations of a different nature. For example, some scholars suggest that firms from emerging markets (EMNEs) quickly evolve into large multinationals due to their vision of the developing country's institutional voids as opportunities to be exploited (e.g. Cuervo-Cazurra & Genc, 2008; Khanna & Palepu, 2006). In contrast with multinational enterprises (MNEs) from developed countries that avoid investing in corrupt countries, EMNEs tend to do the opposite by frequently setting operations in countries where corruption is facilitated by institutional environments (e.g. Cuervo-Cazurra, 2006; Uhlenbruck, et al., 2006).

Setting up operations in multiple countries creates complexity and uncertainty for multinationals. EMNEs, in particular, may prefer to set up operations in countries where cultural norms in business relations are similar to those of the home country. For example, trading favours has been recognized as an important trait in business relations in Latin America ( Puffer, et al., 2013; Verbeke & Kano, 2013). Similarly, Luo (2002), illustrates

how personal relations in business can be more important than formal contracts in Asia. Such conditions may also create a seedbed for corruption to flourish (Cuervo-Cazurra, 2019).

The attention to EMNES has enriched the conversation above by drawing attention to how multinationals use corruption to enter foreign countries (e.g. Puffer; McCarthy & Peng, 2013). However, current evidence available from reports on global business corruption does not exclude companies from developed countries (e.g. Cuervo-Cazurra, 2016). On the contrary, the so-called *Panama Papers* (ICIJ, 2016) publicly exposed multinationals from several countries by presenting evidence on how they participated in networks and created organizations specialized in illicit exchanges involving government elites of several countries. The evidence that both MNEs in general, and EMNEs in particular, are frequently involved in international operations involving corruption – the use of formal power for private gain – opened interesting new territories for research exploration. Although IB theories have more recently directed attention to how corruption affects international business, contributions to this field remain limited as suggested by Cuervo-Cazurra, (2016). Such an effort would require the identification of key actors engaged in corruption and how they construct special structures that accommodate misbehaviour to capitalize on the opportunities abroad (Collins, Uhlenbruck, & Rodriguez 2009)

Our purpose in this paper is to understand the nature of systemic corruption in an MNE and how it extends illicit practices across the organizations and governments of multiple countries. Particularly, we want to understand, *what forms of organizational work and institutional work are carried out by members of MNEs as they institutionalize and then internationalize corrupt practices?* To that end, we selected the Brazilian construction multinational Odebrecht as a case study. Odebrecht is widely known for its

engagement in corruption activities in Brazil, Latin America, Africa, and even in the USA. This multinational not only formed a unique organizational structure to professionally manage corrupt practices, but it also created mechanisms to institutionalize corruption by starting a formal organization out of informal relationships, by detaching it from the core, in order to conceal misconduct more effectively. To this end, Odebrecht created a unit specialized in illicit practices, which co-existed for many years alongside legitimate departments. This unit was later decoupled from the core and transformed into an international unit in its own right dedicated to replicate corrupt practices abroad.

The primary contribution of this paper lies in its potential to simultaneously contribute to IB theories of internationalization and theories of corporate corruption (Castro, Phillips & Ansari, 2020). The study reveals how the company obtained multiple contracts for projects at home and abroad by building an enclave at its HQ – the Department of Structured Operations (DSO) - later transformed into a shell company located at the Caribbean, with the aim of insulating the “core” from corrupted practices. We draw on institutional theory to inform our discussion regarding how social symbolic work (Lawrence & Phillips, 2019) facilitated the decoupling behind the Department of Structured Operations (DSO). Our analysis involved identifying how top management actions led to the institutionalization of corruption and in doing so, enabled the international expansion of the company - issues underexplored by the literature by both IB and neo-institutional theory.

We start by discussing the discuss relevant IB literatures and literature on corporate corruption. Then we discuss our method and data. Afterwards, we analyse and discuss the process of organizational decoupling that we observed in the case study and explore how it is understood by drawing on the IB literature and social symbolic work perspective. We then develop a framework that considers the complexity of international

corruption and how institutionalization processes helps to sustain such activities and how these practices can be later reproduced internationally. Finally, we discuss the implication of our findings to IB and Corruption theory.

## CONCLUSION

This study focused on the construction company Odebrecht and tried to understand the complex phenomenon of the institutionalization of corruption, chiefly how corruption occurs and persists within a multinational organization and across countries. To do so, we analyzed their specific department of corruption called structured operations, how corruption is maintained over time, and what institutional mechanisms underpin this phenomenon. As the organization engages in decoupling structuring the organization of the flow of bribes to the agents via a complex network of intermediaries that lead to an “efficiency” a push towards formalization arises from such activities.

We confirm that decoupling has a double function - to circumvent institutional tensions posed by the home country and host country (Kostova and Zaheer, 2008) and to bypass institutional policies and formal rules under the justification that it threatened competitiveness and economic positions (Papageorgiadis et al., 2013). Yet the social symbolic work perspective helps explain the actions of key actors and how those actions contributed to the institutionalization of the corrupt practices and therefore became “business as usual” and last over time. We contribute to the understanding of neo institutions and corruption literature by studying a phenomenon relevant to all MNCs.

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## TABLES

**Table 1** Data Sources

<p>Court Proceedings</p>	<p>USA Department of Justice - Criminal Division's Fraud Section Total (197 pages)</p>	<p><b>Summary</b> <a href="https://www.justice.gov/opa/pr/odebrecht-and-braskem-plead-guilty-and-agree-pay-least-35-billion-global-penalties-resolve">https://www.justice.gov/opa/pr/odebrecht-and-braskem-plead-guilty-and-agree-pay-least-35-billion-global-penalties-resolve</a> (2 pages) Odebrecht - Information <a href="https://www.justice.gov/opa/press-release/file/919911/download">https://www.justice.gov/opa/press-release/file/919911/download</a> (29 Pages) Odebrecht - Plea Agreement <a href="https://www.justice.gov/opa/press-release/file/919916/download">https://www.justice.gov/opa/press-release/file/919916/download</a> (68 Pages) Braskem (Petrochemical Subsidiary of Odebrecht group) – Information <a href="https://www.justice.gov/opa/press-release/file/919901/download">https://www.justice.gov/opa/press-release/file/919901/download</a> (25 pages) Braskem (Petrochemical Subsidiary of Odebrecht group) – Plea Agreement <a href="https://www.justice.gov/opa/press-release/file/919906/download">https://www.justice.gov/opa/press-release/file/919906/download</a> (73 pages)</p>
	<p>Brazil Federal Prosecution and Court 4<sup>th</sup> Region (482 pages)-</p>	<p><b>Car Wash Listing of Cases Repositories</b> <a href="http://www.mpf.mp.br/grandes-casos/lava-jato/acoes/lavajato-acoes-view">http://www.mpf.mp.br/grandes-casos/lava-jato/acoes/lavajato-acoes-view</a> <a href="http://www.mpf.mp.br/grandes-casos/lava-jato/entenda-o-caso/curitiba/acoes/processo-penal-91/denuncia/arquivo">http://www.mpf.mp.br/grandes-casos/lava-jato/entenda-o-caso/curitiba/acoes/processo-penal-91/denuncia/arquivo</a></p> <p><u>Specifically, cases</u> 5036528-23.2015.4.04.7000 (Ação Penal Odebrecht) 501047908.2016.4.04.7000 e 5003682 16.2016.4.04.7000 5019727-95.2016.4.04.7000 (Ação Penal Setor de Operações Estruturadas); 5019727 95.2016.4.04.7000, <b>Case 5013130-08.2019.404.7000</b> <u>Accusation</u> <a href="http://www.mpf.mp.br/grandes-casos/lava-jato/entenda-o-caso/curitiba/acoes/acao.2020-03-19.9112157066/denuncia/arquivo">http://www.mpf.mp.br/grandes-casos/lava-jato/entenda-o-caso/curitiba/acoes/acao.2020-03-19.9112157066/denuncia/arquivo</a> (119 Pages) <u>Decision</u> <a href="http://www.mpf.mp.br/grandes-casos/lava-jato/entenda-o-caso/curitiba/acoes/processo-penal-100/decisao-da-jfpr/arquivo">-http://www.mpf.mp.br/grandes-casos/lava-jato/entenda-o-caso/curitiba/acoes/processo-penal-100/decisao-da-jfpr/arquivo</a> (3 pages) <b>Case 427388652519</b> <u>Accusation</u> <a href="http://www.mpf.mp.br/grandes-casos/lava-jato/entenda-o-caso/curitiba/acoes/processo-penal-91/denuncia/arquivo">http://www.mpf.mp.br/grandes-casos/lava-jato/entenda-o-caso/curitiba/acoes/processo-penal-91/denuncia/arquivo</a> (113 pages) <u>Decision</u> <a href="http://www.mpf.mp.br/grandes-casos/lava-jato/entenda-o-caso/curitiba/acoes/processo-penal-91/decisao-trf4/arquivo">http://www.mpf.mp.br/grandes-casos/lava-jato/entenda-o-caso/curitiba/acoes/processo-penal-91/decisao-trf4/arquivo</a> <a href="http://www.mpf.mp.br/sp/sala-de-imprensa/docs/SENTENA1150787.2018.403_RED.pdf">http://www.mpf.mp.br/sp/sala-de-imprensa/docs/SENTENA1150787.2018.403_RED.pdf</a> (247 pages)</p>
<p>Testimonies (270 minutes and 6 seconds)</p>	<p>Marcelo Odebrecht Testimony <a href="https://www.youtube.com/watch?v=Zxr08iaeORc">https://www.youtube.com/watch?v=Zxr08iaeORc</a> (56:19 Minutes) <a href="https://www.youtube.com/watch?v=3MKTxG0Y7Y">https://www.youtube.com/watch?v=3MKTxG0Y7Y</a> (29:45)</p> <p>Hilberto Mascarenha Testimony <a href="https://www.youtube.com/watch?v=GHBbkmwj7CY">https://www.youtube.com/watch?v=GHBbkmwj7CY</a> (27:52) <a href="https://www.youtube.com/watch?v=589-uECYqFg">https://www.youtube.com/watch?v=589-uECYqFg</a> (29:30) <a href="https://www.youtube.com/watch?v=eDWyrzotPYU">https://www.youtube.com/watch?v=eDWyrzotPYU</a> (17:20) <a href="https://www.youtube.com/watch?v=HLb4A0Fw7Ow">https://www.youtube.com/watch?v=HLb4A0Fw7Ow</a> (13:42)</p> <p>Fernando Migliaccio <a href="https://www.youtube.com/watch?v=5j7KyJr1hGc">https://www.youtube.com/watch?v=5j7KyJr1hGc</a> (28:43 minutes) <a href="https://www.youtube.com/watch?v=4UIp6YHPoUc">https://www.youtube.com/watch?v=4UIp6YHPoUc</a> (30:08) <a href="https://www.youtube.com/watch?v=BJJdwPoRhqg">https://www.youtube.com/watch?v=BJJdwPoRhqg</a>(7:05)</p>	

	Maria Lucia Tavares <a href="https://www.youtube.com/watch?v=8kRjF3sseN8">https://www.youtube.com/watch?v=8kRjF3sseN8</a> 29:42 minutes
Annual Reports (500) pages	2014- 78 pages <a href="https://www.odebrecht.com/sites/default/files/ra-odebrecht-2014-final_pdf_site_pt.pdf">https://www.odebrecht.com/sites/default/files/ra-odebrecht-2014-final_pdf_site_pt.pdf</a> 2013- 82 pages <a href="https://www.odebrecht.com/sites/default/files/ra_odebrecht_2013_pt.pdf">https://www.odebrecht.com/sites/default/files/ra_odebrecht_2013_pt.pdf</a> 2012- 98 pages <a href="https://www.odebrecht.com/sites/default/files/relatorio_anual_2012_portugues_0.pdf">https://www.odebrecht.com/sites/default/files/relatorio_anual_2012_portugues_0.pdf</a> 2011- 66 pages <a href="https://www.odebrecht.com/sites/default/files/relatorio_anual_2011_pt.pdf">https://www.odebrecht.com/sites/default/files/relatorio_anual_2011_pt.pdf</a> 2010- 62 pages <a href="https://www.odebrecht.com/sites/default/files/relatorio_anual_2010_portugues.pdf">https://www.odebrecht.com/sites/default/files/relatorio_anual_2010_portugues.pdf</a> 2009- 66 pages <a href="https://www.odebrecht.com/sites/default/files/relatorio_anual_2009_portugues.pdf">https://www.odebrecht.com/sites/default/files/relatorio_anual_2009_portugues.pdf</a> 2008- 48 pages <a href="https://www.odebrecht.com/sites/default/files/relatorio_anual_2008_portugues.pdf">https://www.odebrecht.com/sites/default/files/relatorio_anual_2008_portugues.pdf</a>

**Table 2:** Odebrecht key indicators at its peak and after the corruption investigation

Odebrecht	2014	2016
Revenue	44,358 bi	27,721 bi
EBITDA USD	6,322 billion	USD 5,104 billion
Staff	276,224 (168149 direct, - 108075 third parties)	96160

Source: Odebrecht annual statement

**TABLE 3** Bribes Paid by Odebrecht Abroad

Countries	Years	Bribes Paid (US\$ Millions)	Profit in the projects (US\$ Millions)
Brazil	2003-2016	599	2365
Angola	2006-2013	50	261.7
Argentina	2007-2014	35	278
Colombia	2009-2014	11	50
Dominican Republic	2001-2014	92	163
Ecuador	2007-2016	33.5	116
Guatemala	2013-2015	18	34
Mexico	2010-2014	10.5	39
Mozambique	2011-2014	900	N/A
Panama	2010-2014	59	175
Peru	2005-2014	29	143
Venezuela	2006-2015	98	
Other countries	2001-2016	439	1400

Source: Odebrecht agreement with American State Department 2018

FIGURES

Figure 1 Case Study Timeline Investigated

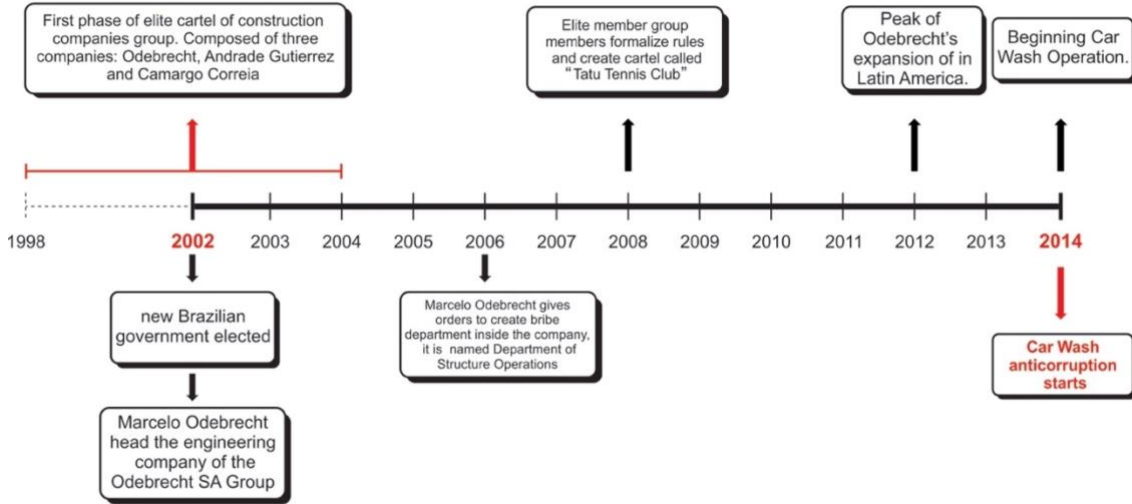
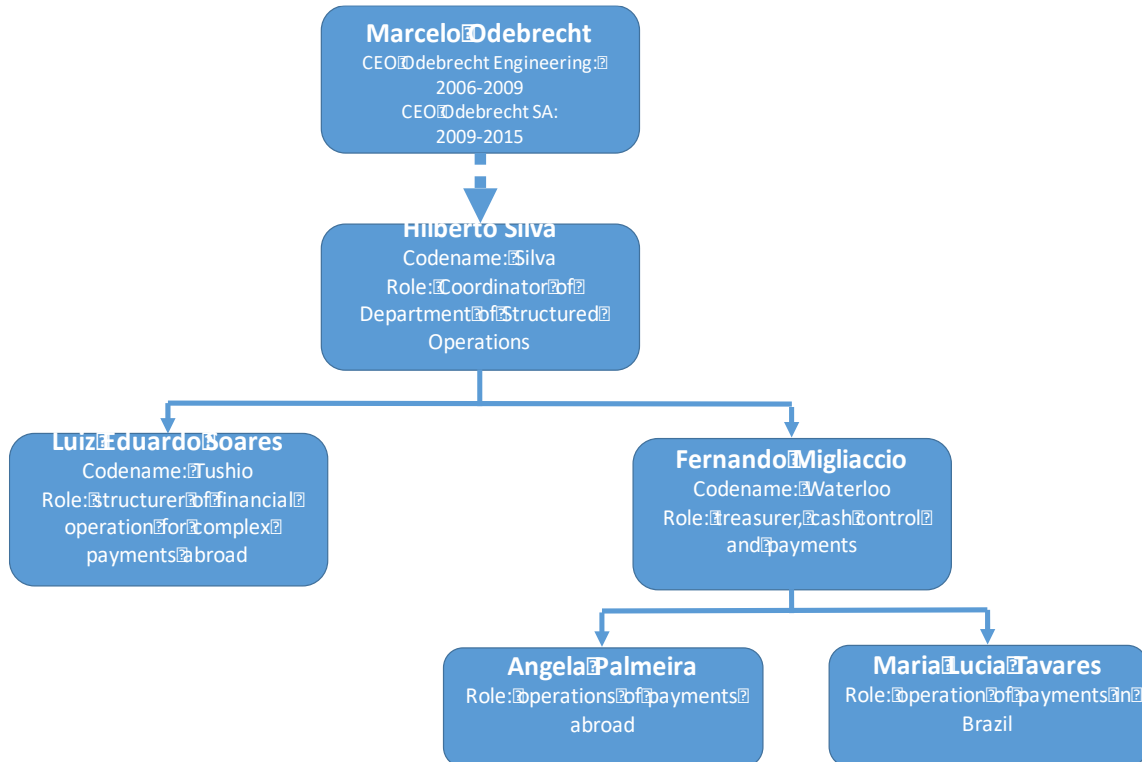
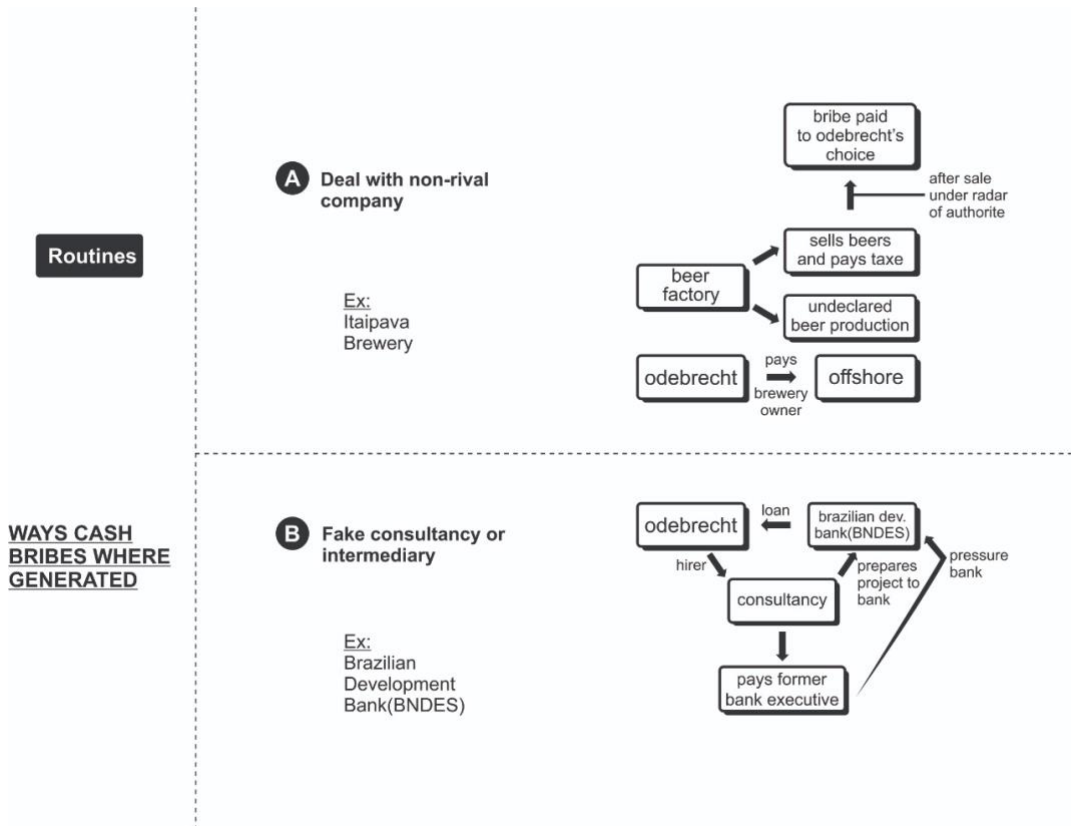


Figure 2. Hierarchy of Structured Operations Department

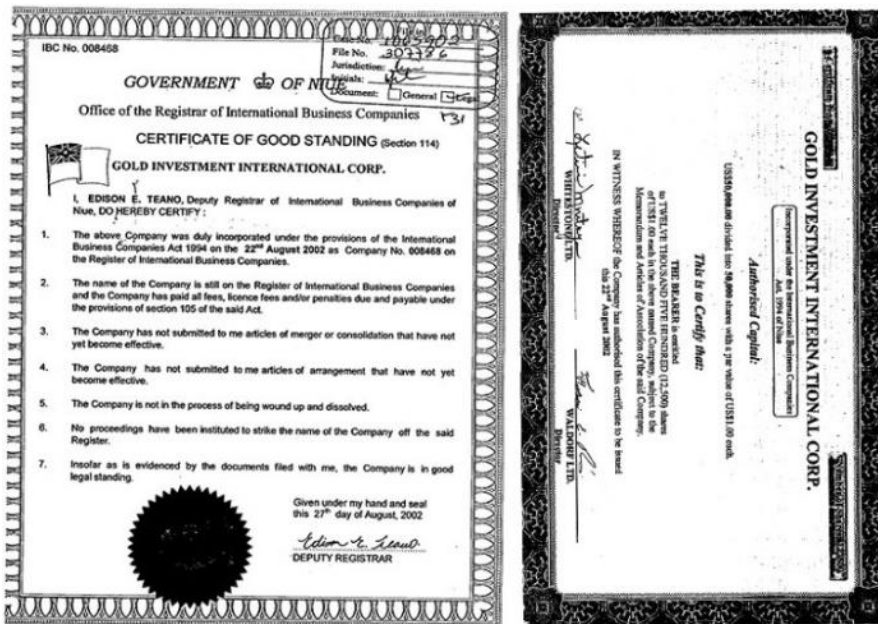


**FIGURE 3 - Enabling work- Examples of the generation of untraceable cash for bribe payments**



Source: Described by Brazilian prosecution (2017) files, adapted and developed by authors

**FIGURE 4 Certificate of incorporation of a shell company at a tax haven used by Odebrecht SA**



Source: Car Wash Operation 2017. Declassified by Justice Luiz Edson Fachin of the Brazilian Supreme Court

**FIGURE 5** Tentative Process Model of the Institutionalization of Corruption within Multinationals

