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Bribery and corruption – Challenges and potential solutions in multinational corporations[1]

Abstract

Eastern European countries have been trying for decades to eliminate corruption. Potential solutions have included the self-regulation of markets; political reforms; legal requirements; and approaches based in ethics and in organisational theory. However, corruption continues to dominate the business sphere, and particularly in multinationals. This article takes an innovative approach, arguing that it is employees' willingness to act in compliance that needs to be fostered. First, however, it highlights the recognition of the importance of the fight against corruption, and strategies to tackle this; and also introduces the OECD framework for combating bribery and the problems in practice which the implementation of this framework has frequently encountered. The OECD framework has led companies to argue that they want employees to act in compliance with the anti-bribery framework, but their bonus systems often incentivise employees towards bribery. This article argues that bonus systems should instead reward both compliance and productivity; and that such an innovative approach could help to eliminate bribery.

Keywords: *bribery, corruption, incentives, whistle-blowing*

Introduction

Corruption is commonly considered a major obstacle to sound policy-making and economic growth in eastern Europe (Gupta *et al*. 2000: 3).

Partly thanks to non-governmental organisations such as Transparency International, bribery has been widely investigated in both the media and by researchers in recent decades (Tanzi, 1998: 560). Yet, until the end of the 1990s, paying a bribe to a public official of another country was still considered normal and acceptable behaviour in many parts of the world (D'Souza, 2012: 74). Some facilitation payments were even tax deductible in western countries such as Germany and Switzerland (Moran, 2006: 2). Even though facilitation payments have now been outlawed, it remains the case that bribes are expected in certain countries (Tanzi and Davoodi, 1998b: 3).

Historically, bribing foreign public officials has proved particularly prevalent among multinational corporations; public investments tend to be large and difficult to monitor, which offers the cover necessary for corrupt projects and allows foreign

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public officials to maximise their utility (Tanzi and Davoodi, 1998a: 42ff; Mauro, 1998: 264; Cadot, 1987: 224). Multinational corporations have often accepted these conditions and adapted to them by paying bribes. This seemed to have been particularly true where the receiving party had discretionary power: both parties expected economic rents and the transaction took place in an environment featuring weak institutions (Aidt, 2003: 633).

Today, corruption remains a global problem affecting both developed and developing countries, and western and eastern European countries. It can be observed in a wide variety of nations at different stages of economic development and under various economic and political systems (Misangyi *et al*. 2008: 767; Ehrlich and Lui, 1999: 270). Yet, it is very difficult to determine what actually causes it in practice (Treisman, 2000: 400). The phenomenon seems to be most common in environments that are characterised by institutional inefficiency and weak private property rights (Mo, 2001: 76; Rothstein and Uslaner, 2005: 71; Acemoglu and Verdier, 1998: 1382). In addition, capital-intensive natural resources, centralisation, reputation, history and levels of political competition all seem to be determining factors (Leite and Weidmann, 1999: 30; Fisman and Gatti, 2002: 339; Tirole, 1996: 18; Gupta, 1995: 393; Montinola and Jackman, 2002: 167). Furthermore, 'soft' factors, such as ethical failures or a lack of women in leadership roles, have also been associated with higher levels of corruption (Kaufmann, 1997: 115; Swamy *et al*. 2001: 49ff).

Multiple strategies have been considered to eliminate bribery, including increasing political debate, audit intensity and the number of women in power, while others believe that paying commission or higher wages in public service, and fostering freedom of the press and transparency within the legal, administrative and electoral aspects of society, may also be part of the solution (Kubiciel, 2013: 215; Di Tella and Schargrodsky, 2003: 286; Dollar *et al*. 2001: 427; Hindriks *et al*. 1999: 422; Polinsky and Shavell, 2001: 23; Lambsdorff, 1999: 12ff; Gerring and Thacker, 2004: 316). Many past propositions, such as the idea that simply prosecuting money laundering would make it impossible to use the proceeds of corruption and could, hence, help to eliminate bribery, have been proven to be ineffective since they can easily be circumvented (Teichmann, 2016: 207). Indeed, it might be concluded from a review of the existing literature that, while numerous approaches toward the elimination of bribery have been investigated, it still seems to be a predominant form of occupational fraud. Evidently, then, many of these proposed solutions have failed.

It might also be inferred from the prior literature that eliminating corruption requires an interdisciplinary and transnational course of action, in particular one that takes account of ethnic and linguistic characteristics (Ashforth *et al*. 2008; Van Aaken, 2014: 620; Alesina *et al*. 2003: 193). However, while it has been posited that society could experience some form of renewal through the removal of corruption, and many people agree that bribery should be prohibited, the phenomenon still seems somewhat entrenched in a large number of countries (Aidt, 2009: 271; Mauro, 2004: 2). Hence, it would be expedient to analyse which solutions have not led to these desired results, before moving on to advance alternative means of preventing bribery in multinational corporations, which have been selected (for the reasons expressed above) as the standpoint of this article.

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In order to determine which manifestation of this obstacle should be analysed within the context of this article, a definition of corruption needs to be chosen. Moreover, as the characterisations of corruption vary significantly, it is not enough simply to proceed to an analysis of potential bribery prevention mechanisms. Therefore, several leading definitions, such as those used by the OECD and Transparency International, are compared and evaluated. Subsequently, additional elements from the literature are considered before we go on to derive a final definition of corruption for our purposes here.

The anti-bribery compliance framework

Given that the causes of corruption appear almost impossible to determine, the implementation of anti-bribery compliance is likely also to be a difficult undertaking. It has been suggested, for example, that multinational corporations play an important role in the global fight against corruption. That is, they are often the party who is paying the bribe; if they no longer did so, bribery would eventually disappear. Or, at least that is the underlying argument underpinning multiple legislative actions. It could most certainly be reasoned that, on the other hand, simply forcing multinational corporations to be compliant is not sufficient to eliminate corruption. Nevertheless, a brief overview of the current legal situation is a necessary part of the overarching theoretical framework, as it needs to be established why it could make sense for multinational corporations to reward employees monetarily for being compliant – and why they would not benefit from simply continuing to pay bribes.

OECD framework

Western countries agreed – or were pushed into agreeing – to outlaw facilitation payments by the intergovernmental Council of the Organisation for Economic Co-operation and Development's (OECD) *Convention on Combating Bribery of Foreign Public Officials in International Business Transactions* (Kim, 1999: 259; Tanzi, 1998: 561; Armstrong, 2005: 4). This Convention (referred to subsequently as the OECD Anti-Bribery Convention) entered into force on 15 February 1999 and was later supplemented with *Principles for Managing Ethics in Public Service* (OECD, 2000) and *Guidelines for Managing Conflicts of Interest in the Public Sector* (OECD, 2003).

Suddenly, unequivocal anti-bribery laws were in effect. Multinational companies were required to implement adequate organisational measures to combat corporate bribery, in part because of the assessment and monitoring process to which signatories of the Anti-Bribery Convention are subject. The two-phase peer review process which is a part of this measure takes public awareness and international co-operation into account (D'Souza, 2012: 79; Moran, 2006: 3; Carr and Outhwaite, 2008: 7ff.). This is commonly considered a challenge for small and medium-sized enterprises in particular, but it also poses significant obstacles for multinational corporations (Teichmann, 2014b: 1ff.).

The effectiveness of the OECD Anti-Bribery Convention and its peer review process can be questioned, but it did lead to the implementation of multiple new national (criminal) laws. Furthermore, it also set a foundation for the confiscation of illegal

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bribery proceeds and for sanctions against both legal and natural persons ranging from small fines to several years of incarceration (Wilder and Ahrens, 2001: 3ff; Martin, 1999: 96ff; Ehlermann-Cache, 2010: 2ff; D'Souza, 2012: 80). Hence, bribery became associated with multiple significant risks for multinational corporations: it became clear that, if they broke the laws, they would face threats to their continued existence. Moreover, while anti-bribery compliance is undoubtedly important with respect to all corporations, multinational firms are particularly affected by it as they are more likely to be tempted to bribe foreign public officials than are companies that operate only in a single country. Furthermore, they are more often subject to bribery investigations than small- and medium-sized firms operating locally.

The OECD Anti-Bribery Convention states that it shall be considered a criminal offence for anyone to:

> intentionally … offer, promise, or give any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official act or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business. (OECD, 1998: 7)

Note that this definition is limited to acts of corruption carried out in a host country (Sung, 2005: 112), which is a suitable approach for the OECD as an organisation focusing on transnational issues. However, from the perspective of a multinational corporation, limiting the definition of bribery to cross-border offences is not sufficient: all incidences of the bribing of public officials need to be prevented.

It is also important to recognise that the OECD Anti-Bribery Convention does not refer to corruption between private parties and concerns only cross-border bribery. Although the legal consequences of corruption involving one private party and another are less severe, excluding such conduct from our definition of bribery would not be practical for the purposes of our research. This is due to several factors including, first, that private-private corruption is, nonetheless, illegal in many countries and can attract significant sanctions or other penalties; and, second, giving employees the idea that private-private corruption is going to be tolerated is likely to foster a pro-bribery culture in multinational corporations.

Furthermore, it should be acknowledged that the OECD definition of bribery also includes the use of intermediaries and covers the offer of advantage both to officials and to third parties. A sufficiently broad definition such as this is important as some officials will not only try to gain advantages for themselves but also for (affiliated) third parties (Treisman, 2000: 399). Hence, most national definitions of bribery have been extended to incorporate references to intermediaries and third parties. However, the definition used in this article will not be developed along these lines in view of the concentration we seek to develop on intra-organisational incentive systems.

Transparency International

In comparison, Transparency International defines bribery as:

> The abuse of entrusted power for private gain

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and attempts to differentiate between 'grand,' 'petty' and 'political' corruption (Transparency International, 2015: 1). Identifying distinctions between various levels of corruption in this way is essential but is not always implemented in the literature (Mauro, 1997a: 84). 'Grand corruption' is usually directed toward the political elite, with the bribe giver seeking to influence policies by promising or giving benefits to the receiving party. 'Petty' corruption is commonly directed toward appointed bureaucrats whose actions it aims to influence as regards either their superiors or the public. Finally, legislative corruption aims at influencing particular legislators' voting behaviour (Jain, 2001: 74ff.).

Of these, the distinction between grand and petty corruption is particularly relevant for our purposes here. While it would certainly be desirable for multinational corporations to eliminate all forms of corruption from their organisations, grand corruption is particularly dangerous and, hence, deserves special attention. Petty corruption is only likely to put the entire corporation at risk if it is systemic: a $20 bribe at a local traffic checkpoint is not ethically or even legally appropriate, but its potential impact on a multinational corporation is rather limited. In contrast, a $200 000 bribe for a member of a government could lead to a major bribery investigation and scandal. Hence, when considering anti-bribery instruments such as whistle-blowing, the focus should pragmatically be on major violations of anti-bribery policy and, therefore, on grand corruption.

Assessment and implications

There are several similarities between the definitions of corruption used in the OECD Anti-Bribery Convention and by Transparency International. Both refer to the giving (active) and the receiving (passive) parties (Rochow, 2006: 10). Also, both definitions acknowledge that bribery can be initiated by, and tends to involve, one or more individuals (James, 2002: 208; Pinto *et al*. 2008: 686). This article focuses primarily on the party giving the bribe, chiefly because preventing public officials from accepting bribes cannot be considered a multinational corporation's duty but rather one which belongs to the appropriate government.

In contrast to the OECD, however, Transparency International seems not to limit itself to international business and takes other forms of corruption into account. These forms include, but are not limited to, corruption in the private sector, which can be as harmful as in the public sector; and political corruption, such as buying votes (Bardhan, 1997: 1321; Acemoglu & Verdier, 2000: 209; Wei, 2000: 3). Furthermore, Transparency International's definition also covers domestic public officials, whereas the definition featured in the OECD Anti-Bribery Convention seems to limit itself to foreign public officials (Van Aaken, 2014: 635). The OECD's approach is too narrow for our purposes but Transparency International's definition is too wide. That is, political corruption does not play a significant role in multinational corporations and so will not be the subject of our analysis.

In defining bribery, it is also important to distinguish sufficiently between corruption and taxes and legitimate lobbying in that the latter two occur within the boundaries of the law (Svensson, 2005: 20ff.). In contrast to taxes, for instance, bribes are commonly seen as an extra price charged by public officials at the expense of com-

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mon goods that allows the bribe giver to gain influence over bureaucratic actions (Del Monte and Papagni, 2001: 3; Jain, 2001: 73; Leff, 1964: 8). Additionally, political lobbying typically refers to the development of personal networks that allow multinational corporations to influence political processes in their favour. One can certainly argue about the ethical limits of both taxes and lobbying, but both are legal instruments and will not be part of this article's discussion.

In addition, it needs to be acknowledged that the boundary between legitimate actions and the creation of unfair competitive advantage through the exchange of favours that do not involve monetary transactions can be hard to determine (Sarkar and Hasan, 2001: 111; Pacini *et al*. 2002: 389). Hence, a definition of corruption should be extended to money and other things of value (James, 2002: 208). This is very much in line with the overwhelming majority of national legal definitions of bribery and hence will also be taken into account in this article.

Finally yet importantly, due to cultural differences, corruption may be defined differently in various parts of the world. Hence, cultural aspects such as Chinese *guanxi* should also be taken into account (Räber and Vogt, 2013: 9; Steidlmeier, 1999: 121; Lui, 1996: 28). This point might be extended to recommend that social norms and values be considered when drafting a definition of corruption (Hauk and Sáez Martí, 2002: 313ff.). Contrary to common misconceptions, corruption is not limited to evolving markets or developing countries and so a useable definition needs to be applicable in a wide range of economic and social settings (Gläser and Saks, 2006: 1053). However, multinational corporations often limit themselves to implementing a standard definition, globally applied, since adapting their definition to local practices would make it almost impossible to implement standardised anti-bribery instruments and could expose companies to massive legal risks. On the face of it, the prospect of introducing non-standardised anti-bribery solutions may be appealing, but it would be likely to cross legal boundaries in many countries of the world. Hence, most multinational corporations interpret corruption as it is understood in their headquarters country and adjust definitions, if necessary, to the standards used in countries where they have a stock market listing. To ensure that this article's practical applicability is not undermined, standardised solutions will also be chosen herein.

Accordingly, an amalgamated version of the definitions offered by the OECD Anti-Bribery Convention and Transparency International will be used that defines corruption as an act in which a party:

> intentionally abuses entrusted power for private gain by offering, promising, or giving any undue pecuniary or other advantage, whether directly or through intermediaries, to a foreign public official, for that official or for a third party, in order that the official acts or refrain from acting in relation to the performance of official duties, in order to obtain or retain business or other improper advantage in the conduct of international business. (Transparency International, 2015: 1; OECD, 1998: 7)

This definition is subject to the limitations mentioned previously but is nonetheless in line with legislators' approach to eliminating bribery and is hence of utmost relevance to multinational corporations. From an academic perspective, it might be

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desirable to widen the definition of corruption still further, but its practical relevance would be likely to be decreased were we to make any adjustments to this definition. In actual fact, most legislators have based their national regulations regarding bribery on the definition contained in the OECD Anti-Bribery Convention.

The negative consequences of corruption

The negative consequences of corruption can be analysed on three levels: first, it can have a deleterious impact on entire countries and cause devastating effects to their public sector; second, it can inflict risks on private businesses; and, third, it can harm private citizens.

Corruption concerns international policy-makers chiefly due to the large number of negative effects on a country's development (Li *et al*. 2000: 156; Kaufmann *et al*. 1999: 3). It is known to have a negative impact on a country's efficiency and justice, as well as on the legitimation of state activities, and to benefit a select few at the expense of entire communities (Rose-Ackerman, 1997: 32; Uslaner, 2004: 26). Furthermore, corruption distracts resources from public funds and may foster the inefficient use of resources, the unfair redistribution of income and secessionist responses (Levin and Satarov, 2000: 114ff; Argandoña, 2007: 482; Collier, 2002: 6). High levels of corruption also tend to discourage legitimate private business investments and inward foreign direct investment by advancing arbitrariness and a lack of transparency (Mauro, 1995: 683; Rose-Ackerman, 1999: 3; Wei and Shleifer, 2000: 306; Wei, 2000: 8; Wei, 1997: 1).

From the perspective of the multinational corporation, the attendant exorbitant risks and uncertainty are partly related to corruption requiring secrecy, in order to avoid detection, which implies that agreements cannot be properly enforced (Mauro, 1997b: 6; Bardhan, 1997: 1320; Mauro, 1996: 86; Bray, 2005: 120). For instance, multinational corporations could pay bribes but then not receive anything in exchange. Or, they might not have paid a bribe but still encounter difficulties when trying to enforce legitimate contracts due to a corrupt judicial system. At the level of the firm, corruption tends to lead to a company's involvement with organised crime (Doh *et al*. 2003: 116), partly because it can be very difficult to distinguish corruption from business and politics in certain countries (Heywood, 1997: 420ff.). Hence, tolerating corruption in multinational corporations can lead to a corporate culture that embraces criminal behaviour.

These negative consequences of corruption can cause frustration, unstable sociopolitical situations, and a lack of satisfaction among private citizens (Anderson and Tverdova, 2003: 104; Mo, 2001: 67; Kim, 1999: 249). Corruption tends negatively to affect people's trust in government or management, and can even lead to the collapse of political regimes or to a loss of trust in democracy itself in less stable countries (Rose-Ackerman, 2001: 554; Tanzi and Davoodi, 2000b: 3; Sandholtz and Taagepera, 2005: 109). There is no question that corruption has overwhelmingly negative consequences, which is why various approaches have been undertaken in a bid to eliminate bribery.

Corruption may also appear to have a few relatively positive consequences, such as a (temporary) increase in efficiency for under-paid public servants, a greater will-

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ingness for compromise among politicians in difficult situations and accelerated policy-making in certain situations, and its negative relationship with growth might not hold true in a firm-level analysis, but its effects have, nonetheless, found to be fundamentally negative (Bayley, 1966: 729; Scott, 1969: 1142; Ades and Di Tella, 1997: 500; Mo, 2001: 66ff; Fisman and Svensson, 2007: 64ff.). It could be ventured that, on the one hand, bribery might help to have a positive impact on the quantity of projects undertaken in a country and enable those without access to a strong network to make use of certain resources; but, on the other, it can also distort the prioritisation of projects and sacrifice the greater good for low-level benefit (Tanzi and Davoodi, 1998a: 43; Mo, 2001: 66ff; Wilder and Ahrens, 2001: 3). This seems to be particularly true in less-developed countries (Nye, 1967: 427). Hence, the elimination of bribery is desirable not only from a legal but also from an ethical perspective.

(Failed) Solutions

There are five perspectives from which we might examine potential approaches to eliminating corruption in multinational corporations. One might place trust in the market, which could develop self-regulating mechanisms. Alternatively, one might assume that political reforms would play a role; and/or that the existence of legal consequences, which often comprise criminal sanctions, could be sufficient to combat corruption. Ethical schemes and awareness campaigns have also previously been attempted. Finally, yet importantly, and not least for our theme here, there are organisational approaches toward ensuring the elimination of corruption. While there are many ways of approaching the issue, these five perspectives help to highlight that the elimination of corruption needs to be considered from various angles.

Trust in the market

One could simply presume that the market will regulate itself with the result that corruption would eventually disappear. Bribery tends to be profitable in the short-term, but its negative long-term consequences could prevent companies from engaging in it. For example, multinational corporations' reputations can suffer in that the wider public might assume that a company is offering products of inferior quality if it is forced to pay a bribe in order to sell them.

Political reforms

However, were the market able to regulate itself sufficiently, corruption ought presumably to have disappeared by now, on top of which there seems to be broad agreement that, in some countries, it is very difficult to sell anything to certain entities without paying a bribe. In this case, the public might not, after all, assume that a company that pays bribes is offering inferior quality products, and might instead conceive that paying bribes is a necessary evil in many countries. Thus, the self-regulating market approach outlined above is not very promising.

Hence, it has been further suggested that certain political reforms would put the market in a position to regulate itself. Certainly, without political reforms and increased competition, the market will not be able to combat corruption (Ting, 1997:

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288; Ades and Di Tella, 1999: 991). However, suggesting that corruption could be eliminated simply by creating the conditions for perfect competition through political reform may also represent too great a simplification (Bliss and Tella, 1997: 1001f.).

An alternative approach for political reform could be to allow public officials to sell services directly on an individualised basis (Hellman *et al*. 2000: 35). This step appears promising but has proven to be difficult in its implementation. For instance, public officials could then start to regulate the supply and demand of public services and overcharge citizens.

Overall, then, political reform has proven insufficient in eradicating bribery.

The introduction of legal consequences and sanctions

Another potential solution which is frequently advocated would be to take legal steps toward reducing corruption. Multiple international organisations and many nation states have attempted to outlaw bribery either by developing new laws or changing existing ones (Kubiciel, 2008: 429). Such initiatives have been based mainly on the expectation that local legal and regulatory environments could have a direct impact on the world's economic and financial development (Levine, 1999: 32). The ensuing push towards the OECD legislation was largely inspired by the earlier United States Foreign Corrupt Practices Act of 1977 – one of whose provisions made it unlawful to make payments to foreign officials with the aim of influencing, obtaining or retaining business – and were meant to impose certain standards for companies all over the world (Salimbene, 1999: 91).

In fact, the vast majority of the world's major economies, such as the USA, Russia, China and Germany, have now implemented legislation against corruption (Erbstoesser *et al*. 2007: 396). Taking such legal steps might help to regain the trust of the wider population (Van Aaken, 2005: 408), but it remains questionable whether it will ultimately defeat corruption. Bribery remains a common phenomenon in many countries and multinational firms are frequently tasked with adapting to local cultural and social practices (Rodriguez *et al*. 2005: 383). In some countries, it is considered almost impossible to win government contracts without engaging in bribery (Tanzi and Davoodi, 1998b: 3). Hence, simply inventing new rules and regulations would not seem to be sufficient to eliminate bribery.

Ethical schemes and awareness campaigns

A fourth concept is that ethical steps could be taken to counteract corruption. For instance, it has been argued that reforming society and eradicating particularism could eventually reduce its occurrence (Mungiu, 2006: 87), and there have also been attempts to increase people's awareness of bribery and its negative consequences. The underlying logic here is that, if people become aware of the harm caused by corruption, they are less likely to pay bribes in the future.

There are many possible reasons for the failure of past attempts to eliminate corruption though the promotion of high ethical standards. The most obvious is that reforming the ethical standards of the entire population across the globe is a rather utopian ambition. There are always going to be people with higher or lower ethical

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standards. For corruption to take root does not require an entire society to be corrupt: it is usually sufficient if a few corrupt individuals are in positions with significant discretionary power. Also, given that multinational corporations often have thousands of employees, it is questionable whether it is practicable to raise every single employee's ethical standard to a level at which he or she is predisposed to reject corruption.

In fact, each of these approaches has evidently failed since corruption is still common in many countries. Transparency International's Corruption Perceptions Index provides a concrete overview of the failures of past approaches. For instance, Russia is still ranked 119th despite instituting significant legal and political reforms. Thus, it is clear that further steps are needed (Transparency International, 2016: 1).

Organisational approaches and initiatives

The fifth and final approach to be reviewed in this article – and the one which is central to our theme of how best to refresh the struggle against corruption – encompasses organisational initiatives. In recent years, companies and managers that have not taken all the necessary steps both to assess and to manage corruption risks have incurred substantial sanctions (PriceWaterhouseCoopers, 2008: 5). There has been a growing number of investigations that have led to large fines and extensive management changes (Pieth and Ivory, 2011: 3ff.). Furthermore, entire leadership teams have been replaced after the discovery of corrupt acts in multinational enterprises (Gilroy and Kruse, 2011: 8). Nonetheless, the consequences of these actions have been less than satisfactory and corruption still seems to be a predominant form of occupational fraud in multinational corporations.

When the OECD's legislative framework was first introduced, most companies responded to them through the establishment of organisational measures, or formal rules. Corporations told their employees that they were expected to comply with all applicable legal standards and explicitly stated that no facilitation payments were expected or tolerated. Thus, such firms often believed that they had met their legal obligations simply by having taken such steps. However, these instructions may have been met with concerns among employees. On the one hand, their companies had been making facilitation payments for years while their own counterparts expected to receive such payments and wanted firms to adapt to local practices which were often innately corrupt (Rodriguez *et al*. 2005: 383). Yet, companies had told their employees that facilitation payments were no longer legal and that they should abstain from paying any bribes.

Many employees therefore faced a situation of great ambiguity: being told to avoid bribery in order to prevent their company from having to face legal sanctions even though this did not seem in the company's best interests since it was commonly associated with a subsequent loss of business. Business partners were still expecting to receive the bribes to which they had become accustomed and competitors from countries with less strict anti-bribery rules often took on the business these employees wanted to protect. Furthermore, many of them were paid commission-based salaries under which, if they lost business, they lost part of their income. Consequently, it can be seen that many employees might have reached the conclusion that

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continuing to pay bribes was in their own best interests, as well as in those of their company, regardless of the legislation. In addition, many companies seem to have tolerated such conclusions by their employees given that boards of directors frequently had apparently similar thoughts. The situation appeared increasingly unclear: on the one hand, employees had been told not pay bribes while, on the other, facilitation payments continued to be tolerated.

In this context, the Siemens bribery scandal is commonly considered to be a major turning point (for a discussion of corruption and the Siemens case, see Gilroy and Kruse, 2011). Suddenly, companies started to realise that continuing to pay bribes in violation of anti-bribery laws could threaten their existence as well as influence their employees' choices. In the face of such external and internal pressures, corporations began definitively to tell employees that bribery was no longer on the agenda.

Even so, there remained the potential for such renewed, and strict, statements against bribery to be misunderstood or, at least, misinterpreted. Companies had contended previously that they did not want their employees to pay bribes and yet they had continued to tolerate or, in some cases, even foster bribery. Hence, it was still not clear that a zero tolerance approach toward bribery would follow these reiterated edicts.

On top of the establishment of formal rules, it has therefore also been suggested that firms can help eradicate corruption through the use of effective compliance mechanisms such as external ombudsmen, unambiguous guidelines, extensive training programmes and internal controls (Teichmann, 2014a: 66; Brunetti and Weder, 2003: 1803). The result has been that companies have established sizable compliance departments in order to try to ensure that employees are trained according to the corporation's standards and that adequate control mechanisms are established.

Accordingly, re-dedicated anti-bribery statements have often been supplemented by a variety of specific actions and measures to fight corporate corruption: anti-bribery policies were no longer sets of formal rules and statements but were actually enforced. Employees were required increasingly to engage in associated training programmes and the tone from the top also changed. Externally, third parties had to prove their anti-bribery efforts to multinational corporations if they wanted to engage in business relationships (Schindler, 2014: 1).

From a legal perspective, such control mechanisms as have been implemented by the overwhelming majority of multinational corporations across the globe have been necessary. That is, if a company failed to establish organisational (control) mechanisms to prevent employees from engaging in bribery, it was liable to incur major sanctions during any related criminal proceedings whereas, if employees paid bribes irrespective of a company's established, adequate and appropriate control mechanisms, the firm would have a solid defence during any such criminal proceedings.

After almost a decade of such concentrated and serious anti-bribery efforts, it is now hard to believe that there might still be employees of multinational corporations who have never heard of steps towards the strategic elimination of bribery. It is surely no longer credible for them to argue that they believed that they were acting in their company's best interests when paying bribes. Most organisations have conspicuously, and at length, warned employees that, as individual acts of bribery could fea-

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sibly bring a company as a whole to its knees, facilitation payments were no longer anticipated or tolerated.

At this point, it may reasonably be concluded that multinational corporations do not want their employees to pay bribes which, while they might lead to increased profits in the short-term, might also lead to significant sanctions in the long-term and which implicitly contain risks that threaten the very existence of multinational corporations.

Evidently, however, the compliance mechanisms which have been established in multinational corporations do not seem to have been sufficient to eliminate bribery: multiple cases of bribery occur every year; and corruption is still a very common phenomenon and regarded as one of the most prevalent categories of occupational fraud (Pedneault *et al*. 2012: 12; Transparency International, 2016: 1). Therefore, one has to ask whether all reasonable organisational measures have been implemented by the creation of these sorts of control mechanisms, or whether other measures could usefully also be introduced.

One problem might be that multinational corporations offer their employees the wrong incentives. Consider, for example, circumstances in which sales agents are offered large bonuses if they reach high sales goals in a very corrupt environment. In spite of all control mechanisms, these agents simply have an incentive to pay bribes and to try to avoid getting caught. At the same time, they do not have any incentive to be compliant. In fact, compliance is often not rewarded in such settings. We move on in the next section to look at the potential role which might be played by employee incentive systems.

The role of internal employee incentive systems

Unfortunately, despite the recent intensification of compliance efforts and the communication of a zero tolerance approach towards bribery over several years, some employees do still occasionally pay bribes. This might be explained by the idea that agents (employees, in this case) do not always act on the behalf of their principal (i.e. the corporation): for example, they might pursue their own short-term interests such as high sales commissions or promotions.

Assuming that multinational corporations do not want their employees to engage in bribery, it is somehow surprising that sales agents are often provided with incentives that potentially foster bribes instead of deterring them. This represents a misalignment between the presumed interests and the behaviour of multinational corporations, which may be due to one of two standpoints: either multinational corporations do not want to prevent their employees from paying bribes and are hence, in fact, providing them with the right incentives; or companies do not want their employees to engage in bribery and so are providing them with the wrong incentives.

This theory does seem to be particularly applicable in relation to anti-bribery policies as agents may well have divergent interests from their principal in some circumstances and it is often difficult in these situations for the latter to control agents' behaviour.

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Evidently, as current anti-bribery measures have not led to the desired result of eliminating bribery from multinational corporations, they require further improvement. However, this is not an easy task as compliance measures and their enforcement are often very expensive and the primary goal of multinational corporations across the globe is to make profit, not to combat bribery. Such compliance measures are necessary and need to be continued. However, complementary measures could beneficially be introduced in order to increase the effectiveness of anti-bribery compliance programmes.

The argument that posits that sales are more important than compliance is not an especially valid one. It is true that, without sales, a company is eventually going to go bankrupt but it also needs to be considered that non-compliant sales will, most probably, lead to bankruptcy in the long-run as well. A lack of compliance can bring about sanctions and so its relevance should not be under-estimated. Employees need to be made aware that compliance is as important as sales.

One potentially practicable improvement concerns incentive systems the use of which in combating bribery is rather intuitive. Currently, employees who are rewarded on the basis of sales commission are, in effect, being provided with an incentive to pay a bribe – their salary does not depend on compliance but on sales. The company, however, needs sales that comply with legislative requirements, including anti-bribery regulations. Correspondingly, with employees often being rewarded for increasing their productivity but rarely for compliance, companies' compensation policies should be reviewed and adjusted in line with their strategic goals – one of which, given its aforementioned relationship with corporate survival, is likely to concern compliance.

The idea of using incentives in order to prevent corruption in multinational corporations represents a reaction to the perverse paradox present in many organisations stemming from how incentive policies are currently operated. Accordingly, it seems reasonable to adjust monetary incentive systems in a way that compensates for this apparent conflict of interest and takes into account the view that the principle ought to be that a no sale is better for a company than an illegal one.

Hence, adjusting sales bonuses so that they are awarded only for compliant sales prudently aligns agents' interests with those of their principal whereas, under the present system, employees are more likely to circumvent their company's compliance measures in order to boost sales and their own corresponding commissions. It might appear counter-intuitive to pay employees for what should already be accepted as appropriate behaviour, but such an arrangement may be necessary in order to achieve full compliance.

Making adjustments to incentive systems would therefore help to support corporate interests as well as those of their employees. In addressing the misalignment of interests that we have seen between principal and agent, a company could, for example, either reduce sales bonus or introduce a bonus for compliance along with a malus (a negation of bonus) for non-compliance with the company's anti-bribery rules. A combination of these could lead to enhanced results.

Thus, it is important to investigate whether it is possible to design incentive systems with a view to their strategic use in preventing corruption in multinational cor-

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porations. The idea behind such adjustments to corporate compensation systems is that the interests of employees should be aligned with those of their company's top management team or shareholders. Hence, if principals want their employees to be compliant, and to foster compliance in others as well, then they need actively to reward such behaviour.

However, not all cases of bribery can be prevented simply by paying employees for being compliant. Internal whistle-blowing is another important tool when it comes to protecting companies from sanctions by the authorities. Companies have the chance to self-report incidences of bribery to the authorities if they learn about them through an internal whistle-blowing channel. Commonly, such self-reporting results in milder penalties. Furthermore, whistle-blowing mechanisms may have a preventive effect with respect to employees. Accordingly, there are several reasons for multinational corporations to incentivise their employees to blow the whistle whenever a serious violation of the company's anti-bribery policy occurs.

Unfortunately, however, many employees are reluctant to blow the whistle. They may fear negative consequences such as harassment, the termination of employment or a lack of access to future promotion opportunities (Rennie and Crosby, 2002: 176; Perrucci *et al*. 1980: 162). Such concerns seem to be founded at least partly on an expected lack of confidentiality. That is, if reports have to be investigated, it is, in many cases, easy to work out why an investigation has been launched and, especially in smaller departments, anonymity thus seems almost impossible. It should also be noted that laws for the protection of whistle-blowers have only had a very limited impact in the past (Miceli and Near, 1989: 101). Hence, unless employees have a strong intrinsic motivation either to make the world a better place or to cause serious damage to their co-workers or superiors, it will often seem more prudent for them to abstain from blowing the whistle.

The practice of whistle-blowing has increased over the past two decades but it largely remains a recourse whose promise is latent. In the United States, the government has endeavoured to increase its prevalence by offering incentive payments to whistle-blowers, perhaps most notably through the Dodd–Frank Wall Street Reform and Consumer Protection Act of 2010, under which were introduced significant new incentives, protections and procedures as regards whistle-blowers.

Companies could, however, adopt a very similar approach. Namely, they pay for performance: if employees sell well, they receive a bonus. Congruently, as compliance is arguably as important as sales, it should be equally rewarded. Thus, providing a bonus for whistle-blowing becomes a justifiable proposition.

Prior research on the interplay of incentives and corruption in multinational corporations is, unfortunately, somewhat scarce. The role of incentives in the fight against bribery has been briefly investigated in the public sector but not in the private sector, which represents a significant research gap. In particular, how incentives and incentive systems could help to prevent corruption in multinational corporations has not been significantly covered in the literature.

Undoubtedly, it would be beneficial to discover whether incentive systems could be designed so as to support the prevention of corruption in multinational corporations. Moreover, it could be argued that providing the wrong incentives is equally

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troubling. Nevertheless, it is reasonable to assume that incentive systems are likely to play a role in employees' decision-making processes when it comes to corruption and thus that it would be advantageous to find out from a hard-edged research perspective which adjustments might legitimately be made in order to develop incentive schemes into an effective anti-bribery compliance tool.

Conclusion

Considering the potential sanctions for multinational corporations and their senior management, it can hardly be assumed that they would want their employees to pay bribes. Therefore, it must be concluded that many multinational corporations in fact provide their employees with incentives that potentially foster bribery. In addition, they fail to stimulate compliance.

There is widespread agreement that multinational corporations should contribute equitably to the elimination of corruption and, correspondingly, it also makes sense that an organisational-level approach might play a role in this. However, as our review has shown, the organisational measures that have been undertaken in the past, such as the implementation of formal rules and the establishment of compliance departments, have failed. We have argued here that this could be because most organisational approaches have seemed to focus predominantly on control mechanisms and not on creating the right incentives or on aligning the interests of principals and agents.

The typical approach adopted by multinationals, in turn, is often associated with agency theory, in which it is suggested that the principal needs to monitor the agent, but it is a methodology that is very much in line with the potential solutions presented here. It should be acknowledged that the major benefit of agency theory is that it takes both control and incentives into account. In fact, incentives can be used when control mechanisms are not sufficient which, as we have discussed, seems definitively to be the case when it comes to improving the level and the practice of anti-bribery compliance among multinationals (Teichmann, 2017: 1ff.).

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