

Organization, Management and Crime –  
Organisation, Management und Kriminalität

RESEARCH

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# Organizational Crime

Causes, Explanations and Prevention  
in a Comparative Perspective



Springer VS

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# **Organization, Management and Crime - Organisation, Management und Kriminalität**

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ISSN 2945-9842

ISSN 2945-9850 (electronic)

Organization, Management and Crime - Organisation, Management und Kriminalität

ISBN 978-3-658-38959-8

ISBN 978-3-658-38960-4 (eBook)

<https://doi.org/10.1007/978-3-658-38960-4>

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Responsible Editor: Stefanie Eggert

This Springer VS imprint is published by the registered company Springer Fachmedien Wiesbaden GmbH, part of Springer Nature.

The registered company address is: Abraham-Lincoln-Str. 46, 65189 Wiesbaden, Germany

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## Preface

The present anthology grew out of a long-standing interdisciplinary cooperation of Heidelberg lawyers, criminologists, and sociologists who initially joined forces to empirically test the perspective of “useful illegality” (Luhmann 1964) using uncovered corruption cases. The decisive factor was the group’s observation that only in a minority of cases did the judiciary succeed in tracing the managers’ illegal activities to personal enrichment, sanctioning them accordingly, on the basis of individual motives. Instead, the collective benefits, to increase company profitability, appeared to be the central rationale to justify the participation of many people with organizational membership in wrongdoing. If the costs of rule deviation following the detection of the scandals did not materialize, then the risks of engaging in misconduct would be worth it for company members and professional groups.

The research group set out to empirically explore this field in more detail. Thanks to start-up funding from Heidelberg University (Field of Focus 4, Main Research Area “Self-Regulation and Regulation: Individuals and Societies”), scholars falling under the umbrella of “Organizational Crime Studies” started to chart the territory to investigate the social causes, institutional constraints as well as the legal consequences of active corruption. As early as 2013, an interdisciplinary workshop with the aim of promoting exchange between experts and practitioners in this complex of topics was held. A closer look at the German transplantation scandal from 2012 quickly made it clear that such a phenomenon was not limited to the business sector, but was also prevalent in medicine. Follow-up funding from Heidelberg University’s Excellence Strategy (innovation fund “Frontier”) in 2013/2014 further contributed to the research program. Subsequently, a multi-year funding from the Volkswagen Foundation awarded to examine “The Fight against Corruption and Manipulation” (2014–2017) finally

enabled a systematic empirical comparison between (illegal) rule deviations in business and medicine.

While the sectoral comparison initially compared cases from Germany and the USA, the international perspective on the topic expanded more and more. Through a smaller, university-funded project (Frontier) titled: “When deviance becomes the norm ... – Studies on corruption in Chinese enterprises,” we got the first empirical insights into the terra incognita of corruption in China. In 2017, dedicated to the subject “Bribery, Fraud, Cheating: How to Explain and to Avoid Organizational Wrongdoing,” a Herrenhäuser Symposium took place in Hannover, showcasing further examples from Germany, the USA, Brazil, and China. In addition, the conference placed deviant behavior from other sectors of society, such as politics and sports, within the scope of our research agenda. Finally, a major project analyzing corruption cases in Brazil was approved by the DFG in 2019 (“Organizational Crime and Systemic Corruption in Brazil”). In the same year, an international conference on “Corporate Crime and Illegal Party Financing in a Comparative Perspective: The Role of Regulation and Self-Regulation” was held in Heidelberg by, among others, the editors of this book. All of these pieces of the puzzle contributed to the further development of our research focus and to the fact that we can now explicitly address issues related to the prevention of deviant behavior in the context of compliance research.

We are grateful to the Max Weber Institute for Sociology of Heidelberg University for the administrative infrastructure, and general institutional support. Our special thanks go to all the speakers at the workshops and conferences, the editors and authors of this anthology, as well as all other researchers in our projects. We are particularly grateful to Anne Streng-Baunemann, Christian Mayer, Lucia Schwaab, Christin Schultze, and Elena Zumbruch, who supported data collection and analysis in the early stages of the project.

We dedicate this anthology to the VolkswagenStiftung, for their funding and support through the research project on “The Fight against Corruption and Manipulation” (2014–2017) with our deep appreciation.

Markus Pohlmann & the editors

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# Introduction



# How to Explain and Fight Organizational Crime

Markus Pohlmann, Subrata K. Mitra, Gerhard Dannecker, Dieter Dölling, Dieter Hermann, Kristina Höly and Maria Eugenia Trombini

Wherever one looks in the contemporary world, the shadow of scandal appears to lurk just under the surface. From Siemens to Volkswagen (VW) and Petrobras in Brazil, from German Hospitals to the Chinese Anti-Corruption campaign, it is the legal organization, the large, renowned companies, clinics, associations, and parties that come into limelight because of their illegal activities, leading, sometimes, to drastic consequences. Diverse sectors, such as the economy, politics,

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M. Pohlmann et al. (eds.), *Organizational Crime*, Organization, Management and Crime - Organisation, Management und Kriminalität, [https://doi.org/10.1007/978-3-658-38960-4\\_1](https://doi.org/10.1007/978-3-658-38960-4_1)



and medicine, are affected. Remarkably, this also happens in countries that are generally considered to be less prone to corruption. In this context, two questions emerge as salient. Firstly, is there anything in common between these cases of wrongdoing despite differences in culture, geographic, historical, and political context, and the nature of regulatory regimes? Secondly, are there specific forms of collective crime that dominate the scene, and have these gained importance?

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## 1 The State of Play

As for the rampant existence of overt and covert non-compliance, one cannot really complain about there being too few regulations, laws, and compliance measures. On the contrary, in the last three decades, one has experienced a spectacular boom in regulatory measures as part of the fight against corruption and other forms of wrongdoing. The variety and density of such rules continue to increase. Both at the national and international levels, more rules, statutes, and laws are constantly being added, compared to those that are abolished or replaced. According to analyses by Katz et al. (2020), for example, the corpus of federal laws in Germany was 1.5 times larger in 2018 than it was in 1994 and has become considerably denser with more and more “cross-references”. The repeal of laws is rare. The bureaucratic and regulatory burden on businesses and administrations has roughly quadrupled since 2011. Moreover, the EU has enacted 5211 laws and regulations in the last 3 years alone but repealed or replaced only 2395 laws and regulations in the same period. A strong growth in tax and social legislation is responsible for this, as is the further legalization and regulation of fields that were previously less regulated, such as the fight against corruption, cyber-crime, and further regulation of environmental protection or policy financing (see Katz et al., 2020).

Although regulatory measures have brought a lot of misconduct and corruption to light, the preventive effect of all these written rules has been manifestly insufficient to avoid the bulk of it. Measured by the recurrent scandals (for example, Siemens, MAN, Strabag, and the “Organ Transplant Scandal”), however, it does not lead to preventive effects to the extent desired. How this can be explained and how conventional forms of compliance and prevention work is the main theme of our research. The research project behind this book addressed this discrepancy between formal and informal rules by asking why the increasing regulations do not lead to the anticipated preventive effects. We examine the cultural repertoires related to combating corruption as well as to the violation of

rules. For this purpose, the experiences of regulators, companies, and hospitals in Germany, the USA, China, and Brazil will be compared in order to identify the effects of different regulatory systems on organizational deviance and to generalize common inferences.

Collective deviance from rules, especially those that benefit collectives, is currently a much talked about but little researched phenomenon. This is all the more surprising because it is—as we show in this book—not an insignificant but a frequently occurring form of deviance, as well as of criminality, when otherwise legally operating organizations “go astray” and use illegal means (cf. on this Pohlmann et al., 2020). The rather low level of research interest in organizational rule-breaking by otherwise legally operating organizations is also surprising in light of the fact that organizations leave individual actors, and operators, far behind the scene of action in terms of their societal reach and clout—simply through the collective pooling of resources—for better or worse (cf. classically Coleman, 1986; Wiesenthal, 1987; Offe & Wiesenthal, 2014). At the center of most societal problems are organizations as well as networks and alliances of organizations (cf. also Pohlmann, 2016; Besio et al., 2020). This great social relevance contrasts with a research landscape that only sporadically focuses on empirical studies of the role and clout of organizations and their interaction in the case of serious violation of rules.

The concept of organization helps to understand established social structures such as hospitals, corporations, nonprofit groups, and public bureaucracies, which change again and again in similar ways (Bromley & Meyer, 2017), also from the perspective of rule-breaking. The existence of global standards for regulating and organizing social life does not ensure that these standards work (cf. Timmermans & Epstein, 2010), and externally set regulations—be they standards, guidelines, or norms—are confronted with unwritten rules and practices of an organization (cf. Besio, 2014; Sandholtz, 2012; Pohlmann, 2016).

The book thus focuses in many of its chapters on a very specific area, namely collective misconduct by, and in, legal organizations. As a rule, it does not refer to individual misconduct but to collective misconduct by organizations and individuals who do not necessarily act illegally in the organization for personal gain but who are bound by an unwritten collective order in an organization. The focus is thus always on rule-breaking that is suggested and accepted on the basis of shared social backgrounds, or even follows informal, unwritten rules that gain validity in a social space. Often, these rule infringements are not necessarily for individual gain but for the benefit of an organization and are therefore pro-organizational in their orientation. This does not make them any less dramatic in their effects.

## 2 Our Main Conjectures

The starting point of this book is the spread of the global regulatory models of “compliance” and “anti-corruption”. It is linked to the question of how organizations translate these regulatory models into internal rules in different organizational fields and stages. This point of reference in the new institutional theory of organization becomes concrete in two aspects: In what form and to what extent do global regulatory models spread in different countries, sectors, fields, and within organizations themselves? And do they change the actual structure of activities in different organizations? Two hypotheses are tested here which are derived from the new institutional theory:

1. the spread of global regulatory models leads to a global juridification by means of soft law and this is tantamount to a creeping “Americanization” with reference to the global pioneering role of the USA. The spread of global regulatory models, emerging mostly from the United States, leads to the creation of a global infrastructure of judicialization through their adoption into national laws, leading in the process to a general Americanization of compliance.
2. the spread of global models of regulation does not necessarily lead to a change in the actual structure of activities in the organization; as a rule, they only lead to “window dressing” of the organizations, i.e., an adaptation of the facades, up-front, as opposed to the backstage, as suggested by the new institutional theory. This would, in effect, mean that forms of criminogenic self-regulation of the organization are not reached. They are interrupted by external and formal regulations. However, this affects only the surface, the visible tip of the iceberg.

This leads to the critical significance of our research questions: how can we explain the divergence between the facade and actual activities, and, which preventive effects do the numerous laws, measures, statutes, etc., actually achieve? So far, we still know too little about the common pattern behind this divergence and the subsequent scandals. We know that there are always organizations behind the scandals, and, in many cases, high-level personnel who represent them. But, under what conditions do organizations deviate from legal paths and how do they act—behind the formal facades of compliance measures—when facing organizational wrongdoing? This is largely unexplored territory. While many authors deal with criminal organizations that systematically pursue illegal goals, working with organizations that try to achieve their legal goals with partially illegal means remains a major research gap.

It is only when one knows the conditions under which organizations tend to use illegal means that effective prevention can be pursued. While the media are very quick to target individuals as “bad apples”, the scientific contribution is meant to uncover the systematic behind these cases and to seek ways to effectively prevent it. Often there are, e.g., in the case of manipulations by VW, a history in the organization and a branch in which such cheating behavior is rather common. Thus, we have to take the organizational field and its traditions, the domain of an organization, into account. The hierarchies and incentive structures of organizations also play a role when organizations—not always on purpose—resort to illegal means. After all, these wrongdoings are often beneficial to the principals and the organizations, unless they are detected and generate harm. Thus, the collective background of the organization and its domain supports wrongdoings for the benefit of the organization, and that is a different form of crime than, e.g., fraud to the detriment of the organization. It requires other means of control and containment than occupational or individual crime.

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### **3 The Main Objectives of This Book**

One of the objectives of our research project is therefore to investigate the explanatory scope of the concept of pro-organizational crime and to analyze what organizations do when they promote compliance and prevention. Against this background, the book situates itself as a contribution to the explanation of organizational patterns of crime behind recent cases of corruption and to the analysis of the pursued ways in organizations to reduce the risk of corrupt behavior.

This book has the following objectives:

1. It aims to advance the scientific explanation of a particular form of crime, organizational crime. It therefore examines in different world regions under which conditions organizational crime occurs and how often we are dealing with organizational crime in detected cases.
2. It aims to examine the cultural perceptions of corruption and organizational wrongdoing as an explanatory background by comparing different world regions and by using certain methods, such as Collective Mindset Analysis (CMA). In doing so, it aims to answer the question of whether there are different culturally determined forms of pro-organizational crime and how their prevalence varies with culture.
3. It brings together different disciplines to do so, in particular law, criminology, and the sociology of organization. This seems important to us in order to relate

the legal and normative side of regulation through laws and measures against corruption, i.e., rule-making, to the empirical study of rule deviations.

4. The book thus aims to shed more light on what is being done to curb corruption. In this context, compliance in particular has become a major issue at the organizational level. The book aims to find out what theories-in-use and ideas are associated with compliance in the practice of organizations.
5. To this end, it brings into play not only different disciplines but also different methods. In particular, the book focuses on combining content analyses of court records with interview analyses and experimental methods. In the mix of methods, it sometimes follows a triangulation design, i.e., different approaches to the same question are matched, and sometimes an embedded design with different questions building on each other.

In brief, the book systematically compares socially central sectors and fields in which private organizations predominate, such as business enterprises, with fields in which public organizations predominate, such as big hospitals. In the first case, we do have a multitude of different professions working together; in the second one, a domination by the medical profession. The underlying assumption is that both the perception and the handling of rule deviations depend on the type of organization, and the role of profession, and that this at the same time influences the preventive effects that organizational reforms and compliance measures can achieve.

In addition, countries that are characterized by occasional corruption at the organizational level, such as Germany and the US, are compared with countries in which various types of systemic corruption are prevalent, such as Brazil and China. The underlying assumption here is that the institutional embeddedness of organizational wrongdoing has strong effects on the way rules are perceived and followed, moderating the effects of preventive measures.

When we talk about systemic corruption, six components are being considered:

1. Petty wrongdoing, i.e., petty bribery is a natural part of everyday life. It is an expected behavior rather than the exception. Systemically corrupt societies are societies in which (almost) everybody expects (almost) everybody else to be corrupt.
2. An institutional setting with rules and governance structures enabling corruption and other criminal activities.
3. A field of organizations and networks with a historical record concerning corruption, with institutionalized bad non-compliant habits and a cultural repertoire of wrongdoings.

4. A seminal criminal setting based on a cross-over of different societal sectors. Systemic corruption is the normalized resort, across different levels and sectors of society. It allows corruption to emerge when new opportunities arise, and to vanish, when not. There are always different actors, and different sectors involved, depending on the opportunity structure of wrongdoings.
5. A criminal organization or network that allows coordinated action for the time being, but must not be institutionalized like the Mafia, or in the case of drug gangs; it emerges, stays for some time, and falls apart. The next time, the organization or the network will not be the same again.
6. The criminal organization or network is a well-coordinated community that combines personal enrichment intentions with community-related interests, but always at the expense of the general public.

It therefore puts the cases of corruption and cheating on the agenda in the two Western countries (Germany and the USA) with occasional corruption and two from the “Global South” with a pattern of systemic corruption (Brazil and China). In the German case, corruption in private business organizations and public hospitals is compared as well. We have chosen Germany and the USA because the USA is a role model and frontrunner in anti-corruption measures, and Germany is one of the imitators, or rather the compliance boom among large German companies has its roots there. By comparing the two cases, we follow the most similar design of case studies. By including China and Brazil, we follow the most different designs comparing occasional and systemic corruption.

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## **4 The Main Findings**

Against this background, the originality of the research project is based on the fact that it does not exacerbate the personal benefit of individuals and the increase in personal costs through severe penalties. The focus is not on penalties as prevention but on the nature of informal self-regulation of organizations. The concept of organizational deviance provides us with a novel starting point in this field for the explanation of active corruption and cheating. According to our main conjecture, this deviant behavior is not primarily motivated by personal gain but by the goals of the organization. It should be considered as a pro-organizational crime. In the sociological sense, organizational deviance generally refers to the habitual deviation from formal rules, which individuals perceive as legitimate, and the occasional violation of laws. As organizations rely on useful forms of deviant behavior from their highly skilled staff to function, their informal cultures

suggest certain forms of organizational deviance. In this book, we examine the extent to which corrupt actors are guided by these informal norms and unwritten rules of the organization and to what extent this helps to explain bribery. According to our assumption, the “corporate identity” of an organization can promote such activities, even if the personal benefit is low and the personal risks and penalties are high. Thus, we expect that it is not the distant but the committed and loyal players who are particularly vulnerable to this type of pro-organizational wrongdoings. We assume that a significant part of active corruption and cheating by highly qualified people is not fed just by personal gains at the expense of the organization but by conformity with informal norms and rules in order to protect or promote the organization.

After a brief introduction to our theories and methods in use, the book is organized into four parts, devoted to presenting the findings of our investigations in the four countries, followed by a concluding chapter to compare our findings and draw some general inferences from them. In the section that follows, we present the main findings from the individual chapters in this book.

The volume opens with *Markus Pohlmann's* “How to Analyze Organizational Crime? – Theory, Concepts, and Methods” where he dissects the process through which organizational crimes take place. He explains how such offenses take place in which employees have fake invoices or implement fraudulent plots to the detriment of the organization. A subset of such crimes which are analyzed in this volume was carried out for the benefit of legal organizations and according to their informal rules. Nearly half of the FCPA corruption cases in the USA follow this pattern of organizational crime. Faced with such situations, one asks how can organizational crime be theoretically classified and operationalized? How can informal rules be empirically identified and determined, and how can informality in organizations be measured? This chapter aims at engaging with these questions. It suggests that although organizational crime is often described in the literature—and corporate criminal laws have also been passed in many countries—the conceptual and empirical analysis of the phenomenon still leaves much to be desired.

*Dieter Dölling's* “The Development of the German Criminal Regulations against Corruption in the Public Sector” describes the development of German criminal legislation against corruption in the public sector from 1871 to the present. The article shows that the criminal law directed against corruption in the public sector has expanded considerably in recent decades. Data from German criminal statistics on the reality of the prosecution of corruption cases in the public sector are also presented. The number of cases coming to the attention of the police and the number of indictments and convictions is reported and it is shown

which penalties are imposed. It is demonstrated that a significant number of cases do not result in indictments and convictions. The prosecution of corruption offenses is a complex phenomenon.

*Gerhard Dannecker's* "The Development of German Criminal Law against Corruption in the Private Sector" complements the previous chapter by bringing Germany back in again. He explains how public and private corruption is no longer a problem in developing and emerging countries alone but has developed into a cross-border phenomenon. The German legislator has reacted to this development by implementing the international guidelines of the European Union, the Council of Europe, the UN, and the OECD. It pursues the goal of taking legal measures against private and public corruption by means of penal and administrative sanctions and tax measures.

*Dieter Dölling & Ludmila Hustus* complement this chapter with "German Corruption Cases Reflected in Criminal Files – Individual or Organizational Deviance?". The article deals with corruption offenses committed by employees of business companies. It examines the question of the extent to which these offenses are individual or organizational deviance. Results of an analysis of German criminal files are presented. The findings refer to the characteristics of the offenses and the persons convicted. Corruption delinquency shows considerable intensity in the majority of cases. Most of the offenders held high-level positions in the company. It was found that individual and organizational delinquency can overlap.

*Markus Pohlmann & Sebastian Starystach* veer off the legal approach and take the discourse back to the sociological take on the problem with their joint chapter on "Compliance, Integrity, and Prevention in the Corporate Sector: The Collective Mindsets of Compliance Officers in Germany." They argue that due to increased enforcement of national and international anti-corruption and competition laws, large multinational companies in Germany are under pressure to develop effective compliance management systems (CMS) for preventing, identifying, and prosecuting violations. Against this background, they ask how these changes in the regulatory environment are reflected at the organizational level of compliance departments. The chapter dissects the collective mindsets in use by senior compliance officers in large German firms, reconstructing the logic of doing compliance, integrity management, and prevention. The database consists of problem-centered interviews conducted in Germany and the USA with high-ranking compliance employees of multinational companies. The chapter addresses especially the findings of the German senior compliance officers. By using the qualitative method of collective mindset analysis, they explain whether integrity and corresponding prevention measures are understood as a symbolic answer to external normative demands, or as a rational business strategy. They report that the theories-in-use at



compliance departments indicate that there is indeed a mission, a rational strategy behind doing compliance. The mindsets are strongly influenced by a global cultural model of compliance, which can best be described as a rational choice-based organizational behaviorism. This concept of doing compliance became especially the dominant professional mindset of lawyers in that field. As the global mainstreaming has its roots in the American way of doing compliance, against the background of the long arm of the US Sentencing Commission Guidelines and the Department of Justice's Evaluation Guidelines of Compliance Programs, just little variances in the mindsets are to be detected within the different compliance departments in Germany as well as between compliance mindsets in Germany and the USA.

The arguments of this chapter are reinforced by the next chapter on "Limits of Formal Regulation: How Informal Norms and Criminogenic Values Affect Managers' Readiness to Corrupt" by *Dieter Hermann, Markus Pohlmann & Julian Klinkhammer*. The study tests hypotheses regarding the influence of norms and values on the readiness to corrupt. The data comprise online interviews with managers. Analytically, they distinguish between organizational and individual corruption as well as between informal and formal norms. Organizational corruption focuses on the expected benefits for the organization and the relevance of informal organizational norms. On the other hand, individual corruption emphasizes the benefits for the actor and the relevance of formal norms, whereas informal norms of organizational usefulness recede into the background. The study shows that the readiness for organizational corruption is quantitatively larger than the readiness for individual corruption. The rejection of conformity, tradition, benevolence, universalism, and self-direction, the preference for achievement, power, and hedonism, as well as the acceptance of informal norms in a company are the most important conditions for the readiness to corrupt. These results support the voluntaristic theory of crime and substantiate institutional theories of organizational sociology.

*Alexander Fürstenberg* introduces an empirical dimension to the theoretical and abstract arguments that we have seen so far with his "Experimental Corruption Research in Germany: The Lab Studies." Corrupt decisions in organizations may be influenced by the informal rules of the organizational culture. Therefore, hypotheses on influencing corrupt decisions due to competitive pressure, hierarchical pressure, the rationalizing and legitimacy of corporate social responsibility, organization-specific socialization, and gender are examined. By using laboratory experiments with students in Germany, these organizational-cultural conditions are tested for corrupt decisions either for personal or organizational advantages. The results support an analytical separation between individual and

organizational corruption as well as corruption-decreasing effects of competitive pressure and the rationalizing and legitimacy of a corporate social responsibility in our population.

Next, the discourse moves on to the medical sector with *Markus Pohlmann & Kristina Höly's* "The German Organ Transplant Scandal: An Analysis of Court Records and Official Documents from the Medical Association." The manipulation of organ-waiting lists by transplant physicians has caused a stir in Germany in recent years. By analyzing the institutional setting, court records, commission reports as well as publicly available structural data, this chapter addresses the question of how these manipulations can be explained. Following the conceptual framework of this anthology, the chapter takes the theoretical perspective of organizational deviance and examines the extent to which manipulations can be explained by individual and/or organizational deviance. Pohlmann and Höly come to the conclusion that the frequency and nature of the manipulations speak for systematic violations and organized deviant action.

Analysis of the medical sector continues with *Markus Pohlmann & Kristina Höly's* "The German Organ Transplant Scandal: The Collective Mindsets of Physicians." They explore the question regarding which unwritten rules were supportive of guideline violations within transplant centers. This contribution follows from the previous one by complementing in the question of the causes of organizational deviance in transplant medicine. They examine the extent to which competitive pressure, hierarchical context, justification, and internalization as four typical mechanisms from organizational sociology and criminology are responsible for the emergence and spread of deviance. On the basis of a collective mindset analysis (CMA) with physicians and medical staff as well as a participant observation in a transplant center, they come to the conclusion that guideline violations are a special form of organizational deviance, namely professional deviance, which focused on the realization of a professional claim to sovereignty.

*Dieter Hermann, Gerhard Dannecker & Markus Pohlmann* continue the analysis of the medical sector in Germany with their "Decision-making Processes of Physicians after the Organ Donation Scandal in Germany: The Factorial Survey." A dilemma is a situation in which two or more moral principles conflict with one another. The dilemma in transplantation medicine is a conflict between professional ethics, the patient's wishes and behavior, legal norms, and unwritten or formal rules of the organization. Such dilemma situations may lead to delinquency such as the manipulation of data and the alteration of medication to influence the ranking of allocation of a donor organ in patients. With an empirical study, they investigate conditions of delinquent actions (guideline violations) in dilemma situations. For this purpose, all 46 transplant centers in Germany have

been contacted. Due to the small number of cases, randomly selected nephrologists were additionally surveyed. Forty transplant physicians and 37 nephrologists participated in the survey. The results show that transplant physicians are primarily guided by legal norms in a conflict between legal norms and organizational interests. In a conflict between legal norms and professional ethics, the patient's welfare and care are primary. Patient compliance in combination with his illegal anticipated requirements for the allocation of a donor organ is one factor that contributes to deviance. The importance of informal norms of the organization is secondary. Transplant physicians and nephrologists differ especially in this point. One can assume that before the organ donation scandal happens, both groups practiced the same pattern of action and that this occurrence led transplant physicians to change their decision-making principles.

The book next shifts to the United States, with *Alexander Fürstenberg & Julian Klinkhammer's* "In Search of Organizational Crime in the U.S.: The FCPA Court Records." Due to the Foreign Corrupt Practices Act (FCPA), anti-corruption enforcement has gained importance nationally and internationally—especially in corporate prosecutions. Subsequently, they ask, first, how the enforcement process has evolved since FCPA prosecutions began, second, what organizational structures support the organizational embedding of corruption, and third, what the empirical relevance of organizational corruption in the USA is. Using a full survey of FCPA cases between 1977 and 2018, they show that the number of filed cases is systematically connected with the type of procedural conclusions and its sanctioning. Using case studies, they qualitatively illustrate the embeddedness of corrupt structures in firms and descriptively demonstrate, based on the aforementioned FCPA full survey, that organizationally embedded corruption as a distinct form is similarly prevalent as corruption committed by individuals for personal gain.

*Markus Pohlmann & Sebastian Starystach* continue the analysis of organizational crime in the USA with "Compliance, Integrity, and Prevention in the Corporate Sector: The Collective Mindsets of Compliance Officers in the US." The chapter reconstructs which function senior compliance professionals of multinational companies based in the USA attribute conceptually to compliance. Furthermore, it critically examines the subsequent consequences of these collectively shared concepts for the prevention, identification, and prosecution of rule violations within and by companies. The database consists of problem-centered interviews conducted in Germany and the USA with high-ranking compliance employees of multinational companies. The chapter addresses especially the findings of the American compliance officers. Their study opens the black box of the theories-in-use concerning compliance as well as prevention and discusses

what kind of sensemaking is established in the compliance departments of big US firms. By using the qualitative method of collective mindset analysis, it explains whether integrity and prevention have to be understood as a stronghold of a rational business strategy or merely as a mandatory form of window dressing for the protection of the company. They show that the theories-in-use are very much dominated by a rational-choice perspective of the firm as the corporate actor, in which communication, education, and monitoring is focused on the employees, adjusting their deliberative action, and helping them to avoid wrongdoings. One side effect of this rational-choice perspective on organizational wrongdoings is that compliance professionals can label rule violations as the result of decisions attributable to individuals and not as the result of organizational structures. By this means, compliance serves the purpose of avoiding criminal prosecution of the company, especially the application of corporate criminal law.

The volume next moves to South America, with “Formal Rules and Institutional Increments in Brazil” by *Mário Helton Jorge*. Brazil’s anticorruption scenario has gone through major shifts in the last two decades. The changes are part of the formal and institutional accountability networks. Major investigations, such as Mensalão and Car Wash, have opened up various discussion fronts, especially about the relationship between the economic and political sectors in Brazil. The means of control, investigation, and prosecution, in the form of new legislation and institutional organization, have been well developed in some areas, with others still lacking by international standards. Improved inter-institutional coordination and closer proximity among the agents that make up each of the entities in this system have also been pointed out as some of the positive factors for greater effectiveness. In the corporate landscape, compliance has an increasing rate of adoption, also due to stricter legislation. Some setbacks, however, have recently been identified in the legal and institutional anticorruption frameworks, especially regarding institutional independence.

The book follows up on the case of Brazil with “Organizational Crime in Brazil: The Petrobras Case” by *Elizângela Valarini*. Since March 2014, one of Brazil’s most important companies, Petrobras, has become the main protagonist of the biggest corruption scandal in Brazil, revealed by the Car Wash Operation. The corrupt scheme had not only a massive impact on the companies’ economic performance but also a huge effect on Brazilian politics, changing the political landscape. The scandal showed not only the informal side of the Brazilian economic and political interaction but brought to light the dark side of the Brazilian system of political financing and business rules. Involved in the corruption scheme were essentially members of the economic and political elites: owners and top executives of the largest Brazilian construction companies, senior executives of

Petrobras, and politicians from some of the most important Brazilian political parties. Adopting a sociological perspective on corporate crime and corruption, this chapter aims to examine how mechanisms on the side of private corporations, combined with environmental factors in which companies are imbedded, contribute to political corruption. The analysis focuses on Brazilian private companies charged in the Operation Car Wash by using court records produced by the Federal Court of Curitiba.

The next chapter “The Anti-corruption Mindset of Brazilian Law Enforcers” by *Maria Eugenia Trombini & Elizângela Valarini* further deepens our analysis of the case of Brazil. Recent studies on the fight against corruption in Brazil focus on institutional improvements, mainly through the interaction between the units that are part of a more general accountability network, seen as enablers of high-profile investigations such as the Car Wash Operation. There is much discussion on the role of legislation, means of control, investigation and processing of crimes, and changes in the design of state agencies; however, little is known about the cognitive and normative processes of the agents working in anti-corruption within the justice system. The central question in this chapter is to understand the “fight against corruption” in Brazil from the standpoint of legal professionals. Using the qualitative method of collective mindset analysis, the authors reconstruct the interpretative and normative standards of the actors of the justice system when faced with the problem of how to counter corruption in Brazil. Mapping the stocks of knowledge accessed by the investigated group, they trace the meaning they attribute to their actions to justify and explain the “solutions” chosen to deal with the phenomenon. They discuss the results based on a sample of qualitative interviews with judges, prosecutors, and defense attorneys involved in major corruption cases in recent decades and find that specialized knowledge, often acquired when “learning abroad”, is an important aspect of the reconstructed collective interpretation patterns.

From South America, the book moves over to Asia. In “New Laws and Law Enforcement to Fight against Bribery in China,” *Yuan Yuan Liu* moves the discussion to non-compliance and organizational crime in China. The legal system in China is not only about the legislation itself but more often than not about how the relevant laws are administered. In this chapter, the author begins by describing the changes in the PRC Criminal Code and its Sixth, Eighth, and Ninth Amendments as these specifically target the act of active bribery. The author then analyzes the ways in which the threshold for filing cases for the crime of active bribery in China as laid out in the 1999 Code differs from that in 2016. The chapter concludes with a few remarks on the regulatory mechanisms in place to prevent the crime of active bribery embodied in the latest amendments to the criminal code and the case-filing thresholds.

*Liu* follows this up with “Detected Cases of Bribery in China: The Analysis of Court Records.” In this chapter, by employing a quantitative analysis of court rulings on ten cases of unit bribery and a qualitative analysis of court rulings on four such cases, she explains the operational mechanisms and internal logic of unit bribery in China against which the validity of the theory of organizational deviance is tested. The results of the empirical studies show that unit bribery is such a widespread phenomenon in China that it manifests itself not only in companies but also in various parts of the bureaucracy. Both the unspoken rules festering China Inc. and loopholes common to the institutional designs in the public sector provide fertile grounds and ample possibilities for “useful illegality”.

The book closes the multidisciplinary analysis of organizational crime by going back to law and organizational crime in “Companies as Responsible Actors and Corporate Citizens – Corporate Criminal Responsibility under the Rule of Law as a Consequence” by *Gerhard Dannecker & Thomas Schröder*. In the context of corporate criminal law, perpetrators seek to improve the company's performance at the expense of individual third parties and the general public. These occurrences can partly be attributed to the inadequate structure of the current economic criminal law and its imbalance between the responsibility of individual persons on the one hand and legal persons on the other. This is just one of the reasons why legal scholars as well as many people in positions of political responsibility share the view that the current German system of corporate sanctions law suffers from serious shortcomings. This essay aims at contributing to the current lively discussion in Germany on reforming and tightening criminal sanctions against legal entities. This chapter takes the position that the lawmakers ought to consult the efforts already developed in economic criminology to understand corporate wrongdoing. In particular, measures to counter the development and the maintenance of criminal corporate cultures and the predominance of “useful illegality” seem necessary. These measures, however, should not be of a draconian nature. Rather, the rule of law (“Rechtsstaatlichkeit”) requires that corporate citizens be punished. This implies not only to take corporate wrongdoing seriously but also to acknowledge fundamental procedural rights for the accused legal entities. Finally, the systematic effort of companies to adhere to law (“Compliance”) needs to be part of corporate sentencing guidelines.

The current volume is the most recent and comprehensive analysis of organizational crime under the auspices of the interdisciplinary research group on “Organizational Crime Studies” of Heidelberg University, under the leadership of Markus Pohlmann. As such, in addition to reporting on the findings of the VWS project, the editors take the opportunity of showcasing the most significant contributions to the field. The concluding chapter on “The Puzzling Resilience