

Chapter 2

Surviving Corruption, and Preventing It:

Brazilian History, the Modern Republic, and the Jeitinho Brasileiro

Executive Summary

A central tenet of modern government is the inherent corrupting influence of centralized power. But the opposite extreme – highly decentralized power – may render a government weak and unable to respond to formidable governance challenges. Herein lies a paradox: the very government structure that tends to prevent corruption may also struggle to effectively prosecute corrupt actors. From Brazil's time as a colony until founding the modern republic in 1988, Brazilian history has oscillated between radical decentralization and dictatorship. The former left the government weak, while the latter gave rise to corruption. This history produced two features of modern Brazil that are critical to understanding the anti-corruption movement. The first is a constitutional government in which power is highly diffuse; the authority to enforce anti-corruption laws is thus distributed both among branches and agencies of the federal government and between federal, state, and municipal governments. The second is a cultural adaption to endemic corruption known as the jeitinho brasileiro. Brazil's modern anti-corruption moment will challenge both these features.

The historian Lord Acton famously wrote that “power tends to corrupt, and absolute power corrupts absolutely.”¹ The modern history of Brazil has proven this to be true, but only half the truth. The concentration of power, whether in individuals or institutions, indeed gives rise to corruption – the abuse of that power for private gain. But so too can the opposite extreme – radical decentralization – produce a social ill of its own: the inability to govern. The United States may likewise be a case study in this dynamic: after revolting against the centralized power of the British monarchy, the U.S. created an extremely weak government that in fairly short time give rise to the need for yet another government, the U.S. Constitution.

Brazil has oscillated over the last five centuries between these two extremes: a centralization of power that gave rise to corruption, and a decentralization that reduced the temptations to corruption but also reduced the capacity to govern. The swinging of this pendulum across Brazil’s history produced two features of modern Brazilian society that are essential to understanding the anti-corruption movement. The first is the founding of the Republic of Brazil and the structure of its government. The second is a cultural dynamic that, for better or for worse, is widely associated with Brazilian culture if not stereotype: the Jeitinho Brasileiro.

From the Colonial Period to the Modern Republic

Brazilian regionalism, the belief that isolated regions of Brazil should be largely independent of a central government, was born from a colonial system – called the fazenda system – that kept colonial settlements separate. The country’s later monarchical and imperial rule only furthered to pit the regions against each other. Subsequent dictatorships would not fill in the crevasses between the regions created in Brazil’s early centuries. Brazilian regionalism, and the repeated failure of a centralized government, combined to create the distrust of government that so many Brazilians share today. The modern Brazilian government, created in 1988, is in large part a response to this history and an attempt to remedy those historical patterns.

Following the discovery of the “New World” at the turn of the 16th Century, European nations scrambled to stake claims to vast tracts of the Western Hemisphere. Most nations fought both the native populations and European rivals for control of the would-be colonies. However the neighboring Spanish and Portuguese peacefully entered into the Treaty of Tordesillas just two years after Columbus landed in the New World. Negotiated by the Spanish Pope Alexander VI, the treaty set out to divide the world between the primary Catholic exploratory nations, Portugal and Spain.² By the middle of the 16th Century the Portuguese had begun to establish isolated trading posts on the Brazilian coast that would eventually lead to the founding of cities such as Sao Paulo and Rio de Janeiro.³

The Portuguese began to establish vast plantations to cultivate and harvest tobacco, sugar, rubber, and timber. Fazendas, as these plantations were called, began to appear throughout the Portuguese colony but were initially concentrated in the northeast, where tobacco and sugar were easily harvested. The fazendas relied on slave labor, initially from the native population of Indians and later from the millions of slaves brought in from Portugal’s West African colonies, which made the plantations and their owners (called fazendeiros) rich from exportation of the natural resources. However, this was not the only byproduct of the system. The Brazilian landscape, with dense rainforest and coastal mountain ranges, allowed for the colonies to grow independently from one another. The isolated fazendas also allowed for the Portuguese fazendeiros to rule their estates with virtually no interference from the Portuguese colonial authorities.⁴ Unlike the more authoritarian Spanish colonies of Central American and the Caribbean or the interconnected British North American colonies, the Brazilian colonies grew and evolved in isolation, creating a deep-seeded sense of regionalism. This regionalism remains very much present in modern Brazilian culture and is reflected in the 1988 Constitution.

By the early 19th Century, the power in the Brazilian colony had shifted to the southwest and its rubber and timber producing fazendas. With the success of the American Revolution and the Haitian Revolution and the unrest

in Europe in the wake of the French Revolution, the Western Hemisphere enjoyed a new sense of self-determination. Brazil itself was unique to the region as its history of isolation allowed the regions to identify less as a united colony or nation and more as independent entities.⁵

However, the pendulum of Brazilian history would soon swing from regionalism to decentralization. In 1808, fearing Napoleon's troops, the Portuguese royal family fled Lisbon for Rio de Janeiro. The presence of the royal family under Dom João VI brought with it a more controlling rule over the colony. The Portuguese began to establish a more centralized government from the throne in Rio and modernized the Brazilian colony. Trade with other nations was encouraged, ports were expanded, and the colony of Brazil was brought into a more enlightened age.⁶ Gone was the isolation of the fazendas and mercantilism. Brazil had forcefully and disjointedly become a modern nation.⁷ Following the fall of Napoleon in 1814 João VI returned to Lisbon leaving behind his son Pedro to rule the Brazilian colony.

The conflict between traditional regionalism and the ruling family's propensity for centralization would only become more pronounced. In 1822 Pedro established the Empire of Brazil, proclaiming himself Emperor. Unsurprisingly, the Brazilian colonists were unaccepting of the centralized control of the Emperor and after a series of costly war with their southern neighbors Pedro abdicated his throne in 1831 in favor of his son, Pedro II, and a regency of parliament.⁸ Even after Pedro II came of age in 1840 the regional clashes plagued the Empire. The northeast sugar producing regions clashed violently with the southwest rubber and mineral producing regions that controlled the government.

This internal regional strife, and the apparent need for an even stronger centralized government, resulted in a rebellion in and around Recife in 1848.⁹ Following another series of wars with Argentina and later Paraguay, the Brazilian people began to turn the conservative military against Pedro II. Further alienating the regional leaders, Pedro II and his daughter (as acting regent) worked together to eventually abolish slavery in 1888.¹⁰ This decision predictably proved unpopular with the fazenderios in both the northeast and

the southwest. The regions briefly unified and together with the military, the plantation owners removed Pedro II from power in 1889 ending monarchical rule in Brazil.¹¹

Over the course of the next century Brazil struggled to cast off the legacy of colonial and imperial rule. The ever-present regionalism throughout the states created weak democratic governments that lacked the centralized control necessary to run the large nation. In response to this weak, splintered, and regional system the military repeatedly seized the opportunity to rule. The ebb and flow between a centralized authoritarian government and the weaker regionalist democratic governments created a wide spread distrust of the government and fostered even greater regional biases. Several decades of industrialization and unbalanced economic growth, concentrated in the southeast, particularly Sao Paulo and Rio de Janeiro, combined with a weak central government, led to instability and infighting. Amidst this chaos, Getúlio Vargas seized control of government as dictator in 1930 and ended the Old Republic, replacing it with an increasingly nationalistic state.¹² Vargas continued to rule from Rio in various roles within the government, both democratic and authoritarian, until 1954. But old regional bias and rampant corruption in his government began to hinder his goals. His suicide in 1954 ushered in a collapse of his centralized, nationalistic government.¹³

As the corruption of centralization became the paramount concern, the pendulum would swing back toward decentralization. Again Brazil responded to the fall of a centralized government with a series of forgettable and weak democratically elected presidents. Populist leaders from various regions emerged with the promise to combat the corruption that was harbored and encouraged by Vargas and his government.¹⁴ For ten years the democratic government struggled to control the quarrelsome regions and maintain a centralized control. The desire to end regional infighting is best highlighted by the decision to move the capital from Rio to the newly created Brasilia in 1960.¹⁵ This move did not heal the regional wounds as intended, but rather created new ones. The government in Brasilia, still dominated by the wealthy south, abandoned the poor northeast. Aid from the United States, which bypassed the

national government in favor of the regional ones, only furthered the regional animosity between the northeast and the southwest.¹⁶ Riots and mistreatment of the peasants in the northeast lead to unrest throughout the nation as Brasilia was unable to silence the regional strife.

And so the pendulum would dramatically swing again. The failure of the democratic government came to a head in 1964 when the military again seized control of Brazil.¹⁷ Beginning in 1964, the nation was ruled by a series of military leaders who returned Brazil to a strong centralized government.¹⁸ Although the military dictatorship was oppressive and harsh, Brazil did begin to modernize rapidly. Expansion of infrastructure, including the Trans-Amazonian highway, allowed for the isolated regions to begin interacting in a more positive manner. Presidential power expanded to make the office more than a mere figurehead and the party system was reformed to allow for government opposition to be heard.¹⁹ Additionally, the expansion and reformation of economic policies, both domestic and international, ushered in a period economic growth.

Under an authoritarian dictatorship, Brazil was thus was entering the emerging global market with astonishing speed.²⁰ The strong central government and the economic prosperity successfully quelled regional biases and infighting. Slowly Brazil allowed foreign investment to return to the country, mostly in the oil sector.²¹ But worsening economic conditions would give rise to discontent and, again, suspicion of centralized power with its seemingly inevitable corruption.

The Modern Republic of Brazil and the Paradox of Federalism

Though Lord Acton gets credit for the oft-quoted phrase, “power tends to corrupt, and absolute power corrupts absolutely,” he was merely restating an idea that had developed over the previous three centuries. Thinkers like John Locke in England, Baron de Montesquieu in France, and in the U.S., James Madison, became proponents of the idea that official power must be diffuse, distributed among branches or levels of government, creating “checks and

balances.” Where power is diffuse, the temptation toward corruption is reduced. Particularly in the U.S. system, this diffusion of power took the form of checks both among the branches of the federal government, and between the federal and state governments. That distribution of power between national and state governments is known as federalism.

As this section will show, the modern Republic of Brazil very much took these teachings to heart. The 1988 constitution adopted a system of government with robust checks and balances. Like the U.S., it distributed power among the various branches and agencies of the federal government, as well as between the federal and state governments. From an anti-corruption standpoint, this would seem an important first step: it creates the conditions that have generally helped to reduce corruption, as evidenced in world history generally and Brazilian history specifically.

But no system of government can eliminate corruption. As James Madison famously wrote, “if men were angels, no government would be necessary.”²² And as the U.S. system in particular confirms in abundance, corruption will appear no matter the government structure. As discussed in Chapter 1, the reasonable aim of anti-corruption law is not to eliminate corruption from the face of the earth. Accordingly, in designing an effective anti-corruption regime we must first avoid creating the conditions that foster its development; and second, create a system that can effectively deter corruption through enforcement.

The punishment of crime is thus a critical part of deterring corruption. We achieve “specific deterrence” by punishing the defendant so that it will think twice about committing the illegal act again. And we achieve “general deterrence” by putting other would-be wrongdoers on notice that if they too are caught, they too will be punished. Accordingly, a government deters corruption in two ways: first, ad hoc, by designing a government where power is sufficiently diffuse to reduce and check corruption; and second, post hoc, by instituting enforcement mechanisms that will deter further corruption.

Herein lies the paradox of federalism. Distributing power between the national government and the states will deter corruption. But when acts of

corruption nonetheless occur – and they invariably do – will the decentralized system effectively punish? Where enforcement authority is distributed among various agencies and levels of government, no one authority may wield a sufficiently large stick to deter wrongdoing. That is, federalism may tend to reduce instances of corruption, but may fail to respond effectively when corruption does occur.

The Republic of Brazil sits squarely in this paradoxical space. As is explained below, Brazil's own version of federalism, and checks and balances, significantly distributes governmental authority. But where this authority is distributed among enforcement agencies, the capacity to achieve meaningful deterrence through the swift and certain punishment of wrongdoing remains to be seen.

This section details the various institutional players in Brazil's anti-corruption regime and those that will be integral to a transparent and ethical hosting of the 2016 Summer Olympics in Rio de Janeiro. This overview begins by looking at the foundational structure of Brazil's government, then turns to the existing enforcement structure in Brazil, and finally reviews the public, and private entities that will each play a role in hosting the games. The structure of Brazil's government and enforcement regime has vast implications for the broader anti-corruption movement. How these elements perform in regard to the Olympics will provide insight to the future of Brazil's fight against corruption.

After coming out of years of military dictatorship, Brazil adopted a new constitution in 1988.²³ The constitution was the first real attempt by a Brazilian government to balance the regionalist tendencies of its states and the need to have a strong and viable federal government. The result was a federative republic, or federation of states, that relies heavily on the separation of powers and the right for states to self-rule. The 1988 Constitution created a checks-and-balances division of power in the federal government by establishing three branches. Additionally, the state and municipal governments retained a large amount of autonomy, creating a unique form of federalism in Brazil.²⁴

The federal government is divided into three branches: the executive, legislative, and judiciary. The executive branch, headed by the President of Brazil, ensures that the laws of the land are executed. The executive branch handles foreign affairs, appoints members to the federal courts, may pardon or commute sentences, is the commander in chief of the armed forces, and can veto legislation. Further, atypical of most tripartite governments, the executive branch does not enforce federal criminal law, but rather that responsibility is reserved for the quasi-independent Public Ministry.²⁵ The legislative branch is split into two houses, the Senate and the Chamber of Deputies. These houses have the power to create law, override an executive veto with an absolute majority in both houses, and approval over state defenses and federal interventions. The legislature is heavily checked by the strong veto power, including a line-item veto power, of the president.²⁶ The judiciary was strengthened by the 1988 constitution to allow for greater checks on the other two branches. The judiciary interprets the federal law through a series of vertically structured courts. At the top of the structure is the Supreme Court, which rules on the constitutionality of federal law or federal action.²⁷

The constitutional structure of Brazil's government is, in many ways, similar to that of the United States. Indeed, the Brazilian government is structured in branches much like the U.S. Government and the relationship between the federal government and states is governed by principles of federalism. But in fostering a decentralized form of federalism that emphasizes autonomy both vertically and horizontally, Brazil's brand of federalism creates unique challenges to the enforcement of anti-corruption law. While the federal government enacts substantive anti-corruption law, interpretation and enforcement has been left to the state and local authorities.

By contrast, the United States' fight against corruption was marked by periodic shifts towards centralization of power in the federal government. While the U.S. anti-corruption regime is not perfect, the historical progression does offer insights into the challenges that Brazil now faces and those that are sure to come. Where the United States has been slowly addressing problems of corruption for nearly a century, Brazil's democracy is young and already faced

with monumental challenges in the form of a rapidly growing presence in the global economy and mega international sporting events like the World Cup and 2016 Olympics. Brazil thus finds its enforcement system evolving with particular pace.

Despite the commitment to combat corruption and the positive steps already taken to achieve that goal, some obstacles that Brazil's anti-corruption movement faces are not the result of political or social unwillingness to effect change. Rather, the structure of Brazil's government itself presents a challenge to enforcing substantive anti-corruption law throughout the country. The autonomy created by the Brazilian constitution contributes to a recurring theme of fragmented authority and enforcement, which may stand in the way of what would otherwise be a concerted effort against corruption.

On a grand scale, the constitutional structure that governs the promulgation of laws throughout Brazil is the first potential obstacle that anti-corruption law enforcement faces. The federal government, referred to as "the Union," has the exclusive power to legislate on civil, criminal, procedural, electoral, agrarian, maritime, aeronautical, space, and labor law.²⁸ With respect to these laws, the state and municipal governments may only legislate on these issues to the extent a federal law dictates they may.²⁹ For areas of the law outside those enumerated in Article 22, Brazil's constitution places a great deal of legislative power in both the state as well as municipal governments. Article 24 of the Brazilian constitution lists 16 areas of law where the federal, state, and municipal governments all have concurrent power to legislate.³⁰ While federal laws in these areas supersede state and municipal laws, to the extent they conflict, those federal laws are limited to the "establishment of general rules."³¹ Thus, regulation of federal laws within these 16 areas is solely within the purview of the state and municipal governments. One apparent issue with this structure is that the substance of any given law may overlap between Article 22 and 24. In such cases, the extent to which the Union can legislate with effective specificity comes into question. This produces uncertainty in regulation and enforcement of the law because the Olympics, and anti-corruption law more generally, both pervade many areas that are subject to concurrent jurisdiction.

Brazilian laws are further broken down into categories, the most relevant two being national and federal law. National laws are those that apply to all levels of Brazilian government and all entities therein. Federal laws are those that only apply to the federal government and its entities. Thus, whether a law is national or federal is a key factor in determining whether a particular entity can be held liable for violating the law. For example, Brazil's Improbity Law is a national law and places administrative liability on all public officials, in all levels of government, who accept bribes.

Uncertainty arises, however, because not all laws promulgated by the Union apply to the states and municipalities. In some instances, the distinction between whether the law is national or federal is explicit in the text of the law. In those instances, it is clear which persons and entities a Brazilian law will apply to and, more importantly, who has jurisdiction to enforce that law. But, where there is ambiguity in the law, it is apparently left to scholars, lawyers, and judges to determine which category, either national or federal, a law falls into. To that end, Brazil's constitution and legal system only recently adopted the principles of *stare decisis*³² and thus, such ambiguities have not traditionally been an easy fix. Moreover, until such decision is made by an authoritative entity, there is simply confusion on how, when, and to whom laws will apply.

An Array of Enforcement Agencies

Against this federalist background is set an array of enforcement institutions. Here again, enforcement is widely dispersed. Among the various federal institutions that are tasked with the enforcement of Brazilian law, there are three that are largely responsible for enforcing anti-corruption laws. These institutions are the Public Ministry, the Officer of the Comptroller General of the Union ("CGU"), and the Auditing Court of the Union ("TCU"). Each has its own unique responsibilities and authority but together, they concurrently monitor, investigate, and bring suit against those who violate anti-corruption law. The multiple agencies responsible for compliance unquestionably indicates a strong resolve to enforce the law. However, the concurrent authority

also creates obstacles to uniform and efficient enforcement as each entity has independent authority to pursue charges against violators. While these entities can and sometimes do work together, they are not required to do so.

As discussed above, the Public Ministry is a quasi-autonomous branch of the Brazilian government that consists of both federal as well as state prosecutors. Because of its autonomy, the Public Ministry is sometimes referred to as the “fourth branch” of government. The Public Ministry, rather than the Executive branch, is primarily responsible for the enforcement of Brazilian laws.³³ The head of the Public Ministry is appointed by the President of the Republic and approved by the Senate, but the “fourth branch” is otherwise autonomous from the executive with respect to its prosecutorial agenda. Further, public prosecutors are responsible for overseeing and directing police work and can even initiate their own investigations, separate and apart from the administrative agencies below, where government corruption is suspected. In prosecuting corruption, the Public Ministry can bring both civil and criminal charges against individuals or entities. Thus, in the civil or administrative context, the Public Ministry’s functions overlap greatly with the responsibility of the other federal agencies charged with enforcing anti-corruption law.

The Office of the Comptroller General of the Union (“CGU”) is the federal agency responsible for the monitoring and auditing of the Executive branch and its agencies.³⁴ Acting as an internal control system, the CGU’s responsibilities are divided into four main sections: Auditing, Transparency and Anti-corruption, Public Servants, and ombudsman’s office.³⁵ The CGU’s work is focused more so on prevention and transparency than enforcement of substantive law. With respect to enforcement, the agency’s role is primarily to investigate possible corruption and then pass over its findings to the Auditing Court, which then holds administrative proceedings and issues sanctions if necessary. However, the CGU does have the power to remove public servants for violations of the law and is responsible for debarring companies from government contracts or financial benefits following violations of anti-corruption law. While the CGU’s purpose is to internally audit the Executive

branch, they have the ancillary authority to audit private companies who are entered into contracts with the federal government.

The CGU is also responsible for the creation and implementation of the Transparency Portal. The Transparency Portal is an online system that allows the public to freely access all federal budget data. Although the CGU has made the technology available to state and municipal governments, it has not been implemented on every level. Additionally, the information contained within the portal is not broken down into exacting detail. For example, it is unclear how much is being spent on Olympic infrastructure versus infrastructure in general. Despite the lack of explicit detail, the Transparency Portal still represents the federal government's effort to increase transparency and accountability.

The Federal Court of Accounts ("TCU" or "Audit Court") is an arm of the federal Legislative Branch that is tasked with the external auditing of the Executive Branch. The TCU's main responsibilities are to investigate and sanction acts that corrupt the public administration. The TCU is tasked with assessing the need for and terms of government contracts before they are implemented.³⁶ To that end, the TCU ensures that government contracts conform to the law and policy behind it. With respect to enforcement of the law, the TCU is the primary entity that issues sanctions for violations of anti-corruption law. Indeed, the administrative proceedings to determine liability are carried out by the TCU, which acts as an administrative court. Investigations carried out by the CGU are referred to the TCU for adjudication following the CGU's own investigation.

State and municipal institutions largely mirror their federal counterparts, and thus these entities are not all discussed here. While most Brazilian states do not have a state-level equivalent to the CGU or TCU, Rio is an exception. Indeed, due to its size, population, and economic status, it possesses a comprehensive institutional structure at both the state as well as municipal levels. The presence of these institutions adds yet another layer to anti-corruption enforcement regime and has particularly pronounced implications for the hosting of the 2016 Olympics. In the same way that

overlapping jurisdiction creates efficiency risks on the federal level horizontally, so too does vertical overlap threaten the efficient enforcement of anti-corruption law.

One set of institutions, the state and municipal audit courts, are particularly noteworthy in this regard. These entities will be the main investigatory and auditing institutions with respect to state and municipal contracts. Thus, in addition to the federal TCU, the Rio 2016 games come under the jurisdiction to two additional auditing bodies, the Tribunal de Contas do Estado do Rio de Janeiro (TCERJ) and the Tribunal de Contas do Municipio do Rio de Janeiro (TCMRJ). Like the TCU, the TCERJ and TCMRJ operate under the authority of their respective legislative body; the parliament of the State of Rio de Janeiro for the TCERJ and the City Council of Rio de Janeiro for the TCMRJ.³⁷ Both the TCERJ and the TCMRJ are responsible for the oversight and integrity of the programs and contracts involving State and Municipal funds respectively.³⁸ Established in 1981 by municipal law, the TCMRJ, roughly translated as the Court of Auditors of the City of Rio de Janeiro, was organized to function for the city of Rio in much the same way as the TCU functioned on the federal level and the TCERJ on the State level.³⁹ The TCMRJ along with the TCM of Sao Paulo are to date the only existing municipal audit courts in Brazil. While the Constitution of 1988 forbade the establishment of auditing courts on the municipal level, the existing auditing courts of Rio and Sao Paulo were grandfathered in and as such remain as anomalous entities among the greater financial integrity institutions of Brazil.

This array of enforcement institutions, with its diffusion of power within and between levels of government, represents a response to a long history of battling against government corruption. So too has Brazil adapted to a history of corruption in another way, more cultural rather than institutional or legal but very much relevant to anti-corruption reforms and very much in flux. This is the *jeitinho Brasileiro*.

Jeitinho Brasileiro

Throughout Brazil's history, the turmoil of varying regimes allowed for corruption to gain hold of the people and the government. The cultural belief that corruption was inherent, acceptable, and necessary emerged from the wreckage of a century of unstable or authoritarian rule.⁴⁰ This social construct known as "Jeitinho Brasileiro" (loosely translated as the "Brazilian Way") dominated the 20th century as the country began rapid economic expansion.

Jeitinho Brasileiro is the belief that personal advancement is more important than abiding by societal values. Put another way, it is the deep seeded belief that success should be desired and striven for regardless of the rules or laws broken.⁴¹ Deriving its name from an expression close to the English "pull some strings," jeitinho is not reserved to large-scale corruption or bribery. Rather it also includes the low level "palm greasing" needed to make things happen in Brazil.⁴² In business, kickbacks and grease payments become expected; our own research suggested that a 20% kickback to contractor for a bid on a job is widely seen as standard rate. While Brazil has had its share of large-scale government corruption, jeitinho is pervasive across all sectors of society of society, dominating business and social interactions.

Scholars have argued that this social condition is the result of the colonial era and Portuguese authoritarian rule. Similarly, commentators observe that the Brazilian Way is the byproduct of turbulence in the government and the economy. According to this theory, as Brazil continues to modernize and stabilize economically, jeitinho will eventually fade away.⁴³

Though older generations may be slow to let the jeitinho ways fade, our on-the-ground research suggested that the younger generation seems keen to move into a more modern way of conducting business and government. Indeed, we found that many Brazilians believe that jeitinho is now being forced from society. Brazilians discussed the belief that Brazil is changing culturally and that the people will root out corruption. Though the Brazilian government is now mired in corruption controversy, the officials we spoke to seemed adamant that Brazil is a modern nation working to free itself from jeitinho.

Prominent among these were the officials of the Olympic Public Authority (APO) (see the following chapter) which in a presentation emphasized that Brazil is an emerging young nation that is changing to adapt to western and American norms. The APO reiterated the belief that Brazil was a leader in South America and could become a leader both in the Western Hemisphere and globally. Brazilians also identified increased educational opportunities both in Brazil and abroad as another major factor to the modernization of society. One Brazilian claimed that social media, the internet, and the ability to interact with other cultures has also reduced jeitinho's acceptance. Additionally, larger entities have begun to join with the youth in advocating for change. Corporate law firms have begun to advocate to their clients that change is imminent. One Brazilian suggested that anti-corruption efforts within business are a sure indication that society is changing.

As subsequent chapters will further explain, the modern anti-corruption enforcement actions should not be perceived as evidence that jeitinho remains alive and well. Rather, they show that law enforcement agencies have ceased to turn a blind eye to it. And in prosecuting corruption, these enforcement authorities are self-consciously responding to the public will. As evident both in the prosecutions and the prior demonstrations that gave rise to them, jeitinho held a much more prominent place in Brazil's past than it now does in Brazil's present.

¹ "Letter to Bishop Mandell Creighton," April 5, 1887, published in Historical

² The treaty was favorable for both nations. Portugal had already explored the African coasts and the Indian subcontinent. The Spanish gained territory rights ahead Portugal, which at the time were the Spaniards chief exploration rival. However, the Portuguese still pushed for a more western demarcation line than initially proposed, a fact that some argue points to the belief that the Portuguese knew of South America before Columbus' voyage. The Pope relented, moved the demarcation line an additional 860 miles west, and ultimately secured the Brazilian coast for the Portuguese. Dividing the Spoils: Portugal and Spain in South America, Jeannette Gaffney, found at <http://www.yale.edu/ynhti/curriculum/units/1992/2/92.02.06.x.html#b>.

³ Rollie E. Poppino, Brazil. Encyclopedia Britannica (2015), at <http://www.britannica.com/EBchecked/topic/78101/Brazil/25036/>

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- ⁴ Fazenda: Brazilian plantation, Encyclopedia Britannica (2015) at <http://www.britannica.com/EBchecked/topic/203047/fazenda>
- ⁵ José Fonseca, A Brief History of Brazil. The New York Times. Found at http://www.nytimes.com/fodors/top/features/travel/destinations/centralandsouthamerica/brazil/riodejaneiro/fdrs_feat_129_9.html?pagewanted=1&n=Top/Features/Travel/Destinations/Central%20and%20South%20America/Brazil/Rio%20de%20Janeiro
- ⁶ Id.
- ⁷ Id.
- ⁸ Id.
- ⁹ Leslie Bethell, Brazil: Empire and Republic, 1822-1930. Cambridge University Press, May 26, 1989, at 105.
- ¹⁰ Rollie E. Poppino, Brazil. Encyclopedia Britannica (2015), at <http://www.britannica.com/EBchecked/topic/78101/Brazil/25036/>
- ¹¹ Id.
- ¹² Frank D. McCann, The Era of Getúlio Vargas, 1930-54. “Brazil: A Country Study”. Rex A. Hudson. Washington: GPO for the Library of Congress, 1997.
- ¹³ Id.
- ¹⁴ Frank D. McCann, The Post-Vargas Republic, 1954-64. “Brazil: A Country Study”. Rex A. Hudson. Washington: GPO for the Library of Congress, 1997.
- ¹⁵ Id.
- ¹⁶ Id.
- ¹⁷ Id.
- ¹⁸ Frank D. McCann, The Military Republic, 1964-85. “Brazil: A Country Study”. Rex A. Hudson. Washington: GPO for the Library of Congress, 1997.
- ¹⁹ Id.
- ²⁰ Id.
- ²¹ Id.
- ²² James Madison, “Federalist, No. 51,” (1787).
- ²³ David V. Fleischer, Government and Politics. “Brazil: A Country Study”. Rex A. Hudson. Washington: GPO for the Library of Congress, 1997.
- ²⁴ Keith S. Rosenn, Separation of Powers in Brazil, 47 Duq. L. Rev. (2009), at 850-851.
- ²⁵ Id., at 852.
- ²⁶ Id., at 854.
- ²⁷ Id., at 862.
- ²⁸ CONSTITUICAO FEDERAL [C.F.] [CONSTITUTION] art. 22, I (Braz.). The Union also has exclusive power to legislate on all matters of public procurement. Id. at XXVII.
- ²⁹ Id.
- ³⁰ Id. at art. 24.
- ³¹ Id.
- ³² Stare decisis is a legal principle dictating that courts should follow the legal precedent created by earlier court decisions when ruling on questions of law.
- ³³ Rosenn, *supra* note ____.
- ³⁴ <http://www.cgu.gov.br/sobre/institucional>

³⁵ Id. The ombudsman's office handles public service complaints from the general public.

³⁶ By comparison, the CGU is responsible for internal auditing of the federal government, such as auditing contracts as they are executed to ensure compliance with the law and terms of the contract.

³⁷ ATRIBUIÇÕES, <http://www.tce.rj.gov.br/eb/guest/atribuicoes> (last visited May 13, 2015).

³⁸ While the TCERJ, roughly translated as the Court of Auditors of the State of Rio de Janeiro, has only existed in its current form since the merger of the States of Guanabara and Rio de Janeiro in 1975, the court previously existed as the courts of the Federal District, the Court of the State of Guanabara, and the Court of the old state of Rio de Janeiro. HISTÓRICO, <http://www.tce.rj.gov.br/web/guest/historico> (last visited May 13, 2015).

³⁹ The TCU was authorized under Art. 70 of the Federal Brazilian Constitution. CONSTITUIÇÃO FEDERAL [C.F.] [CONSTITUTION] art. 70. The TCMRJ was authorized under Rio Law 289. Lei No. 289, de 25 de Novembro de 1981 (Braz.), available at <http://www.tcm.rj.gov.br/Noticias/Informa/L289c.pdf>.

⁴⁰ Fernando C. Prestes Motta and Rafael Alcadipani, Jeitinho Brasileiro, Controle Social E Competição, Organização, Recursos Humanos e Planejamento. (1999). Found at <http://www.scielo.br/pdf/rae/v39n1/v39n1a02.pdf>

⁴¹ Id.

⁴² The Brazilian Jeitinho, An Exercise in National Identity. Livia Neves de H. Barbosa. The Brazilian Puzzle: Culture on the Borderlands of the Western World, David J. Hess. Columbia University Press, 1995, at 35.

⁴³ Id., at 37.