

Trade and Investment Law in the Fight Against Corruption: Approaches for the Protection of the Environment and Human Rights

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Abstract : Since the presentation of the Millennium Development Goals at the beginning of the 21st century, the United Nations General Assembly identified corruption as a critical issue to address in order to achieve these objectives. The issue of Corruption was also approached by the designation of a Special Rapporteur to investigate its impact on the full enjoyment of Human Rights. Furthermore, with the establishment of the Sustainable Development Goals, corruption was explicitly recognized as a direct threat to the enjoyment of human rights and a significant direct obstacle to achieving these targets. The international community, especially the different economic communities, has taken concrete steps to combat corruption globally. Notable efforts include the OECD's adoption of the Anti-Bribery Convention in 1997, the creation of the United Nations Convention Against Corruption, and the implementation of regional instruments across Europe, Africa, the Middle East and Latin America. Additionally, organizations like the World Bank and the World Trade Organization have highlighted the detrimental impact of corruption on commerce, trade, and investment, providing ample evidence of such effects. This article adopts a socio-legal approach, combining legal analysis with empirical research to examine the impact of corruption on investment in global southern countries. It analyses international legal frameworks such as the UNCAC, OECD Anti-Bribery Convention, and trade agreements, focusing on provisions within the GATT that address transparency and fair trade. Empirical research involves reviewing data on investment practices, particularly in natural resource projects, and their implications for human rights and environmental protection. The study also includes a case law review of arbitration decisions from the International Centre for Settlement of Investment Disputes (ICSID) and disputes submitted to the World Trade Organization concerning anti-transparency practices. The article reveals that corruption fuels environmental degradation, forced displacement, and human rights abuses while obstructing the achievement of the Sustainable Development Goals (SDGs). Although international anti-corruption instruments exist, weak enforcement undermines their effectiveness. Lack of transparency and Corruption's negative influence extends to international economic relations between states and private sector investments, particularly in areas such as natural resource management and mining. These activities often lead to adverse consequences for human rights and the environment. To address this, states must adopt effective measures to combat various forms of corruption. This includes fulfilling their obligations to the international community by ensuring that their contractual commitments explicitly address anti-corruption measures. By integrating legal analysis, empirical evidence, and case law, this methodology identifies patterns and proposes recommendations for strengthening anti-corruption measures in trade and investment agreements to promote transparency, fair trade, and sustainable development. Furthermore, it recommends that mechanisms should be established to hold both states and multinational corporations accountable for corrupt practices. Arbitration courts could play a vital role in enforcing these obligations, ensuring that corruption is effectively mitigated in the context of international agreements and projects.

Keywords : anticorruption, arbitration, environment, human rights, investment, trade

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