

*Promoting Accountability of Government Officials in Foreign
Direct Investments Aimed at Curbing Transnational
Corruption: The Importance of Public Participation*

Miss Delisile Xolile Ntshalintshali

2013 LL.M. in International Legal Studies Program Candidate,
Golden Gate University School of Law; Recipient, 2012 Fulbright
Scholarship Award

PROMOTING ACCOUNTABILITY OF GOVERNMENT OFFICIALS IN FOREIGN DIRECT INVESTMENTS AIMED AT CURBING TRANSNATIONAL CORRUPTION: THE IMPORTANCE OF PUBLIC PARTICIPATION

By Ms. Delisile Xolile Ntshalintshali

Abstract

In contemporary times the world has progressed to the extent that one can say borders no longer exist, taking into account the easiness in communication through the use of internet and telecommunications, the transfer of money through the banking systems, good transportation networks, and most importantly the liberalization of trade among other developments. The fusion of the world's industries and services owes its existence to what has been termed globalization. In as much as globalization has made peoples' lives easier, it has also brought about unwelcome challenges. Specifically, the way in which globalization facilitates the migration of both people and businesses makes it difficult to regulate these people and their activities. One important area of concern observed with regard to the liberalized trade in particular is corruption.

Corruption is a major challenge to most countries in the world. African countries in particular are still struggling with ways to eradicate or at least minimize corruption, and transnational corruption has added to the woes of these countries. Developed countries like the United States for example have responded swiftly to the challenges of transnational corruption by enacting legislation to criminalize global corporate bribery, such as the Foreign Corrupt Practices Act. Despite this, corruption still pervades the business world- thereby thrusting great challenges on governments and business practitioners. Corruption has a link with human rights, in that when governments spend public funds in shady circumstances, this depletes the resources that are meant to cater to the needs of the citizens.

This article is focused on corrupt practices by government officials and foreign investors either as individuals or multinational corporations. In particular, the paper will discuss the role of international law in addressing this problem and calls for the collaboration of states to curb transnational corruption. The paper will argue that allowing public

participation in investment treaty negotiations as well as publication of treaties is one way of promoting accountability of public officials. Thus, the paper will, as a recommendation, discuss various ways on how the public can get involved in treaty matters, with the aim of minimizing transnational corruption.