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Corruption in International Arbitration

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CORRUPTION IN INTERNATIONAL ARBITRATION

By

INAN ULUC

A thesis submitted in partial fulfillment of the

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ABSTRACT

Corruption represents a great menace to national and international development. It jeopardizes democracy, human rights, and social justice. Consequently, corruption is vehemently abhorred and denounced by members of the international arbitration arena. Unfortunately, while these players purport repugnance towards corruption and do not condone corrupt acts, there has arisen a misplaced distrust of arbitral process as a proper dispute resolution system. Further, when amalgamating the inherent opaqueness of the arbitral process, its structure founded upon party autonomy, and the clear lack of authority for arbitrators to compel evidence, such distrust persists and encourages belief that arbitration is a venue where agreements vitiated by corruption find legitimization and enforcement. Within this hostile climate, issues of corruption proffer challenges to the arbitral system and impose, simultaneously, arduous tasks and great responsibility upon arbitrators.

Indisputably, corruption's involvement in arbitration is far from novel. Nonetheless, there remains a lack of uniformity among arbitral tribunals on how to tackle corruption. The core issues causing divergence include: (i) arbitrability and admissibility of corruption issues; (ii) the burden of proof and the standard of proof; (iii) *sua sponte* arbitrator investigation and inquiry into corruption; (iv) disclosing corruption to arbitral institutions and public authorities; (v) and proper judicial review of an arbitral award when the legality of the award is challenged on the basis of corruption.

This study delineates these controversial concerns and analyzes practical solutions within the context of theory and practice. Further, this study scrutinizes commercial and investment-treaty arbitration cases, national and international court judgments, international conventions, national statutes, plus, other materials exploring corruption and arbitration.

By referencing a wide collection of historic and contemporary sources, this study will aid practitioners and scholars interested in the ongoing interaction between corruption and arbitration.

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