

AUTHOR	AUTHOR (URL)	TITLE	TITLE (URL)	CITATION	ABSTRACT (abridged)	DATE OF PUBLICATION	INSTITUTIONAL AFFILIATION (at time of publication)
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<p>Bixby, Michael</p>	<p>http://cob.e.boisestate.edu/mboxby/</p>	<p>The Lion Awakens: The Foreign Corrupt Practices Act - 1977 to 2010</p>	<p>https://advance.lexis.com/api/permalink/20788b24-4ba3-421d-a834-928b005a5c5f/?context=1000516</p>	<p>San Diego International Law Journal 12 San Diego Int'l L.J. 89 (2010)</p>	<p>This Article discusses the history, purposes and provisions of the Foreign Corrupt Practices Act, and traces its use and enforcement activity from 1977 to the present. This once little-used law has in recent years become the focus of aggressive activity by both the U.S. Department of Justice and the Securities and Exchange Commission. The manuscript also includes numerous charts reporting on key cases and enforcement activities over the last thirty-three years by the DOJ and SEC, as well as other information and statistics regarding the Foreign Corrupt Practices Act.</p>	<p>2010</p>	<p>Boise State University College of Business and Economics: Professor of Management</p>
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<p>Bonstead, Chad</p>	<p>http://www.andrewskurth.com/assets/pdf/bio_ChadBonstead.pdf</p>	<p>Removing the FCPA Facilitation Payments Exception: Enforcement Tools for a Cleaner Business as Usual (COMMENT)</p>	<p>http://www.hjil.org/articles/hjil-36-2-bonstead.pdf</p>	<p>Houston Journal of International Law 36 Hous. J. Int'l L. 503</p>	<p>Section II of this comment will address and explain facilitation payments and why it is no longer acceptable to regard them as a normal part of doing business. Section III briefly compares the FCPA's facilitation payments exception with the conscious lack thereof in the U.K. Bribery Act 2010. It also reviews how the OECD has played a role in elevating this topic for debate with the Department of Justice and the public in general. Section IV looks at the current practical and theoretical arguments being made for and against allowing facilitation payments under the FCPA and advocates for prohibiting them. Most importantly, it analyzes the practical implications involved with enforcing a prohibition of facilitation payments under the FCPA and makes four recommendations which would aid in making a prohibition of facilitation payments under the FCPA more effective. Finally, the Conclusion to this Comment briefly compares the likely costs of anti-facilitation payment enforcement efforts with the benefits that stamping them out would achieve.</p>	<p>2014</p>	<p>Andrews Kurth: Associate [Student Comment]</p>
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Brown, H. Lowell	http://mainelaw.maine.edu/faculty/profiles/adjunct/brown.html	Extraterritorial Jurisdiction Under The 1998 Amendments To The Foreign Corrupt Practices Act: Does The Government's Reach Now Exceed Its Grasp?	https://www.westlaw.com/Link/Document/FullText?findType=Y&series=0283596636&pubNum=198&originCountry=US&document&transitionType=DocumentItem&contextData=%28sc.DocLink%29	North Carolina Journal of International Law and Commercial Regulation 26 N.C. J. Int'l L. & Com. Reg. 239 (2001)	The 1998 amendments to the FCPA expanded the Act's substantive scope of the FCPA and extended the jurisdictional reach of the government's enforcement powers. This article analyzes the 1998 amendments. Part I of the article provides a historical overview of the FCPA. Part II of the article discusses the OECD Convention. Part III analyzes the United States' 1998 Amendments to the Foreign Corrupt Practices Act. Part IV of the article analyzes the applicability of the FCPA extraterritorially. Part V concludes that while the amendments' importance in conjunction with the OECD Convention largely remains to be seen, it is clear that the enlargement of the extraterritorial effect of the Act's antibribery provisions may prove to be the most significant and challenging foray by the United States into the regulation of international business, certainly since the FCPA was originally enacted.	2001	University of Maine School of Law: Professor of Law
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<p>Carr, Indira M. & Outhwaite, Opi</p>	<p>http://www.surrey.ac.uk/law/people/indira_carr/</p>	<p>Corruption , Corporate Social Responsibility and Corporate Governance</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=163961</p>	<p>Working Paper</p>	<p>Corruption is an issue that affects developing and developed countries alike. Businesses are often seen as fueling the flames of corruption by engaging in corrupt practices in order to gain advantages over competitors in business deals. Since the mid-1990s the international community has been focusing on ways to increase business integrity by adopting conventions for ratification and effective implementation by Contracting States and soft law instruments for voluntary incorporation by businesses within their Corporate Social Responsibility (CSR) policies. The question however is whether these self-regulatory measures have made any noticeable impact on companies' practices and policies in respect of corruption. This paper addresses this question through a survey of companies' policies and practices as expressed in their CSR statements and responses to questionnaires of publicly listed companies as published by The Times (London) in the Industrials, Telecoms and Technology sectors.</p>	<p>2010</p>	<p>University of Surrey, UK: Professor of Law & University of Greenwich , UK: Lecturer in Law</p>
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Carr, Indira M.	http://www.surrey.ac.uk/law/people/indira_carr/	Strategic Improvements in the Fight Against Corruption in International Business Transactions	http://papers.ssrn.com/sol3/papers.cfm?abstract_id=140134	Journal of Business Law 4 J. Bus. L. 170 (2011)	Studies from international organisations such as the World Bank and the International Monetary Fund highlight the harmful effects of corruption on the poor, the economic health of a nation and the competitive environment for conducting international business. The international response to corruption has largely been the adoption of various regional and international conventions. This paper critically comments on the current schemes adopted towards combating corruption in the international business environment and proposes improvements that could effectively reduce the incidence of corruption. While the emphasis of this paper is legal, it also draws upon corruption in other disciplines such as economics, politics and development studies with a view to gaining a better understanding of the causes of corruption and its eradication.	2006	University of Surrey, UK :Professor of Law
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<p>Celentani, Marco et al</p>	<p>http://www.eco.uc3m.es/english/staff/contact_info/celentani.html</p>	<p>Combating Corruption in International Business Transactions</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=428163</p>	<p>UPF Economic and Business Working Paper No. 670</p>	<p>We analyze the impact of different types of international conventions that require signatory countries to penalize domestic firms that are found to have bribed foreign public officials. We analyze enforcement of penalties under a convention styled after the OECD's 'Convention on Combating Bribery of Foreign Public Officials in International Business Transactions', in which signatory countries commit to prosecuting firms that have bribed public officials of any foreign country. We compare the results with the case in which the convention requires signatory countries to commit to prosecuting firms that have bribed public officials of signatory countries only. We argue that the second type of convention is more likely to ensure enforcement of penalties on firms found to have bribed foreign public officials.</p>	<p>2003</p>	<p>Universidad Carlos III de Madrid: Professor of Economics</p>
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Chaffee, Eric C.	http://www.utoledo.edu/law/faculty/fulltime/chaffee.html	The Role of the Foreign Corrupt Practices Act and Other Transnational Anti-Corruption Laws in Preventing or Lessening Future Financial Crises	http://moritzlaw.osu.edu/students/groups/oslj/files/2013/02/73.5.Chaffee.pdf	Ohio State Law Journal; 73 Ohio St. L.J. 1283	The most recent global financial crisis resulted in part from a failure of international law. Politicians and other regulators in the United States and abroad failed to effectively work together to create a consistent and proper level of regulation for the financial institutions, the mortgage-backed securities, and the credit default swaps that were at the heart of the crisis. As evidenced by the crisis, the globalization of financial markets within the past few decades has created new systemic risk in which national crises can quickly and easily spread across national borders. In the absence of greater coordination by politicians and other regulators in the United States and abroad, global financial crises are likely to occur with greater regularity and severity as the world continues to become more interconnected. Even if a cohesive web of international financial regulation can be developed, enforcement of the various strands of that web of regulation remains a concern. Remarkably, anti-corruption law has largely been ignored as a necessary component of financial regulatory reform. In the voluminous body of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the term "corruption" is not mentioned once, which is extraordinarily troubling. A robust and comprehensive system of transnational anti-corruption law is required to create stable global financial markets. The realities of an increasingly interconnected world precipitated the enactment of the Foreign Corrupt Practices Act to prevent persons and other entities from engaging in activity that would corrupt foreign government officials.	2012	University of Dayton: Professor of Law
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<p>Cheung, Stephen Yan-Leung et al</p>	<p>http://www.hkbu.edu.hk/~sch/eung/cv.htm</p>	<p>How Much do Firms Pay as Bribes and What Benefits do They Get? Evidence from Corruption Cases Worldwide</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=177224</p>	<p>24th Australasian Finance and Banking Conference 2011; NBER Working Paper No. 17981 Issued in April 2012</p>	<p>This Article analyzes a hand-collected sample of 166 prominent bribery cases, involving 107 publicly listed firms from 20 stock markets that have been reported to have bribed government officials in 52 countries worldwide during 1971-2007. It focuses on the initial date of award of the contract for which the bribe was paid (rather than the revelation of the bribery). This data enables the authors to describe in detail the mechanisms through which bribes affect firm value. The article finds that firm performance, the rank of the politicians bribed, as well as bribe-paying and bribe-taking country characteristics affect the magnitude of the bribes and the benefits that firms derive from them.</p>	<p>2012</p>	<p>Hong Kong Baptist University, School of Business: Dean and Professor of Finance</p>
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<p>Choi, Stephen J. & Davis, Kevin E.</p>	<p>https://its.law.nyu.edu/faculty/profiles/profile.cfm?personID=23843</p>	<p>Foreign Affairs and Enforcement of the Foreign Corrupt Practices Act</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=211648 <u>7</u></p>	<p>NYU School of Law, Public Law Research Paper No. 12-35</p>	<p>We examine the factors that explain the distribution across companies and countries of sanctions imposed in Foreign Corrupt Practices Act (FCPA) enforcement actions. We use a dataset of FCPA actions resolved from 2004 to 2011. We find evidence that the sanctions in an individual FCPA action are positively correlated with the size of bribe, the profit related to the bribe, and the amount of business affected by the bribe. The sanction increases if a subsidiary faces FCPA charges, if the FCPA violation occurs in multiple countries, if the ultimate parent company of entities involved in the FCPA violation is foreign, and if foreign regulators are involved in the action. We also conduct a number of country-level tests to assess factors that explain the ultimate distribution of FCPA sanctions across countries. Looking to the distribution of aggregate total monetary sanctions by country where FCPA violations take place, we find that aggregate sanctions are proportional to our measure of overall bribe activity in a violation country. We report evidence that the SEC and DOJ impose disproportionately greater aggregate sanctions for violations in countries with a lower GNI per capita as well as weaker local anti-bribery institutions. The SEC and DOJ also impose disproportionately greater aggregate sanctions for violations where the home country of the ultimate parent company of FCPA defendants has a bilateral cooperation agreement with the SEC, a Mutual Legal Assistance Treaty with the United States, and stronger local anti-bribery institutions.</p>	<p>2012</p>	<p>New York University School of Law: Professor of Law & New York University School of Law: Professor of Business Law</p>
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Cortney, C. Thomas		The Foreign Corrupt Practices Act: A Decade of Rapid Expansion Explained, Defended, and Justified (NOTE)	https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=0352104588&pubNum=100385&originationContext=document&transitionType=DocumentItem&contextData=%28sc.Keycite%29#cop_sp_100385_446	Review of Litigation 29 Rev. Litig. 439 (2010)	In the face of a growing amount of scholarly criticism, this paper attempts to defend the FCPA's expansion, particularly the use of diversion agreements. Part II focuses on the historical and technical development of the Act. Part III then examines the rise and use of diversion agreements in FCPA enforcement actions in the last decade. Part IV concludes with a response to the many concerns leveled against the Act's recent expansion, ultimately determining that the current system of enforcement sufficiently satisfies the goals of the FCPA (to deter foreign bribery and to create a level playing field) with very little collateral consequences (harms and abuses suffered due to exorbitant prosecutorial power and discretion).	2010	University of Texas: [Student Note]
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<p>Crites, D. Michael</p>	<p>http://www.dinsmore.com/about/university.asp?xpST=UniversalProfessional&professional=493&op=&ajax=no</p>	<p>Why The Foreign Corrupt Practices Act is Hurting Our Businesses and Needs to be Reformed</p>	<p>http://www.dinsmore.com/foreign_corrupt_practices_act/</p>	<p>The State Journal</p>	<p>The FCPA's purpose and goals remain as true and necessary today as they were over 30 years ago when they were first enacted into law. Federal law needs to prevent and prohibit unethical bribes to foreign officials. What has changed in the past 30 years, however, is the federal government's enforcement of the law.</p>	<p>2011</p>	<p>Dinsmore: Partner</p>
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Darrough, Masako N.	http://zicklin.baruch.cuny.edu/faculty/programs doctoral/abstract-out-us/profiles/darroughs/darroughs.html	The FCPA and the OECD Convention: Some Lessons from the U.S. Experience	http://papers.ssrn.com/sol3/papers.cfm?abstract_id=555643	Journal of Business Ethics, 93 J. Bus. Ethics 255 (2004)	<p>Although corruption is ubiquitous, attitudes toward it differ among countries. The U.S. had been the only country, until 1997 OECD Convention, with an explicit extraterritorial anti-bribery law. The Foreign Corrupt Practices Act of 1977 employs a two-pronged approach to control the supply side of corruption: (1) anti-bribery provisions and (2) accounting (internal control) provisions. I offer indirect evidence that shows that the FCPA had limited success. The OECD Convention adopts the same two-pronged approach, but is likely to be more successful since it is a multilateral treaty: the signatory nations can effectively form a cartel to reduce the cost of doing business. As with any cartel, however, each multinational corporation has an incentive to deviate. I argue that the main lesson to be drawn from the U.S. experience is that we need, in addition to internal controls, stronger and more effective corporate governance within an appropriate regulatory framework.</p>	2004	City University of New York, Zicklin School of Business: Professor of Accountancy
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<p>Frecka, Thomas J., et al.</p>	<p>http://business.nd.edu/thomasfrecka/</p>	<p>Trends in the International Fight Against Bribery and Corruption</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=152747</p>	<p>Working Paper</p>	<p>Over the past decade we have witnessed some early signs of progress in the battle against international bribery and corruption, a problem that throughout the history of commerce had previously been ignored. We begin by summarizing the literature that convincingly argues that bribery is an immoral and unethical practice and that the economic harm it causes falls most heavily on those least able to absorb it. The next section summarizes the main provisions of anti-bribery legislation including the FCPA, the OECD, and the United Nations Convention Against Corruption and the laws of selected countries. We conclude this section with a discussion of the "moral imperialism" argument for not imposing Western laws and values on other cultures. The next section focuses on the roles played by NGOs including Transparency International, the World Economic Forum and the International Chamber of Commerce. We review trends in enforcement and prosecution, including a review of United States' enforcement processes, mechanisms for cross-border legal assistance, a discussion of the distinctive nature of FCPA cases and an assessment of what the future holds for enforcement. The final section focuses on compliance processes for corporations aimed at reducing the risk of FCPA and related violations. This section also addresses the ethics of gift giving and "grease" payments.</p>	<p>2009</p>	<p>Notre Dame: Professor of Accountancy</p>
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Georgis, Pete J.	http://www.rrsc-law.com/attorneys/georgis.html	Settling with Your Hands Tied: Why Judicial Intervention is Needed to Curb an Expanding Interpretation of the Foreign Corrupt Practices Act (COMMENT)	https://a.next.westlaw.com/Document/1c1e2db21937211e18b05fdf15589d8e8/View/FullText.html?navigationPath=%2FFoldering%2Fv1%2Fkelly.gibson%2Fcontentainers%2Fuser%2Fed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-	Golden Gate University Law Review 42 Golden Gate U. L. Rev. 243	This Comment therefore argues that the broad interpretation of the FCPA's business nexus requirement, which criminalizes payments that both directly and indirectly "obtain or retain business," encourages prosecutorial abuse and deviates from the intended purpose of the Act. The Justice Department's expansive approach to FCPA enforcement has cost companies tremendously, even though the Act's drafters intended for a more balanced approach. Part I of this Comment will discuss the history and background of the Foreign Corrupt Practices Act of 1977 and its amendments in 1988 and 1998. Part II will examine the application of the business nexus requirement in United States v. Kay and argue that its interpretation is inconsistent with the FCPA's purpose. Part III will examine enforcement measures used by the DOJ and the SEC in a post-Kay world. Finally, Part IV will propose that judicial intervention in these enforcement measures is necessary to alleviate some of the challenges that currently exist, as well as to guide companies in distinguishing lawful from unlawful conduct.	2012	Rice Reuther Sullivan & Carroll: Associate [Student Note]
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<p>Grimm, Daniel J.</p>	<p>https://www.linkedin.com/pulse/daniel-j-grimm/56141/358</p>	<p>Traversing the Minefield: Joint Ventures and the Foreign Corrupt Practices Act</p>	<p>http://ssrn.com/abstract=2597412</p>	<p>Virginia Law and Business Review; 9 Va. L. & Bus. Rev. 91</p>	<p>High-risk business relationships and aggressive enforcement make the Foreign Corrupt Practices Act (“FCPA”) a minefield for transnational joint ventures. Spiraling FCPA risks emerge from a variety of scenarios, including vicarious liability for the acts of majority-owned or controlled joint ventures, joint-venture partners, and third-party agents. The involvement of state-owned enterprises further elevates the risk of a costly enforcement action, as even routine payments can become potential FCPA landmines. Expansive applications of the FCPA’s accounting provisions—which can ensnare corporate issuers regardless of whether a corrupt payment occurs—add additional danger to an already perilous environment. While numerous strategies for mitigating FCPA exposure are available, even expansive due diligence, comprehensive compliance systems, and ironclad contractual remedies cannot protect against an uncertain enforcement landscape. The continuous evolution of FCPA enforcement raises the costs of compliance by adding additional uncertainty to joint-venture relationships. This may have an unintended consequence: deterring the investments that best promote the anti-corruption and pro- competition norms underlying the FCPA.</p>	<p>Fall 2014</p>	<p>Sullivan & Cromwell LLP; Associate, Washington DC</p>
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<p>Hatchard, John</p>	<p>http://www7.open.ac.uk/oubs/research/staff-detail.asp?id=320</p>	<p>Recent Developments In Combating The Bribery Of Foreign Public Officials: A Cause For Optimism?</p>	<p>https://a.next.westlaw.com/Document/Ida2f3b1126ab411ddba13ead008c6b935/View/FullText.html?navigationPath=Search%2Fv3%2Fsearch%2Fresults%2Fnavigation%2FIda2f3b1126ab411ddba13ead008c6b935%3FNav%3DANALYTICAL%26fragmentIdentifier%3DIda2f3b1126ab411ddba13ead008c6b935</p>	<p>University of Detroit Mercy Law Review, 85 U. Det. Mercy L. Rev. 1 (2007)</p> <p>This article postulates that it is not enough to focus attention on the developing world, but rather to recognize that, particularly regarding grand corruption, the problem often has a transnational dimension. Thus it is necessary to go further and examine the issue as to who is responsible for the corruption and what is being done to deal with them. The article focuses on recent efforts to combat bribery of officials, noting that "corruption world-wide weakens democracy, harms economies, impedes sustainable development and can undermine respect for human rights by supporting corrupt governments, with widespread destabilizing consequences."</p>	<p>2007</p>	<p>Open University: Visiting Professor</p>
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<p>Hellman, Joel S. et al.</p>	<p>www.colbudd.hu/honesty-trust/hellman/cv.PDF</p>	<p>Far from Home: Do Foreign Investors Import Higher Standards of Governance in Transition Economies?</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=386900</p>	<p>Working Paper</p>	<p>Based on the Business Environment and Enterprise Performance Survey (BEEPS) of firms in transition countries, which unbundles corruption to measure different types of corrupt transactions and provide detailed information on the characteristics and performance of firms, we find that: i) corruption reduces FDI inflows and attracts lower quality investment in terms of governance standards; ii) in misgoverned settings, FDI firms may magnify the problems of state capture and procurement kickbacks, while paying a lower overall bribe burden than domestic firms; iii) FDI firms undertake those forms of corruption that suit their comparative advantages, generating substantial gains for them and challenging the premise that they are coerced, which makes it difficult to develop effective constraints on such behavior; and, iv) transnational legal restrictions to prevent bribery had not led to higher standards of corporate conduct among foreign investors by the year 2000. Rather than being construed as a case against foreign investment; we argue that state capture is created and maintained through restrictions on competition and entry in strategic sectors. Thus, enhancing competition by attracting a wider, more diverse set of FDI firms is critical to the broader strategic framework of fighting state capture and corruption.</p>	<p>2002</p>	<p>The World Bank: Lead Specialist, Public Sector and Governance</p>
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<p>Hess, David & Dunfee, Thomas W.</p>	<p>http://webuser.bus.umich.edu/dwhess/</p>	<p>Fighting Corruption : A Principled Approach</p>	<p>http://knowledge.library.cornell.edu/papers/947.pdf</p>	<p>Cornell International Law Journal, 33 Cornell Int. L.J 593</p>	<p>Firms establish procedures to assure that their employees are not bribed by others while simultaneously using bribes to obtain business. Firms from countries with minimal domestic corruption play a major role as bribe-payers in corrupt environments. Their participation in some forms of corruption may be explained by a variety of factors including competitive necessity, respect for local cultural norms, extortion, and inability or unwillingness to control rogue employees. At the same time, public opinion appears to be turning strongly against corrupt practices and demanding that something be done about bribery.</p>	<p>2000</p>	<p>University of Michigan, Ross School of Business: Professor of Business Law & University of Pennsylvania: Professor of Legal Studies and Business Ethics (deceased)</p>
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<p>Hess, David & Dunfee, Thomas W.</p>	<p>http://webuser.bus.umich.edu/dwhess/</p>	<p>Getting From Salbu to the "Tipping Point": The Role of Corporate Action Within a Portfolio of Anti-Corruption Strategies.</p>	<p>https://a.next.westlaw.com/Document/I6f247c315ac911dbbe1cf2d29fe2afe6/View/FullText.html?navigationPath=Search%2Fv3%2Fsearch%2Fresults%2Fnavigation%2Fi0ad7051c0000139552636f934442da5%3FNav%3DANALYTICAL%26fragmentIdentifier%3DI6f247c315ac911d</p>	<p>Northwestern Journal of International Law & Business, 21 NW J. of Int. L & Bus. 471 (2001)</p> <p>Salbu's "big questions" identify core issues for scholars on bribery and corruption. Salbu asks: (1) when may it be ethical to pay a bribe, (2) whether the Foreign Corrupt Practices Act's ("FCPA") provisions on "routine government action" permit us to distinguish between appropriate and inappropriate facilitative payments, (3) whether non-governmental organizations ("NGOs") should supplant the role of governments in fighting corruption, and (4) whether corporate principles can have an impact in the fight against corruption. Our focus is primarily on the latter question, but encompasses all of them. Implicit in Salbu's list is the question of whether a single magic bullet can be identified as a likely solution to the problem of corruption, e.g. whether NGOs should "supplant" governmental action. Instead of phrasing the question in terms of either-or, we would ask: What is the appropriate mix of strategies to most effectively combat corruption? The choice is not choosing between strategies, but finding the right mix of strategies to capitalize on their synergies and most effectively combat corruption from all sides. We argue that a portfolio of strategies will be the most efficient route to conquering corruption. Over time, new strategies may emerge and the relative importance of strategies will shift within an anti-corruption portfolio.</p>	<p>2001</p>	<p>University of Michigan, Ross School of Business: Professor of Business Law & University of Pennsylvania: Professor of Legal Studies and Business Ethics (deceased)</p>
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<p>Hess, David & Dunfee, Thomas W.</p>	<p>http://webuser.bus.umich.edu/dwhess/</p>	<p>Taking Responsibility for Bribery: The Multinational Corporation's Role in Combating Corruption</p>	<p>http://www.greenleaf-publishing.com/productdetail/mod?productid=2964</p>	<p>Sullivan, R. (ed.) Business and Human Rights: Dilemmas and Solutions, pp. 260-271. Sheffield, UK: Greenleaf Publishing</p>	<p>Corruption is an under-appreciated impediment to the realisation of human rights in developing countries. While government officials profit from bribes taken from multinational corporations and others, many citizens' rights are compromised. Like any economic transaction, corruption has both a demand side and a supply side. Public officials demand bribes, and private citizens or organisations such as businesses, supply the bribes. Any system to control corruption by attacking only one side of the transaction will surely fail. An effective anti-corruption system requires a variety of measures attacking corruption from all sides.</p>	<p>2003</p>	<p>University of Michigan, Ross School of Business: Professor of Business Law & University of Pennsylvania: Professor of Legal Studies and Business Ethics (deceased)</p>
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<p>Hill, Jennifer G.</p>	<p>http://sydney.edu.au/law/about/staff/JenniferHill/</p>	<p>Prohibiting Bribery of Foreign Public Officials - Implications for Corporate Criminal Liability</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=924150</p>	<p>Company and Securities Law Journal 16 Company & Sec. L.J. 384 (1998)</p>	<p>In the late 1990s, it was announced that Australia would introduce legislation to respond to an OECD Convention for criminalizing bribery of foreign public officials. This was part of a coordinated international OECD initiative. The US had already addressed such issues two decades earlier under the Foreign Corrupt Practices Act of 1977. This paper discusses the rationales for prohibiting bribery of foreign public officials and the scope of the draft Australian provisions, which were designed to enforce the OECD Convention. The paper specifically focuses on the broader implications of the bribery offence for corporate criminal liability. It discusses when payment of a bribe by an employee or officer to a foreign public official may result in corporate criminal liability, and the mechanisms through which corporations might protect themselves from such liability.</p>	<p>1998</p>	<p>University of Sydney (Australia) : Professor of Corporate Law</p>
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Hinchey, Bruce		Punishing the Penitent: Disproportionate Fines in Recent FCPA Enforcements and Suggested Improvements (NOTE)	http://papers.ssrn.com/sol3/papers.cfm?abstract_id=165092 5	Public Contract Law Journal, 40 Pub. Contract L.J. 393 (2010)	<p>The Department of Justice has long promised tangible benefits to companies that voluntarily disclose Foreign Corrupt Practices Act (FCPA) violations. Justice Department officials have promised that the enforcement of the FCPA is both fair and consistent. Despite these promises, critics question the benefits of voluntary disclosure based on the outcome of a few, isolated cases. In this thesis, forty FCPA cases from 2002 through 2009 are compiled, comparing the ratio between bribes and fines for companies that do and do not voluntarily disclose. The results side with the critics and reveal that there does not appear to be a benefit to voluntary disclosure. The data from these cases is then used to identify how the FCPA can be honed to encourage compliance and deter violations in a fairer and more efficient manner. Next, comparisons are made between the FCPA and other anti-corruption organizations and entities, with the intent of incorporating refinements to the voluntary disclosure enforcement process. These comparisons consider not only the legal framework for preventing bribery but also how those laws are enforced. Finally, recent FCPA developments are considered along with some suggested actions to bring more fairness and efficiency to voluntary disclosures under the FCPA.</p>	2010	George Washington University School of Law [Student Note]
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Hurst, Melissa Kelly		Eliminating Bribery in International Business Transactions	https://a.next.westlaw.com/Document/1867c5f315ae511dbbd2dfa5ce1d08a25/View/FullText.html?navigationPath=%2FRelatedInfo%2Fv4%2Fkeycite%2Fnav%2F%3Fguid%3D1867c5f315ae511dbbd2dfa5ce1d08a25%26ss%3D0106531861&listSource=RelatedInfo&list=CitingReference	Journal of International Law and Practice 6 J. Int'l L. & Prac. 111 (1997)	<p>Bribery in international business disrupts the local economy, discourages foreign investment, destabilizes friendly foreign governments, and impairs the ability of American firms to compete with foreign firms that are permitted by law not only to pay bribes, but in many instances to deduct the cost of the bribe from their income taxes. Section Two of this paper describes the magnitude and scope of the problem of bribery in international business transactions. Section Three analyzes the application and enforcement of the Foreign Corrupt Practices Act, and provides a brief description of the scandals and investigations leading to its enactment. Section Four examines recent trends toward eliminating bribery and addressing the tax deductibility of bribes in international commercial transactions. Twenty years of U.S. pressure to persuade other countries to criminalize bribery of foreign public officials has resulted in the adoption of the OECD Convention. The OECD Convention represents significant progress toward eliminating bribery of foreign public officials. Regrettably, the OECD Convention fails to prevent foreign firms from deducting the cost of bribes paid from their income taxes. Accordingly, the United States should continue to urge the parties to the OECD Convention, as well as other countries that permit tax deductions for the cost of bribes paid to foreign public officials, to eliminate this unfair advantage over American businesses.</p>	1997	?
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<p>Jeydel, Peter</p>	<p>http://www.step toe.com/professionals-Peter_Jeydel.html</p>	<p>Yoking the Bull: How to Make the FCPA Work for U.S. Business (NOTE)</p>	<p>https://a.next.westlaw.com/Document/1f750f0d964f411e18b05fdf15589d8e8/View/FullText.html?navigationPath=2FFoldering%2Fv1%2FKelly.gibson%2Fcontent%2Fusers%2Fuser%2Fe57fbfc460ed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-</p>	<p>Georgetown Journal of International Law 43 Geo. J. Int'l L. 523</p>	<p>The U.S. government's harsh, discretionary and broad-reaching enforcement of the Foreign Corrupt Practices Act (FCPA) has imposed a heavy regulatory burden that puts small and mid-sized U.S. businesses with significant international activities at a competitive disadvantage vis-à-vis their foreign peers. This restraint on foreign business activity will stymie the Obama Administration's stated goal of increasing exports from the U.S. as the way out of economic stagnation. The marginal improvements in foreign business conduct, if any, that the government achieves with its enforcement strategy are not worth the costs. The U.S. Congress should move forward with reforms to the FCPA currently under consideration by the House of Representatives that would make the law more clear and more balanced. At the same time, the government should broaden its foreign anti-corruption efforts by enlisting all of the resources at its disposal, rather than focusing almost exclusively on supply-side law enforcement.</p>	<p>2012</p>	<p>Step toe & Johnson LLP: Associate [Student Note]</p>
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<p>Jordan, Jon</p>		<p>Recent Development in the Foreign Corrupt Practices Act and the New UK Bribery Act: A Global Trend Towards Greater Accountability in the Prevention of Foreign Bribery</p>	<p>https://a.next.westlaw.com/Document/I6e2bfd1eac7211e08b05fdf15589d8e8/View/FullText.html?navigationPath=%2FFoldering%2Fv1%2Fkelly.gibson%2Fcontentainers%2Fuser%2Fed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-</p>	<p>NYU Journal of Law & Business 7 N.Y.U.J.L. & Bus. 845</p>	<p>This article will present a basic outline of the FCPA and its enforcement procedures. It will then trace recent developments in the FCPA and cases filed by the DOJ and SEC, including the noteworthy Nature's Sunshine Products case. I will then argue that these developments represent a trend towards more aggressive enforcement of the FCPA and other international antibribery laws within the United States. Subsequently, I will focus on the UK Bribery Act enacted in 2010 and outline what this new law could mean for corporations doing business abroad. I will then explain my views on what all of these developments mean and give my recommendations on what senior executives and corporations should do in order to limit their liability in this heightened era of accountability and enforcement.</p>	<p>2011</p>	<p>U.S. Securities and Exchange Commission, Foreign Corrupt Practices Unit: Senior Investigations Counsel</p>
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<p>Koehler, Mike</p>	<p>http://works.bepress.com/mike_koehler/</p>	<p>The Foreign Corrupt Practices Act In The Ultimate Year Of Its Decade Of Resurgence</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=159972</p>	<p>Indiana Law Review 43 Ind. L. Rev. 389 (2010)</p>	<p>The Foreign Corrupt Practices Act (FCPA) was enacted in 1977, yet FCPA enforcement was largely non-existent for most of its history. But during the past decade, enforcement agencies resurrected the FCPA from near legal extinction. FCPA enforcement activity in 2009, the ultimate year in the decade of the FCPA's resurgence, suggests that FCPA enforcement will remain a prominent feature on the legal landscape throughout this decade. After providing a brief overview of the FCPA and FCPA enforcement, this Article highlights FCPA issues and trends from the 2009 enforcement year and provides a glimpse of the road ahead as the FCPA enters a new decade.</p>	<p>2010</p>	<p>Butler University: Professor of Business Law</p>
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Ladd, Alyssa		The Catch-22 of Corporate Cooperation in Foreign Corrupt Practices Act Investigations (COMMENT)	https://a.next.westlaw.com/Document/Ia99417f2a-a5a11e39-8db8b09b-4f043e0/View/FullText.html?navigationPath=2FFoldering%2Fv1%2Fkelly.gibson%2Fcontentainers%2Fuser%2Fe57fbfc460ed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-	Houston Law Review 51 Hous. L. Rev. 947	<p>FCPA enforcement actions are rarely subject to judicial scrutiny, but as the DOJ continues to prosecute individuals, some scholars expect to see an increased number of FCPA challenges coming from implicated individuals facing incarceration. While many parts of the FCPA beg for clarification, this Comment singularly addresses the possibility that implicated individuals will bring defamation actions against the corporation. When that occurs, the corporation finds itself in a Catch-22 in which the same internal investigation that reduced its FCPA liability exposes the corporation to additional liability for defamation. This Comment proposes that the DOJ should be considered a quasi-judicial body as a matter of law and an absolute privilege should attach to all communications made to the DOJ in the course of an FCPA investigation. Creating an absolute privilege imbues a sliver of certainty into an otherwise ambiguous statute. Further, an absolute privilege will incentivize corporations to cooperate with the DOJ, saving the government time and resources.</p>	2014	University of Houston Law Center [Student Note]
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Livshiz, Tamara		Choosing Between Saw and Scalpel: FCPA Reform and the Compliance Defense (NOTE)	http://www.columbia.edu/cu/jlsp/pdf/Summer2014/Livshiz.pdf	Columbia Journal of Law and Social Problems; 47 Colum. J.L. & Soc. Probs. 417	<p>The Foreign Corrupt Practices Act ("FCPA") is an essential anti-corruption tool used to prosecute corporations that engage in the bribery of foreign officials overseas. Once a mere rubber stamp, over the past five years the statute has been used aggressively to prosecute wrongdoing abroad leaving many companies nervous that they may be next. Seeking to return predictability to corporations exposed to FCPA-related liability, the United States Chamber of Commerce has sought to introduce a statutory "Compliance Defense" which would serve to inoculate corporations from liability if they have implemented, at the time of wrongdoing, adequate compliance programs. This Note will argue that codifying this defense would be detrimental to the FCPA's efficacy and to global efforts towards preventing corruption. It will utilize and expand upon an existing framework for appraising corporate liability schemes in order to demonstrate the various ways in which a Compliance Defense would damage the FCPA's statutory machinery. Finally, it will consider alternative reforms that may address the valid concerns of FCPA critics.</p>	Summer 2014	Columbia Law School (Student Note)
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Marberg, Sarah		<p>Promises of Leniency: Whether Companies Should Self-Disclose Violations of the Foreign Corrupt Practices Act (NOTE)</p>	<p>https://a.next.westlaw.com/Document/1416e171a0c911e18b05fdf15589d8e8/View/FullText.html?navigationPath=%2FFoldering%2Fv1%2Fkelly.gibson%2Fcontentainers%2Fuser%2Fed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-</p>	<p>Vanderbilt Journal of Transnational Law 45 Vand. J. Transnat'l L. 557</p> <p>Most FCPA enforcement actions are brought against corporations for conduct that American law enforcement agencies have difficulty detecting because it occurs outside of the United States. As a result, the DOJ encourages companies to voluntarily disclose FCPA violations, claiming that it will take a more lenient approach to FCPA prosecutions that are self-reported and reward “disclosure and genuine cooperation.” Despite these promises, practitioners and academics have questioned whether a company that voluntarily discloses a potential FCPA violation actually receives a lesser fine than a company whose illegal conduct is discovered by a government investigation. With the likelihood of detection by the DOJ very low and the costs of disclosure very high, these questions have led to suggestions that companies are better off keeping mum. This Note argues that the available evidence about previous FCPA settlements suggests that companies are likely rewarded for their candor and cooperation.</p>	2012	U.S. Court of Appeals for the Third Circuit: Law Clerk
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Marshall, Garen S.		Increasing Accountability for Demand-Sides Bribery in International Business Transactions (NOTE)	https://advance.lexis.com/api/permalink/3e0aef4f-8923-4d11-ba45-2dead5e473b4/?context=1000516	New York University Journal of International Law and Policy; 46 N.Y.U. J. Int'l L. & Pol. 1283	<p>Bribery in international business transactions is rampant throughout the world, with estimates of \$ 1 trillion of bribes paid per year. Many countries, including the United States, have implemented legislation that attempts to limit such bribery, but the relevant laws generally only criminalize the acts of supply-side bribers (those who offer to pay or actually pay the bribes). In contrast, the conduct of foreign officials who solicit and accept bribes is generally not criminalized under these statutes. This paper argues that the current system of legislation is both ineffective because of its failure to address the actions of those who actively solicit bribes and inequitable because of the disparity in treatment of culpable parties to the bribery transactions. As a remedy for the deficiencies in the current system, I suggest that the Organisation for Economic Co-operation and Development's Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (OECD Convention) should be amended to include the offense of soliciting or being bribed. Furthermore, even if the OECD Convention is not amended, OECD Convention signatories should individually amend their international bribery statutes to criminalize demand-side bribery. Principles of international law and current enforcement of OECD-related statutes show that OECD Convention signatories have ample jurisdictional bases for the criminalization of bribe-taking by foreign officials.</p>	Summer 2014	New York University School of Law (Student Note)
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<p>Morgan, Steven M.</p>	<p>http://www.mediation.com/mediationprocedures/steven-morgan-77002-database.aspx</p>	<p>In Search of an International Solution to Bribery: The Impact of the Foreign Corrupt Practices Act of 1977 on Corporate Behavior</p>	<p>http://heinonline.org/HOL/LandingPage?collection=journals&handle=hein.journals/vantl12&div=27&id=&page=</p>	<p>Vanderbilt Journal of Transnational Law 12 Vand. J. Transnat'l L. 359 (1979)</p>	<p>This note explores the background of the FCPA, the policy behind its enactment, and provides a detailed discussion of problems within the law. The article also discusses international efforts to eradicate bribery of government officials in all countries.</p>	<p>1979</p>	<p>Waste Management, Inc.: Vice President & General Counsel</p>
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<p>Nelson, William</p>	<p>http://www.law.gwu.edu/Faculty/profile.aspx?id=12265</p>	<p>No Good Deed Goes Unpunished: Charitable Contributions and the Foreign Corrupt Practices Act</p>	<p>https://a.next.westlaw.com/Document/Ib7ee7cb52cbc11e38578f7ccc38dcbee/View/FullText.html?navigationPath=%2FFoldering%2Fv1%2Fkelly.gibson%2Fcontentainers%2Fuser%2Ffed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-</p>	<p>DePaul Business & Commercial Law Journal 11 DePaul Bus. & Com. L.J. 331</p>	<p>This Article examines the effect of the FCPA on companies' contributions to charitable organizations. Part II reviews the background of the FCPA and discusses the elements of an FCPA violation. Congress tasked two agencies, the Department of Justice (DOJ) and the SEC, with authority to enforce the FCPA. Part III examines the SEC's recent civil enforcement action concerning charitable giving under the FCPA. It also analyzes a handful of advisory opinions issued by the DOJ regarding charitable giving and the FCPA. Part IV considers corporate social responsibility (CSR) in the context of FCPA enforcement. It provides hypothetical situations illustrating companies' use of CSR to disguise acts of bribery and examines any chilling effect that the FCPA has on companies' charitable giving. Part V proposes a model FCPA compliance program, including the creation of a Charitable Contributions Compliance Committee (CCCC), to address charitable donations as an area of risk. It also provides a roadmap of the due diligence required to minimize liability under the FCPA for companies making charitable contributions.</p>	<p>2013</p>	<p>George Washington University Law School: Professorial Lecturer in Law & Certified Financial Planner Board of Standards, Inc.: Public Policy Counsel</p>
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Nichols, Philip M.	https://lgs.t.wharton.upenn.edu/profile/1135/	Are Facilitating Payments Legal?	https://a.next.westlaw.com/Document/1eb30ff8093a511e38578f7ccc38dcbee/View/FullText.html?navigationPath=2FFoldering%2Fv1%2Fkelly.gibson%2Fcontentainers%2Fuser%2Fe57fbfc460ed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-	Virginia Journal of International Law 54 Va. J. Int'l L. 127	This article examines facilitating payments from the perspective of the Foreign Corrupt Practices Act. Because this Act applies to entities with a connection to the United States, this article also adopts the perspective of a business connected to the United States. The article first examines the exception within the Act, and the definitions of the types of bribes that would fall within that exception and thus are not punishable by the Act. The article then asks whether these payments are illegal under local law, and concludes that in most cases the answer is yes. The article then returns to U.S. law, finding that even though these payments are excepted by the Foreign Corrupt Practices Act, they could be found criminal under other statutes. Going beyond U.S. law, the article finds that many U.S. persons and entities are subject to similar laws in other jurisdictions that do not except facilitating payments. The article concludes that facilitating payments are not legal.	2013	University of Pennsylvania: Professor of Legal Studies and Business Ethics
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Nichols, Philip M.	https://lgs.t.wharton.upenn.edu/profile/1135/	The Business Case for Complying with Bribery Laws	https://a.next.westlaw.com/Document/131c69baab10411e18b05fdf15589d8e8/View/FullText.html?navigationPath=Search%2Fv3%2Fsearch%2Fresults%2Fnavigation%2Fi0ad604040000138345ba2a8a7112bf8%3FNav%3DANALYTICAL%26fragmentIdentifier%3DI31c69baab10411e	American Business Law Journal 49 Am. Bus. L.J. 325 (2012)	<p>This article first clarifies the definitions of bribery and corruption. The article then examines direct and indirect costs of paying bribes and the effect of corruption on potential relationships. Finally, the article discusses potential criminal liability, particularly in light of the expansive international legal regime. The totality of these costs and liabilities strongly suggests that the consequences for any given firm of paying a bribe would burden rather than benefit the firm.</p>	2012	University of Pennsylvania: Professor of Legal Studies and Business Ethics
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Ong, Allan Verman Yap		The Rise of the Prosecuto rial Efforts in Foreign Corruption : Lessons Learned from Recent FCPA Cases (NOTE)	http://papers.ssrn.com/sol3/papers.cfm?abstract_id=157744 <u>4</u>	Columbia Journal of Asian Law	<p>This paper surveys the five notable cases that illustrate the aggressiveness of the SEC and the DOJ in pursuing FCPA violators, but these cases are important because they provide indicators of possible directions that FCPA enforcements can take. DPC tells us of the unique FCPA risks of doing business in China. CCI tells us that although not penalized under the FCPA, the bribery of private parties can also be a criminal act under state law and can be part and parcel of FCPA enforcement in certain instances. Siemens highlights the extent that the SEC will take if the company neglects to take note of its obligations under the FCPA. Bourke tells us that one should be careful of the possibility of being dragged into an FCPA enforcement arising from acts that one did directly do. And FTI tells us that shareholders also suffer damages in FCPA incidents, often from the plunge of stock prices, and have been making forays into using FCPA-related internal control issues to support securities class action lawsuits. Taking from the lessons of these individual cases, the paper concludes with prescriptions on how to upgrade a company's FCPA compliance program so that directors and officers can help their companies, and themselves, avoid FCPA violation and liability.</p>	2010	Peking University: Student
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Pacini, Carl	http://rub.y.fgcu.edu/courses/cpacini/bio.html	<p>The Foreign Corrupt Practices Act: Taking a Bite out of Bribery in International Transactions</p>	<p>Fordham Journal of Corporate and Financial Law 17 Fordham J. Corp. & Fin. L. 545 (2012)</p>	<p>Enforcement of the Foreign Corrupt Practices Act ("FCPA") has reached an all-time high. FCPA violations can result in many significant costs, both monetary and non-monetary. FCPA compliance has become a top corporate governance issue and has triggered shareholder litigation, tax investigations, and money laundering probes. While many corporate managers, financial officers, board members, internal and external auditors, and forensic accountants are aware of the FCPA's basic objectives and mandates, many may not do an adequate job of protecting their firms and/or clients from the dangerous consequences that can result from FCPA non-compliance. The purposes of this paper are to: (1) analyze and describe bribery and FCPA case filings, sanctions, payments (bribes), and value of business to be obtained; (2) describe and analyze the important provisions of the FCPA; and (3) make recommendations to help firms improve their compliance with the FCPA.</p>	2012	<p>Florida Gulf Coast University: Professor of Accounting and Business</p>
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<p>Prestidge, Adam</p>		<p>Avoiding FCPA Surprises: Safe Harbor from Successor Liability in Cross-Border Mergers and Acquisitions (NOTE)</p>	<p>https://a.next.westlaw.com/Document/Id06546429511e38578f7ccc38dcbee/View/FullText.html?navigationPath=%2FFoldering%2Fv1%2Fkelly.gibson%2Fcontentainers%2Fuser%2Ffed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-</p>	<p>William and Mary Law Review 55 Wm. & Mary L. Rev. 305</p>	<p>Part I presents the background of the FCPA and its impact on mergers and acquisitions. Part II discusses how unanticipated successor liability for FCPA issues can be difficult to discover and can be a significant barrier to mergers and acquisitions (M&A) activity. This Part also notes the unique safe harbor from liability that was granted for a transaction in 2008 and analyzes the 2012 Guideline's expansion of this safe harbor. Part III argues that a clear safe harbor provision should be added to the FCPA and discusses how that provision should be structured, and Part IV explains how a safe harbor provision, whether as extended in the Guidance or as proposed in Part III, is good economic and legal policy.</p>	<p>2013</p>	<p>William & Mary Law School [Student Note]</p>
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<p>Pristash, Allison L.</p>		<p>International Corporate Corruption : Why the Foreign Corrupt Practices Act is Not Enough to Stop Widespre ad Usage of Shaving Cream Pies (NOTE)</p>	<p>https://a.next.westlaw.com/Document/Ide4bb5d61cf3011e28578f7ccc38dcbee/View/FullText.html?navigationPath=%2FFoldering%2Fv1%2Fkelly.gibson%2Fcontent%2Fusers%2Fuser%2F57fbfc460ed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-</p>	<p>Suffolk Transnatio nal Law Review 36 Suffolk Transnat'l L. Rev. 189</p>	<p>This Note addresses the problems that occur as a result of corporate corruption in the absence of an international remedy, and argues for a global solution. It begins by chronicling the development of corporate bribery and corruption, both in the United States and around the world, that created the situation business communities face today. Next, this Note describes action taken to stop these practices by examining the Foreign Corrupt Practices Act of 1977 and its international counterparts. This Note analyzes the inadequacies of the existing laws and calls for an overarching regulatory scheme to curb these corporate practices. Finally, this Note argues that corruption and bribery will continue to exist as a widespread practice without an effective international mechanism to combat them, which calls into question the stability of the international economy.</p>	<p>2013</p>	<p>Suffolk University [Student Note]</p>
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Ratcliffe, Rachel		<p>The FCPA's Legacy: A Case for Imposing Aiding-and-Abetting Liability on Corporations Through an Amended Alien Tort Claims Act (NOTE)</p>	<p>http://www.tilj.org/content/journal/49/num1/Ratcliffe83.pdf</p>	<p>Texas International Law Journal; 49 Tex. Int'l L.J. 83</p>	<p>Modern multinational corporations sometimes extract economic gain by aiding and abetting grave human-rights violations—including slavery, genocide, and torture—without legal liability. These corporations have few legal obligations because they can evade regulatory schemes by shifting operations through different facilities, becoming a stateless entity. The U.S. Congress has led a worldwide movement to end practices with severe human and social costs by enacting the Foreign Corrupt Practices Act (FCPA) to outlaw bribery. This Note argues that multinational corporations should be subject to civil liability for aiding and abetting human-rights violations and that an amended Alien Tort Claims Act (ATCA) should be sculpted considering Congress' successful FCPA enactment. This Note provides only a rudimentary examination of the problems of bribery and the case for corporate aiding-and-abetting liability. It is premised mostly on an economic evaluation of human and social costs.</p>	<p>May 2014</p>	<p>The University of Texas School of Law (Student Note)</p>
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<p>Reilly, Peter R.</p>	<p>http://law.tamu.edu/faculty-staff/find-people/faculty-profiles/peter-reilly</p>	<p>Incentivizing Corporate America to Eradicate Transnational Bribery Worldwide : Federal Transparency and Voluntary Disclosure Under the Foreign Corrupt Practices Act</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=258578 <u>9</u></p>	<p>Florida Law Review ____ Fl. L. Rev. ____ (2015, Forthcoming)</p>	<p>This Article focuses in particular on the difficult and strategic decision of whether a company should self-report to the government a potential FCPA violation. After reviewing the advantages and disadvantages of self-reporting, the Article concludes that the government needs to be more transparent and forthcoming regarding the potential benefits of doing so; it argues that the government must provide greater transparency regarding specific and calculable benefits that can be achieved through self-reporting and cooperation in the face of possible FCPA violations. The Article concludes that companies will be more likely to self-report such violations — and thereby assist in eradicating the scourge of transnational bribery worldwide — only if there is more certainty that the benefits achieved from self-reporting will outweigh the risks and costs involved.</p>	<p>2015</p>	<p>Texas A&M School of Law: Associate Professor</p>
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<p>Rose-Ackerman, Susan</p>	<p>http://www.law.yale.edu/faculty/roseackermanbio.htm</p>	<p>Grand Corruption and the Ethics of Global Business</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=191352</p>	<p>Yale Law School, Program for Studies in Law, Economics and Public Policy, Working Paper No. 221</p>	<p>To understand why the avoidance of corruption is an ethical issue for business one needs to understand: first, that a justification for paying bribes depends on both a notion of the proper role of the business firm and on a claim of little or no harm to the country involved; second, that the ethical obligations of multinational businesses and their managers vary when they operate in a corrupt environment; and lastly, what international efforts are currently underway to limit corruption and why those efforts may lead to even greater ethical dilemmas.</p>	<p>1999</p>	<p>Yale Law School: Professor of Law Political Science</p>
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<p>Ryznar, Margaret & Korkor, Samer</p>	<p>http://mcKinneylaw.iu.edu/faculty-staff/profile.cfm?id=552</p>	<p>Anti-Bribery Legislation in the United States and United Kingdom: A Comparative Analysis of Scope and Sentencing</p>	<p>https://a.next.westlaw.com/Document/12a33b02c9d1c11e08b05fdf15589d8e8/View/FullText.navigations?Path=%2FFoldering%2Fv1%2Fkelly.gibson%2Fcontentainers%2Fuser%2F57fbfc460ed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-</p>	<p>Missouri Law Review 76 Mo. L. Rev. 415</p>	<p>Lawmakers and prosecutors continue to take aim at a major subset of global corruption - corporate bribery of foreign government officials. Specifically, while the enforcement of the Foreign Corrupt Practices Act in the United States has risen to new records, the United Kingdom has revolutionized its anti-bribery law following global criticism of its previously relaxed legal regime. Both U.S. and U.K. anti-bribery laws, furthermore, apply extraterritorially and have the capability to entangle even the largest multinational companies in their legal frameworks. These all-encompassing frameworks hold significant consequences for both corporations and their employees, but the increasing power of anti-bribery law raises important questions regarding the proper scope of legislation on the subject, as well as the sentencing approaches to these crimes.</p>	<p>2010</p>	<p>Indiana University Robert H. McKinney School of Law: Associate Professor of Law and Dean's Fellow & Cadwalader: Associate</p>
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<p>Salbu, Steven R.</p>	<p>http://scheller.gatech.edu/directory/faculty/salbu/</p>	<p>Bribery in the Global Market: A Critical Analysis of the Foreign Corrupt Practices Act</p>	<p>https://a.next.westlaw.com/Link/Document/FullText?findType=Y&serNum=0107628250&pubNum=1282&originContent=document&transitionType=DocumentItem&contextData=%28sc.Search%29</p>	<p>Washington and Lee Law Review 54 Wash. & Lee L. Rev. 229 (1997)</p>	<p>The U.S. approach to bribery under the FCPA is severe by global standards. The United States is the only nation that has criminalized the extraterritorial payment of bribes by domestic companies. This article assesses and ultimately rejects the FCPA approach as akin to moral imperialism. Subpart A of this article outlines a wide range of recent global efforts to eliminate bribery. Subpart B provides examples of corruption or alleged corruption in the 1990s, demonstrating the pervasiveness and persistence of the problem. Subpart C outlines the challenges Congress faces as a result of the observations made in subparts A and B.</p>	<p>1997</p>	<p>Georgia Institute of Technology: Dean and Stephen P. Zelnak chairholder</p>
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Shaw, Bill		<p>The Foreign Corrupt Practices Act and Progeny: Morally Unassailable (NOTE)</p>	<p>https://a.next.westlaw.com/Document/11a12a3c123ba11dbbab99dfb880c57ae/View/FullText.html?navigationPath=%2FRelatedInfo%2Fv4%2Fkeycite%2Fnav%2F%3Fguid%3DI1a12a3c123ba11dbbab99dfb880c57ae%2Fs%3D0110317047&listSource=RelatedInfo&list=CitingReferences</p>	<p>Cornell International Law Journal 33 Cornell Int'l L.J. 689 (2000)</p> <p>Part I identifies the devastating effects of bribery on emerging nations and the proposed substantial benefits that these countries might reap from international efforts to reduce corrupt practices. Part II discusses the Foreign Corrupt Practices Act and recent international efforts to address the problem of international bribery, specifically emphasizing that the United States is no longer the lone adversary of corrupt practices. Part III addresses the arguments advanced by critics that describe these efforts as "moral imperialism" and advance the idea that market efficiency will remedy the problem without legal efforts. Part IV highlights recent cases involving prosecution under the FCPA and how these cases augment the transparency of the FCPA. Part V addresses justifications for anti-corruption measures.</p>	2000	University of Texas [Student Note]
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Sivachenko, Irina		Corporate Victims of "Victimless Crime": How the FCPA's Statutory Ambiguity, Coupled with Strict Liability, Hurts Businesses and Discourages Compliance	https://a.next.westlaw.com/Document/Id7311e28578f7ccc38dcbee/View/FullText.html?navigationPath=%2FFoldering%2Fv1%2Fkelly.gibson%2Fcontentainers%2Fuser%2Fe57fbfc460ed469b9f381590f431e113%2Fcontents%2FdocumentNavigation%2Fd08e9158-73d5-	Boston College Law Review 54 B.C. L. Rev. 393	<p>The Foreign Corrupt Practices Act ("FCPA"), a federal law that outlaws corporate bribery of foreign officials, is the key legislation in the fight against global corruption. Unfortunately, despite the long-awaited guidance recently issued by the Department of Justice, the unpredictability and severity of FCPA enforcement, coupled with the lack of an affirmative defense in cases of adequate compliance, continues to take a substantial toll on U.S. businesses and the economy. This Note argues against strict corporate vicarious liability and evaluates the unintended effects of a broad interpretation of the FCPA on international business practices. Suggesting that current enforcement practices might actually reduce compliance, this Note evaluates several proposed solutions and advocates for a hybrid approach that would resolve the ambiguity and make compliance both feasible and economically viable.</p>	2013	
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Stein, Alex	http://www.professoralexstein.com/home.html	Corrupt Intentions: Bribery, Unlawful Gratuity, and Honest Services Fraud	https://a.next.westlaw.com/Document/183403aeb883e11e18b05fdf15589d8e8/View/FullText.html?navigationPath=Search%2Fv3%2Fsearch%2Fresults%2Fnavigation%2Fi0ad7051c000013954f5fa123443f421%3FNav%3DANALYTICAL%26fragmentIdentifier%3DI83403aeb883e11e18	Law and Contemporary Problems 75 Law & Contemp. Probs. 61 (2012)	<p>This article advances the understanding of bribery and related offenses from an economic standpoint.¹ Economic theory holds that the legal system should impose criminal liability on a person who advances his goals by using force or artifice instead of a voluntary exchange. Force and artifice are inherently coercive behaviors, unresponsive to the market mechanisms that put exchange prices on what people want to achieve. Because market mechanisms cannot control such behaviors, the state should step in and impose criminal punishments on the perpetrators. These punishments should discourage future coercive behavior. Therefore, they ought to be high enough to offset the benefits that perpetrators expect to gain from acting coercively against other people's interests.</p>	2012 Benjamin N. Cardozo School of Law: Professor of Law
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Sutherland , Ewan	http://papers.ssrn.com/sol3/cfd_dev/AbstractByAuth.cfm?per_id=927092	Bribery and Corruption In Telecommunications- Prosecutions Under the Foreign Corrupt Practices Act	http://papers.ssrn.com/sol3/papers.cfm?abstract_id=199513 <u>3</u>	TPRC Conference	<p>This paper reviews bribery and corruption cases in the telecommunications sector where they have been violations of the Foreign Corrupt Practices Act (FCPA). The Act applies to a very broad class of payments, both in money and in kind, made to officials of foreign governments, including the directors and employees of regulatory agencies and state-owned entities (e.g., manufacturers and carriers). The FCPA is explicitly extraterritorial in scope and expansive in its application, including any transaction that involves a US citizen, any company registered in or trading on a stock exchange in the USA or where funds pass through a bank or agent in the USA. The effectiveness of the FCPA has recently been reviewed by the US Senate. In addition to use of the FCPA, there have been some related executive orders and administrative actions. Given the very high value of privatizations and operating licenses (especially for oligopolistic cellular wireless network services) there are obvious temptations to solicit and to offer bribes in cash or in kind. The Organisation for Economic Cooperation and Development (OECD) has identified certain economic sectors in which the public procurement of supply contracts is "particularly prone to corruption", these include armaments, mining and telecommunications. Additionally, the rates charged by some carriers for the termination of international calls, often far above the real costs, creates opportunities to offer discounts in return for kickbacks.</p>	2011	University of Witwatersrand, LINK Centre; University of Namur, CRIDS
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Waziri, Fatima	http://ng.linkedin.com/pub/dr-fatima-waziri/44/206/74	United States of America's Foreign Corrupt Practices Act (FCPA) and Its Effects on Nigeria	http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1915698	Working Paper	<p>The U.S. Foreign Corrupt Practices Act of 1977 ("FCPA") generally prohibits U.S. companies and citizens, foreign companies listed on a U.S. stock exchange, or any person acting while in the United States, from corruptly paying or offering to pay, directly or indirectly, money or anything of value to a foreign official to obtain or retain business (the "Anti bribery Provisions"). The FCPA exempts "facilitating" payments which are usually small payments that are designed to get a foreign official to perform a non-discretionary function. However, this facilitation payment has proved to be burdensome on third world countries like Nigeria and should not be encouraged.</p>	2011	Nigerian Institute of Advanced Legal Studies: Research Fellow
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Wright, Nate		Domestic vs. Foreign Corrupt Practices: For Bribery, an International Mind Is More Guilty (NOTE)	https://advance.lexis.com/api/permalink/744f67e2-d23b-4941-8733-dca63a8d6011/?context=1000516	Georgetown Journal of Legal Ethics; 28 Geo. J. Legal Ethics 989	<p>United States laws inadvertently require businesses to have more virtuous intentions in their dealings with foreign governments than with the United States. This difference should be deliberate. Justice Kennedy wisely opined that if "winks and nods" are sufficient to show bribery, the standard of conduct will never be clear, but if something too "explicit" is required then the law will punish only the most inept, not the most corrupt.</p> <p>When seeking business with foreign governments, winks and nods may be enough to implicate the Foreign Corrupt Practices Act ("FCPA"). However, when dealing with the United States government, unless the intent is sufficiently clear, the conduct is unlikely to violate the law. This note will argue that courts should read into the FCPA a more specific and manifest intent closer to what is necessary to prove domestic bribery or illegal gratuities. It will not argue that the same threshold of evidence must be demonstrated for an FCPA violation. The rationale underlying judicial interpretation of domestic bribery argues for something more than winks and nods. But the language of the FCPA indicates Congress sought to punish more than the most inept.</p>	Summer 2015	Georgetown University Law Center (Student Note)
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<p>Yockey, Joseph W.</p>	<p>http://www.law.uiowa.edu/faculty/yockey.php</p>	<p>FPCA Settlement, Internal Strife, and the 'Culture of Compliance'</p>	<p>http://papers.ssrn.com/sol3/papers.cfm?abstract_id=202924 <u>1</u></p>	<p>Wisconsin Law Review, Forthcoming U Iowa Legal Studies Research Paper No. 12-08</p>	<p>Most enforcement actions brought against firms under the U.S. Foreign Corrupt Practices Act (FCPA) are resolved via a deferred prosecution agreement (DPA) or non-prosecution agreement (NPA). But before federal regulators will consider negotiating over these types of settlement vehicles, they typically weigh a firm's willingness to cooperate with the underlying investigation and whether it promoted a "culture of compliance." As this paper shows, these two factors do not always intersect in ways that serve the best interests of firms at risk for FCPA scrutiny.</p>	<p>2011</p>	<p>University of Iowa College of Law: Professor of Law</p>
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