

NATIONAL GOVERNANCE AND INVESTMENT TREATIES

Much of the existing accounts assume that investment treaties affect national governance. However, how exactly this happens has been subject to little analysis. Conventional accounts presume that these treaties improve national governance, leading to good governance and the rule of law for all. Critical accounts charge that investment treaties unduly empower foreign investors and cause a regulatory chill. On both accounts, investment treaties are expected to empower and constrain. Comparing extended case studies of Argentina, the Czech Republic, India, and Mexico, this book shows how investment treaties influence national governance ideologically, institutionally, and socially. We show how the overarching role of international investment agreements in national governance – to cultivate constraining discipline in public administration – is realised and who gets empowered and marginalised in the process. The book's findings will serve in the debates about alternative ways of economic governance and help explain the investment treaty regime's significant resistance to change.

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There is a saying that “no battle plan survives contact with the enemy.” After reading this book, you may think that “no theory about investment treaties survives contact with reality.” Many international lawyers are content to analyse issues at the interstate level without getting their hands dirty with empirical evidence, particularly at a national and sub-national level. But when socio-legal scholars come along who are able to take us deep into the messy entanglement of actors, narratives and relationships in four different national contexts, we are able to develop a much more detailed, compelling and nuanced understanding of how investment treaties empower and constrain the behaviour of states. This book stands as a testament to how scholarship in this field is maturing and deepening.

Anthea Roberts,
Professor at the School of Regulation and
Global Governance (RegNet), Australian National University

A much-awaited empirical inquiry into the differential effects of investment agreements on national elites, governments, and democracies. A great achievement in socio-legal scholarship, an exciting world-tour into the local politics of investment treaties, and a real challenge to the current narrative of the subject. *C'est à lire!*

Antoine Vauchez,
CNRS Research Professor,
Université Paris 1-Sorbonne

This original, fascinating book assesses the impact of international investment treaties and disputes within states in critically needed ways. It explains the role of key actors, processes, and their institutional and ideational effects. It grounds its analysis in detailed case studies of Argentina, the Czech Republic, India, and Mexico. It demonstrates the value of para-ethnographic socio-legal methods for understanding the operation and impact of the investment law regime, and the regime's implications for policy.

Gregory Shaffer,
Chancellor's Professor of Law and
Political Science at the University of California, Irvine

NATIONAL GOVERNANCE AND INVESTMENT TREATIES

Between Constraint and Empowerment

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International Institute for Sustainable Development

FACUNDO PÉREZ AZNAR

Geneva Center for International Dispute Settlement



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*To Luna, Elio and Rafael. J. O.
To Mercedes, Serafín, Félix, and Gregorio. F. P. A.*

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ABBREVIATIONS

APEC	Asia-Pacific Economic Cooperation
BIPA	bilateral investment promotion agreement
BIT	bilateral investment treaty
BO	<i>Boletín Oficial</i> , Argentina
CISA	centre-state investment agreement
CSSR	Czechoslovak Socialist Republic
CTIL	Centre for Trade and Investment Law
DEA	The Department of Economic Affairs, Ministry of Finance, India
DIPP	The Department for Industrial Policy and Promotion, Ministry of Commerce and Industry, India
DOF	<i>Diario Oficial de la Federación</i> , Mexico
EU	The European Union
FDI	foreign direct investment
FTA	free trade agreement
GAO	The General Attorney's Office (<i>Procuración del Tesoro de la Nación</i>), Argentina
GATT	The General Agreement on Tariffs and Trade (1947), in force on 1 January 1948, UNTS 55
ICC	International Chamber of Commerce
ICSID	The International Centre for Settlement of Investment Disputes
IIA	international investment agreement
IMF	The International Monetary Fund
ISDS	investor–state dispute settlement
MERCOSUR	Southern Common Market
MFN	most-favoured-nation
MIT	multilateral investment treaty
NAFTA	The North American Free Trade Agreement
NGO	non-governmental organisation
OAS	The Organization of American States
OECD	The Organisation for Economic Co-operation and Development
SECOFI	Ministry of Commerce and Industrial Development (<i>Secretaría de Comercio y Fomento Industrial</i>), Mexico

LIST OF ABBREVIATIONS

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SME	small and medium-sized enterprise
TTIP	Transatlantic Trade and Investment Partnership
UNCITRAL	United Nations Commission on International Trade Law
UNCTAD	United Nations Conference on Trade and Development
USMCA	The United States–Mexico–Canada Agreement
WB	The World Bank
WTO	The World Trade Organization