

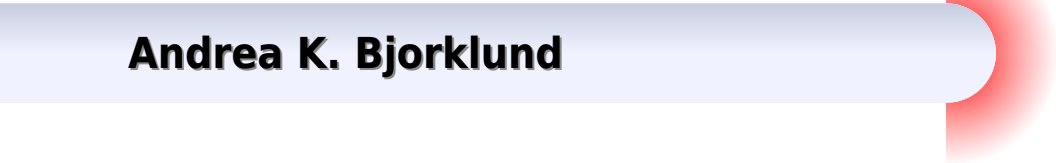
Cultural Heritage in International Investment Law and Arbitration

VALENTINA VADI



Cultural Heritage In International Investment Law And Arbitration

Andrea K. Bjorklund



Cultural Heritage In International Investment Law And Arbitration:

Cultural Heritage in International Investment Law and Arbitration Valentina Vadi, 2014 Valentina Vadi assesses whether cultural heritage has and or should have any relevance in international investment law and policy *Cultural Heritage in International Investment Law and Arbitration* Valentina Vadi, 2014-03-13 Can states adopt protectionist cultural policies What are the limits if any to state intervention in cultural matters A wide variety of cultural policies may interfere with foreign investments and a tension therefore exists between the cultural policies of the host state and investment treaty provisions In some cases foreign investors have claimed that cultural policies have negatively affected their investments thereby amounting to a breach of the relevant investment treaty This study maps the relevant investor state arbitrations concerning cultural elements and shows that arbitrators have increasingly taken cultural concerns into consideration in deciding cases brought before them eventually contributing to the coalescence of general principles of law demanding the protection of cultural heritage *Culture Clash* Valentina Vadi, 2014 This study aims to explore the clash of cultures between international investment law and international cultural law When countries pursue economic growth their policy makers may have an incentive to lower cultural standards to promote economic activities If states nonetheless maintain a high level of cultural heritage protection disputes may arise as foreign investors can claim that such policies affect their economic interests thereby breaching investment treaty provisions Given the extraordinary increase of foreign direct investment FDI flows in recent years the privileged regime created by international investment law within the boundaries of the host state has increasingly determined a tension between investors rights and cultural heritage protection In some cases foreign investors have claimed that cultural policies negatively affected their investment thereby amounting to indirect expropriation In other cases the investors alleged discrimination and or violation of the fair and equitable treatment standard In sum there is a variety of potential conflict areas between investor rights and cultural policies The interplay between investor s rights and cultural heritage protection raises a number of questions First have arbitral tribunals paid any attention to cultural heritage If so how have they balanced investors rights and the cultural policies of the host State Second what implications if any can be drawn from this emerging case law with regard to the current debate on the unity or fragmentation of international law Third have arbitral tribunals conformed to existing adjudicative patterns of other courts and tribunals on cultural heritage issues This study aims to address these questions by mapping the uncharted land of cultural heritage related disputes After defining the concept of cultural heritage disputes this study analyzes and critically assesses the cultural heritage related disputes and explores some legal options to reconcile the different interests at stake Finally some conclusions will be drawn **Cultural Heritage in International Economic Law** Valentina Vadi, 2023-03-27 Can cultural heritage be adequately protected vis vis economic globalization This book investigates whether and how international economic law governs cultural phenomena by mapping the relevant legal framework discussing the relevant disputes

concerning cultural elements adjudicated before international economic courts namely the World Trade Organization adjudicative bodies and investment treaty arbitral tribunals and proposing legal methods to reconcile cultural and economic interests It thus provides a comprehensive evaluation of possible solutions including evolution of the law through treaty interpretation and reforms to improve the balance between economic governance and cultural policy objectives The Protection of Indigenous Cultural Heritage in International Investment Law and Arbitration Valentina Vadi,2020 The protection of cultural heritage is a fundamental public interest that is closely connected to fundamental human rights and is deemed to be among the best guarantees of international peace and security Economic globalization and international economic governance have spurred a more intense dialogue and interaction among nations potentially promoting cultural diversity and providing the funds to recover and preserve cultural heritage However these phenomena can also jeopardize cultural heritage Foreign direct investments in the extraction of natural resources have the potential to change cultural landscapes and erase memory and foreign investments in the cultural industries can induce cultural homogenization In parallel international investment law constitutes a legally binding and highly effective regime that demands that states promote and facilitate foreign direct investment Does the existing legal framework adequately protect indigenous cultural heritage vis vis the economic interests of foreign investors This chapter aims to address this question by examining recent arbitration and proposing legal tools to foster a better balance between economic and cultural interests in international investment law and arbitration *Yearbook on International Investment Law and Policy, 2013-2014* Andrea K.

Bjorklund,2015 The Yearbook on International Investment Law Policy 2013 2014 monitors current developments in international investment law and policy focusing on recent trends and issues in foreign direct investment FDI It begins with the 2013 2014 trends in international investment and the activities of multinational enterprises a review of trends and new approaches in international investment agreements for 2013 2014 and a review of international investment law and arbitration for 2013 This edition contains a sample of the research and ideas generated by the Investment Treaty Forum at the British Institute of International and Comparative Law Also included are pertinent general articles by leading experts in the field This volume concludes with the winning memorials from the 2013 FDI International Moot Competition **The**

Inherent Rights of Indigenous Peoples in International Law Antonietta Di Blase,Valentina Vadi,2020-02-24 This book highlights the cogency and urgency of the protection of indigenous peoples and discusses crucial aspects of the international legal theory and practice relating to their rights These rights are not established by states rather they are inherent to indigenous peoples because of their human dignity historical continuity cultural distinctiveness and connection to the lands where they have lived from time immemorial In the past decades a new awareness of the importance of indigenous rights has emerged at the international level UN organs have adopted specific international law instruments that protect indigenous peoples Nonetheless concerns persist because of continued widespread breaches of such rights Stemming from a number of

seminars organised at the Law Department of the University of Roma Tre the volume includes contributions by distinguished scholars and practitioners It is divided into three parts Part I introduces the main themes and challenges to be addressed considering the debate on self determination of indigenous peoples and the theoretical origins of indigenous sovereignty Parts II and III explore the protection of indigenous peoples afforded under the international law rules on human rights and investments respectively Not only do the contributors to this book critically assess the current international legal framework but they also suggest ways and methods to utilize such legal instruments towards the protection promotion and fulfilment of indigenous peoples rights to contribute to the maintenance of peace and the pursuit of justice in international relations DOI 10.13134/9788832136920

The 1972 World Heritage Convention Francesco Francioni, Federico Lenzerini, 2023 This commentary examines the Convention Concerning the Protection of the World Cultural and Natural Heritage the UNESCO World Heritage Convention fifty years after its adoption It explores the new challenges which have arisen in the management of world heritage sites and the Convention's impact on the evolution of international heritage law

Foreign Investment, International Law and Common Concerns Tullio Treves, Francesco Seatzu, Seline Trevisanut, 2013-10-23 Increasingly transnational corporations developed countries and private actors are broadening the boundaries of their investments into new territories in search of a higher return on capital This growth in direct foreign investment involves serious concerns for both the investor and host state Various exponents of international civil society and non governmental organisations persuasively claim that such growth in foreign investments constitutes potential and serious hazards both to the environment and the fundamental rights and freedoms of local populations This book explores from an international law perspective the complex relationship between foreign investments and common concerns i.e. values that do not coincide or do not necessarily coincide with the interests of the investor and of the host state It pays particular attention to the role of the main international development banks in reconciling the needs of foreign investors with the protection of common concerns such as the environment human rights and labour rights Among its collection of essays the volume asks how much regulatory space investment law leaves whether international investment law is an effective means of balancing contrasting interests and whether investment arbitration currently constitutes a mechanism of global governance In collecting the outlooks of various experts in human rights environmental and international economic law this book breaks new ground in exploring how attention to its legal aspects may help in navigating the relationship between foreign investment and common concerns In doing so the book provides valuable insights into the substantive issues and institutional aspects of international investment law

Shifting Paradigms in International Investment Law Steffen Hindelang, Markus Krajewski, 2016-01-22 International investment law is in transition Whereas the prevailing mindset has always been the protection of the economic interests of individual investors new developments in international investment law have brought about a paradigm shift There is now more than ever before an interest in a more inclusive transparent and public regime Shifting Paradigms in International

Investment Law addresses these changes against the background of the UNCTAD framework to reform investment treaties. The book analyses how the investment treaty regime has changed and how it ought to be changing to reconcile private property interests and the state's duty to regulate in the public interest. In doing so, the volume tracks attempts in international investment law to recalibrate itself towards a more balanced, less isolated and increasingly diversified regime. The individual chapters of this edited volume address the contents of investment agreements, the system of dispute settlement, the interrelation of investment agreements with other areas of public international law, constitutional questions and new regional perspectives from Europe, South Africa, the Pacific Rim Region and Latin America. Together, they provide an invaluable resource for scholars, practitioners and policymakers.

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