Cole-Puli
International Conference Publishing Group

Business and Social Sciences Proceedings

Article

2025 2nd International Conference on Global Economics, Education and the Arts (GEEA 2025)

Labor Provisions in Bilateral Investment Treaties: Global Practices, Normative Conflicts, and the U.S. 2012 Model Bit

Kaiwen Li [1,*]

[1] University of Glasgow, Glasgow, UK
* Correspondence: Kaiwen Li, University of Glasgow, Glasgow, UK

Abstract: This article systematically examines the integration of labor provisions into bilateral investment treaties (BITs), analyzing their historical evolution, normative conflicts, and legislative models. Focusing on the 2012 U.S. Model BIT as a paradigm shift, it argues that labor clauses symbolize the "socialization" of international investment law but risk exacerbating North-South inequities. Drawing on 150 BITs and 20 arbitration cases, the study reveals that 78% of labor-related disputes involve developing countries, underscoring systemic power imbalances. The 2012 U.S. Model BIT's exclusion of labor disputes from arbitration, while innovative, may inadvertently act as a disguised trade barrier by limiting developing countries' ability to challenge restrictive labor measures that effectively disadvantage them in international trade. The findings advocate for flexible models that balance sovereignty, investor rights, and labor welfare.

Keywords: labor provisions; BITs; arbitrability; public interest; U.S. Model BIT

Received: 20 April 2025
Revised: 26 April 2025
Accepted: 09 May 2025
Published: 11 May 2025

1. Introduction

The globalization of capital markets has created significant tensions between investor protection and labor rights. Historically, Bilateral Investment Treaties (BITs) have been designed primarily to protect foreign investments, often at the expense of workers' rights in host countries. However, recent decades have witnessed a notable shift, with labor provisions increasingly integrated into BITs. This paper explores this integration, focusing on global trends, normative conflicts, and how the 2012 U.S. Model BIT represents a significant shift in international investment law, attempting to address labor rights while maintaining investor protections.

Labor provisions in BITs have become contentious, particularly in negotiations between developed and developing nations. Developed countries, especially the U.S., have sought to include labor protections in their BITs with developing nations to ensure host states uphold domestic labor laws, respect international standards, and prevent a "race to the bottom" scenario where countries compete by undercutting labor protections. The number of BITs containing labor provisions increased from 7% in 2000 to 32% by 2020, demonstrating a significant trend toward embedding social concerns in investment treaties.

This integration represents what Van Aaken terms the "socialization" of international investment law—a process whereby non-economic concerns increasingly influence traditionally economically-oriented legal regimes [1]. As Ruggie argues, this evolution reflects broader changes in global governance, including growing recognition of business responsibility for human rights and sustainable development [2]. However, developing countries often view such provisions with suspicion, perceiving them as disguised protectionism that imposes costly regulatory burdens and restricts policy space [3].

By analyzing 150 BITs and 20 arbitration cases between 2000 and 2020, this research highlights systemic issues associated with labor-related disputes, particularly how labor clauses may perpetuate global inequalities despite their intended protective aims. The findings suggest that while labor provisions represent progress toward a more balanced investment regime, their implementation requires careful attention to power dynamics, capacity constraints, and development contexts.

2. Historical Evolution of Labor Provisions in International Investment Law

2.1. From Trade to Investment: The ILO's Indirect Influence

Labor rights initially emerged in international trade agreements, driven by the International Labour Organization (ILO). Established in 1919, the ILO promoted core labor standards through conventions such as the 1998 Declaration on Fundamental Principles and Rights at Work, which identified freedom of association, elimination of forced labor, abolition of child labor, and elimination of employment discrimination as fundamental rights. These principles gradually gained recognition as universal norms, transcending cultural and economic differences [4].

However, developing countries resisted linking labor standards to trade liberalization during the WTO's Doha Round (2001–2015), fearing protectionist motives. The G77 coalition, representing developing nations, argued that labor standards should remain within the ILO's purview rather than becoming conditions for market access. This resistance culminated in the 2001 Doha Ministerial Declaration, which effectively removed labor standards from the WTO agenda [5].

This impasse redirected efforts toward BITs, which offered more flexible bilateral frameworks. Developed states, particularly the United States, utilized BITs to embed labor clauses without requiring multilateral consensus. For example, the 2004 U.S.-Chile Free Trade Agreement included labor provisions requiring parties to enforce domestic labor laws, setting a precedent for subsequent treaties. This shift from multilateral to bilateral approaches allowed powerful states to achieve through BITs what they could not through the WTO—a strategy that some scholars characterize as "forum shopping" in global governance [6].

2.2. The U.S. Leadership in BITs' Labor Provisions

The United States has been a key architect of labor provisions in BITs, evolving its approach through three distinct phases that reflect changing domestic politics and global economic conditions:

Symbolic Recognition (1994 Model BIT): Labor rights were mentioned in preambular language without binding obligations. The preamble acknowledged the importance of labor standards but created no enforcement mechanisms. This approach aligned with the Clinton administration's "soft law" approach to labor governance, emphasizing dialogue over sanctions [7].

Procedural Commitments (2004 Model BIT): Introduced standalone clauses (Article 13) requiring parties to "strive to ensure" compliance with labor laws, though enforcement mechanisms remained weak. This evolution coincided with the Bush administration's response to growing civil society pressure for stronger labor protections in trade agreements. The 2004 Model BIT introduced a consultation mechanism for labor disputes but maintained a high threshold for state responsibility [8].

Substantive Obligations (2012 Model BIT): Mandated parties to "shall ensure" adherence to domestic labor laws and excluded labor disputes from investor-state arbitration, marking a significant shift toward enforceable standards. The Obama administration's approach reflected a growing consensus that labor rights should have comparable enforcement mechanisms to investor protections [9]. The 2012 Model BIT also expanded the scope of covered labor standards to include ILO core conventions, even for countries that had not ratified them [10].

This evolution reflects a strategic duality: promoting labor rights while protecting U.S. investors abroad—a balance critics label as 'ethical imperialism,' referring to the imposition of labor standards on developing countries while the United States itself falls short of full compliance with international norms. The U.S. approach has been criticized for imposing standards on developing countries despite its own failure to ratify six of the eight ILO core conventions [11].

2.3. Comparative Analysis: EU and South African Models

The EU's 2019 Investment Court System (ICS) integrates labor rights into dispute resolution, allowing limited claims against host states. For example, the EU-Vietnam BIT (2020) permits tribunals to consider labor violations under the "fair and equitable treatment" standard, effectively creating a "social clause" within investment protection. The ICS also incorporates principles of sustainable development into its interpretative framework, requiring arbitrators to consider social impacts when evaluating investment disputes [12].

Conversely, South Africa's 2018 Protection of Investment Act excludes labor disputes entirely, thereby prioritizing domestic jurisdiction. This approach reflects South Africa's response to investor challenges to its post-apartheid Black Economic Empowerment policies. By reserving regulatory space for social policies, South Africa exemplifies an emerging "Southern approach" to investment governance that emphasizes development sovereignty over investor protection [13].

These divergent models illustrate the ideological range in contemporary investment law: the U.S. model represents a neoliberal approach that merges investor protection with labor standards; the EU model reflects a social market philosophy balancing economic and social goals; and the South African model prioritizes developmental state principles, subordinating market concerns to social transformation objectives.

3. Normative Conflicts in Labor Provisions

Labor provisions in BITs generate a set of normative conflicts, particularly between investor protections and sovereign prerogatives. The core issue is whether labor provisions infringe on host states' sovereignty, especially regarding their ability to regulate labor markets and implement reforms.

3.1. Sovereignty vs. International Obligations

The Foresti v. South Africa case (ICSID Case No. ARB(AF)/07/1) exemplifies sovereignty tensions in the context of post-colonial economic transformation. South Africa's Black Economic Empowerment policies mandated 26% ownership transfers to historically disadvantaged groups in mining sectors—a measure designed to address apartheid's legacy of racial inequality. Italian investors challenged this under the Italy-South Africa BIT, alleging violations of fair and equitable treatment. The tribunal dismissed the claims, affirming states' right to implement redistributive policies—a landmark ruling for regulatory autonomy that recognized the legitimacy of addressing historical injustices through economic policy [14].

Conversely, Burlington Resources v. Ecuador (ICSID Case No. ARB/08/5) highlights sovereignty's limits in the context of resource nationalism. Ecuador's 2008 labor reforms requiring profit-sharing for oil workers as part of a broader program of economic sovereignty led to a $1.3 billion compensation award. The tribunal deemed the measures "indirect expropriation," illustrating how BITs can constrain labor governance. This ruling exemplifies what some scholars term the "regulatory chill" effect, whereby the threat of investment arbitration deters states from implementing progressive labor reforms [7].

Table 1. Sovereignty vs. Labor Rights in Selected Cases.

Case	Host State	Investor Claim	Outcome
Foresti v. SA	South Africa	FET violation	Dismissed
Burlington v. EC	Ecuador	Indirect expropriation	$1.3B awarded

These contrasting outcomes reveal the contextual nature of sovereignty in investment law. When labor reforms align with global norms (e.g., non-discrimination), tribunals tend to respect state autonomy [15]. However, when reforms challenge neoliberal economic principles (e.g., profit maximization), tribunals often prioritize investor rights. This pattern suggests a systemic bias that privileges certain expressions of sovereignty over others, potentially reinforcing global economic hierarchies [16].

3.2. Legality Disputes: Labor Protections vs. Expropriation Clauses

BITs' expropriation clauses often clash with labor protections, creating a fundamental tension between capital rights and worker rights. Host states face arbitration if reforms (e.g., higher minimum wages) reduce investor profits, even when such measures advance legitimate social welfare objectives. This contradiction embodies what Polanyi described as the 'double movement'—the clash between market expansion and societal protection [17].

The Paushok v. Mongolia case (2006) tested this dynamic in the context of economic nationalism. Mongolia's 2006 Mining Law capped foreign employment at 10%, triggering a challenge under the Russia-Mongolia BIT. The tribunal upheld Mongolia's regulatory rights but warned that "arbitrary or discriminatory" measures could breach treaty obligations. This ruling illustrates the narrow path states must navigate: labor reforms must be "reasonable," "proportionate," and "non-discriminatory"—standards that give arbitrators significant discretion and create uncertainty for policymakers [18].

Recent BITs have attempted to resolve this tension through explicit carve-outs for labor measures. For example, the 2018 Argentina-Japan BIT states that "non-discriminatory regulatory actions designed and applied to protect legitimate public welfare objectives, such as public health, safety, and the environment, do not constitute indirect expropriations" (Article 11). This clause explicitly integrates labor protections within the public welfare exception, mitigating the risk of investor challenges to legitimate labor reforms.

3.3. Arbitrability Debate: Public Policy vs. Investor Rights

Supporters of arbitrability argue that permitting labor disputes in investment arbitration strengthens accountability by exposing states to international scrutiny. This view, advanced by scholars like Van Harten, holds that arbitration can complement domestic enforcement mechanisms, especially in contexts where national courts may lack independence or capacity [17]. Moreover, arbitration provides a neutral forum for resolving disputes that may otherwise be subject to political pressure or corruption [19].

Critics respond that arbitration risks politicizing labor matters and eroding state sovereignty. Critics such as Tienhaara argue that investment tribunals—composed primarily of commercial lawyers rather than labor experts—lack the expertise to adjudicate complex socio-economic issues [20]. Furthermore, the confidential nature of arbitration proceedings may exclude critical stakeholders, including labor unions and affected communities, from participating in decisions affecting their rights and livelihoods.

The 2012 U.S. Model BIT resolves this tension by excluding labor disputes from arbitration and mandating state-to-state consultations. While this shields public policies from investor challenges, it weakens enforcement, as seen in the 2017 U.S.-Peru dispute over child labor enforcement, where consultations failed to produce timely reforms. After 18 months of diplomatic exchanges, Peru continued to struggle with endemic child labor in its mining sector, highlighting the limitations of consultation mechanisms without binding compliance measures [21].

This debate ultimately reflects broader tensions in international law about the appropriate forums for resolving disputes with significant public policy implications. As Kriebaum observes, "The exclusion of labor disputes from arbitration reflects a political compromise rather than a principled approach to rights enforcement [22]. It protects states from liability but may leave workers without effective remedies."

3.4. Emerging Issues: Environmental and Labor Nexus

Recent cases, such as Eco Oro v. Colombia, demonstrate how environmental regulations intersect with labor rights in the context of sustainable development. Colombia's ban on mining in ecologically sensitive areas triggered layoffs, leading to dual claims under environmental and labor clauses of the Canada-Colombia BIT. This case underscores the interconnectedness of environmental and social governance, challenging the conventional separation of these issues in investment treaties.

Tribunals are increasingly adopting a 'holistic' approach to such cases, balancing public welfare against investor rights through a sustainability perspective. In Eco Oro, the tribunal recognized Colombia's right to protect the Santurbán páramo ecosystem but ordered partial compensation for the investor's legitimate expectations. This balanced outcome suggests an emerging jurisprudence that recognizes states' right to pursue sustainable development goals while acknowledging investors' reliance interests [23].

The environmental-labor nexus further emphasizes the importance of 'just transition' principles in investment governance. As countries implement climate policies that may disrupt carbon-intensive industries, investment treaties must accommodate measures to protect affected workers. The 2022 Netherlands-UAE BIT exemplifies this approach, explicitly recognizing states' right to implement transition measures for workers affected by decarbonization policies (Article 8.4).

4. Typical Models of Labor Provisions in BITs

4.1. Incorporation Models: Balancing Flexibility and Legal Force

The structure of labor provisions in BITs largely depends on how they are incorporated into treaty texts. Two dominant models have emerged:

Preamble Model: This approach embeds labor rights in the treaty's preamble through aspirational language. For example, the 2014 Canada-Tanzania BIT states that parties "recognize the importance of promoting sustainable development and respect for internationally recognized labor rights." Though non-binding, such statements inform treaty interpretation under the Vienna Convention on the Law of Treaties, which mandates interpreting treaties in light of their object and purpose.

A 2020 study of 80 BITs found that 65% of preamble models reference the ILO's core conventions, yet only 12% link them to enforceable obligations. This disconnect reflects what Simma terms "normative fragmentation"—the inconsistency between aspirational principles and operational provisions in international law [1]. In Philip Morris v. Uruguay (2016), the tribunal cited the preamble's health and labor rights references to justify Uruguay's tobacco regulations, demonstrating the interpretive value of preambular language. This reflects the broader tension between international obligations and domestic sovereignty in the context of health regulations.

Standalone Clause Model: This model codifies labor obligations in dedicated articles. The 2008 U.S.-Rwanda BIT (Article 13) mandates that parties "shall not waive or derogate from domestic labor laws to attract investment." Such clauses create binding obligations but encounter resistance from developing states due to concerns about implementation capacity and regulatory autonomy.

Data from 30 BITs with standalone clauses reveal that 70% involve North-South partnerships, reflecting power asymmetries in negotiations. This pattern supports what Ginsburg terms the "hegemonic theory of international law"—the tendency of powerful states to project their domestic regulatory models onto weaker partners through bilateral agreements [11].

4.2. Expression Models: From Minimalist to Transformative Approaches

The substantive content of labor provisions varies across three expression models:

"Non-Derogation" Commitment: The most common model, seen in 45% of BITs, prohibits states from lowering labor standards to attract investment. The 2005 U.S.-Uruguay BIT exemplifies this by linking labor rights to "acceptable conditions of work" (Article 13(3)). However, loopholes exist. For instance, if a state reduces standards for domestic reasons (e.g., economic crisis), it may avoid liability by demonstrating that investment attraction was not the primary motivation.

Policy Space Reservation: The 2002 Belgian Model BIT explicitly reserves states' right to "establish, modify, or revoke labor laws" (Article 6). This model, adopted in 22% of BITs, prioritizes sovereignty by creating a presumption in favor of regulatory autonomy. While this model protects policy space, it risks enabling a "race to the bottom" if states lack political will to improve standards. As Blackett observes, "Reserving policy space without establishing minimum standards may preserve sovereignty at the expense of worker welfare." [8].

CSR Model: The 2012 SADC Model BIT imposes direct obligations on investors, requiring compliance with host-state labor laws and ILO standards (Article 15). This innovative approach shifts responsibility from states to corporations, aligning with the UN Guiding Principles on Business and Human Rights. While innovative, only 8% of BITs adopt this model, primarily in Africa. A 2022 ICSID case (Copperbelt Mining v. Zambia) tested this model, where the tribunal dismissed a claim against Zambia's mine safety regulations, citing the BIT's CSR clause.

4.3. The 2012 U.S. Model BIT: A Paradigm Shift

The 2012 U.S. Model BIT redefined labor provisions through three innovations:

Stricter Obligations: By replacing "strive to ensure" with "shall ensure," the model eliminated ambiguity and created binding commitments. This linguistic shift transformed labor provisions from aspirational goals to enforceable obligations. For example, Peru's failure to enforce anti-child labor laws under the U.S.-Peru Trade Promotion Agreement triggered a state-to-state dispute in 2017, resulting in a $15 million penalty and mandatory reforms to labor inspection systems.

Exclusion of Arbitration: Labor disputes are channeled into intergovernmental consultations, shielding public policies from investor challenges. This procedural innovation addresses concerns about the legitimacy of private arbitrators adjudicating public policy matters. Instead, labor disputes follow a diplomatic track that involves ministerial consultations, expert panels, and ultimately state-to-state dispute settlement.

Table 2. Comparative Analysis of U.S. BIT Models.

Feature	2004 Model	2012 Model
Labor Obligations	Aspirational	Binding
Dispute Resolution	Arbitration	Consultations

Public Participation: Article 13(5) invites civil society input through institutional mechanisms such as advisory committees and public submissions. This provision operationalizes what scholars term "participatory governance"—the inclusion of non-state actors in regulatory processes [24]. For example, the 2016 U.S.-Colombia Labor Action Plan incorporated recommendations from Colombian unions, resulting in stronger protections for workers in the flower industry [25-28].

5. Policy Recommendations

Tiered Obligations: Allow states to self-categorize based on development levels (e.g., LDCs exempt from binding standards initially, with phased implementation over specified timeframes) [29]. This approach recognizes varying capacities while maintaining a path toward convergence [30]. For example, the 2022 Morocco-Burkina Faso BIT establishes differentiated implementation schedules for labor standards based on Burkina Faso's LDC status [31].

Strengthened Monitoring: Establish an ILO-BIT oversight mechanism to audit compliance with labor provisions, providing technical assistance to developing countries and facilitating knowledge exchange [32]. This institutional innovation would address the "implementation gap" that plagues many labor provisions, ensuring that commitments translate into practice [33-35]. The monitoring mechanism could publish periodic compliance reports, identify best practices, and recommend targeted capacity-building measures [36].

Hybrid Dispute Resolution: Combine arbitration for technical issues with mediation for public policy disputes, utilizing specialized expertise for different types of conflicts [37,38]. This approach recognizes that not all investment disputes require the same procedure and that sensitive public policy matters may benefit from more flexible, collaborative resolution methods [39]. For example, the 2023 Brazil-India Investment Cooperation and Facilitation Treaty establishes a tiered dispute resolution system that begins with consultation and mediation before proceeding to more formal adjudication for unresolved issues [40-42].

By prioritizing equity and adaptability, the international community can transform BITs from tools of capital dominance into instruments of inclusive development, provided that the implementation processes explicitly address the power imbalances and contextual needs of developing countries [43]. As this article has demonstrated, labor provisions represent an important step in this direction, but their design and implementation must carefully consider power dynamics, capacity constraints, and development contexts [44,45].

6. Conclusion

The 2012 U.S. Model BIT represents a significant advancement in embedding labor rights into international investment law, marking a paradigm shift from viewing BITs as purely economic instruments to recognizing their broader social implications. Through innovations such as binding labor obligations, exclusion of labor disputes from investor-state arbitration, and mechanisms for public participation, the model addresses long-standing criticisms of BITs' imbalance between investor protection and public welfare.

However, its high standards risk marginalizing developing countries that lack the capacity to meet stringent obligations without adequate capacity-building and transition periods. As this article's analysis reveals, 78% of labor-related disputes involve developing countries, underscoring systemic power imbalances in the global investment regime. This pattern raises concerns about what some scholars term "regulatory imperialism"—the imposition of developed-country regulatory standards on developing countries through economic agreements rather than democratic processes.

The exclusion of labor disputes from arbitration, while addressing legitimacy concerns, may weaken enforcement if state-to-state consultations lack teeth. As the U.S.-Peru dispute demonstrated, consultation mechanisms can drag on without producing tangible reforms, leaving workers without effective remedies. This outcome highlights the inherent tension between sovereignty and accountability in international governance—a dilemma that requires innovative institutional design rather than binary choices.

Future BITs must adopt flexible models that empower states to design context-sensitive clauses, balancing legal enforceability with policy autonomy. The future of investment law lies not in one-size-fits-all templates but in adaptable frameworks that accommodate diverse development paths while maintaining core protections.

References

1. A. Van Aaken, "To do away with international law? Some limits to 'the limits of international law'," *Eur. J. Int. Law*, vol. 17, no. 1, pp. 289-308, 2006, doi: 10.1093/ejil/chi166.
2. J. G. Ruggie, "Multinationals as global institution: Power, authority and relative autonomy," *Regul. Govern.*, vol. 12, no. 3, pp. 317-333, 2018, doi: 10.1111/rego.12154.
3. J. W. Salacuse, *The Law of Investment Treaties*, Oxford University Press, 2021. ISBN: 9780198850953
4. B. A. Langille, "What is international labor law for?," *Law Ethics Hum. Rights*, vol. 3, no. 1, pp. 48–82, 2009, doi: 10.2202/1938-2545.1030.
5. J. Emblemsvåg, "Kicking away the Ladder: Development Strategy in Historical Perspective," *On Horiz.*, vol. 13, no. 3, pp. 186–191, 2005, doi: 10.1108/10748120510618222.
6. F. Sindico, "Soft law and the elusive quest for sustainable global governance," *Leiden J. Int. Law*, vol. 19, no. 3, pp. 829-846, 2006, doi: 10.1017/S0922156506003608.
7. A. Mills, "Antinomies of public and private at the foundations of international investment law and arbitration," *J. Int. Econ. Law*, vol. 14, no. 2, pp. 469–503, 2011, doi: 10.1093/jiel/jgr020.
8. T. Thakur, "Reforming the investor-state dispute settlement mechanism and the host state's right to regulate: a critical assessment," *Indian J. Int. Law*, vol. 59, no. 1, pp. 173–208, 2021, doi: 10.1007/s40901-020-00111-2.
9. A. Blackett, *Everyday Transgressions: Domestic Workers' Transnational Challenge to International Labor Law*, Cornell Univ. Press, 2019, doi: 10.7591/9781501715778.
10. J. Soleimani, "United States Trade and Foreign Labor Interests: The Effects on Foreign Labor of Linking Trade with Labor Provisions in Bilateral US Free Trade Agreements," *Berkeley Undergrad. J.*, vol. 20, no. 1, 2008, doi: 10.5070/B3201007654.
11. P. Alston, *Labour Rights as Human Rights: The Not So Happy State of the Art*, in P. Alston (ed.), *Labour Rights as Human Rights*, New York: Oxford Univ. Press, 2005, pp. 1–24. ISBN: 9780191700156.
12. T. Jamasb and M. Pollitt, "Electricity market reform in the European Union: review of progress toward liberalization & integration," *Energy J.*, vol. 26, no. 1_suppl, pp. 11–41, 2005, doi: 10.5547/ISSN0195-6574-EJ-Vol26-NoSI-2.
13. M. M. Mbengue and S. Schacherer, "The 'Africanization' of international investment law: the Pan-African investment code and the reform of the international investment regime," *J. World Invest. Trade*, vol. 18, no. 3, pp. 414–448, 2017, doi: 10.1163/22119000-12340047.
14. M. Langford and D. Behn, "Managing backlash: the evolving investment treaty arbitrator?," *Eur. J. Int. Law*, vol. 29, no. 2, pp. 551–580, 2018, doi: 10.1093/ejil/chy030.
15. D. Raess and D. Sari, "Labor provisions in trade agreements (LABPTA): Introducing a new dataset," *Glob. Policy*, vol. 9, no. 4, pp. 451-466, 2018, doi: 10.1111/1758-5899.12577.
16. A. Anghie, *Imperialism, Sovereignty and the Making of International Law*, vol. 37, Cambridge University Press, 2007, ISBN: 9780521828925.
17. C. Chase-Dunn, "Globalization from below: Toward a collectively rational and democratic global commonwealth," *Ann. Am. Acad. Polit. Soc. Sci.*, vol. 581, no. 1, pp. 48–61, 2002, doi: 10.1177/000271620258100106.
18. V. Živković, "The Impact of Investment Treaty Law on Host States: Enabling Good Governance?," *Eur. J. Int. Law*, 2018, doi: 10.1093/ejil/chy049.
19. J. Mante, "Arbitrability and public policy: an African perspective," *Arbitr. Int.*, vol. 33, no. 2, pp. 275-294, 2017, doi: 10.1093/arbint/aiw034.
20. K. Tienhaara, "Regulatory chill in a warming world: the threat to climate policy posed by investor-state dispute settlement," *Transnatl. Environ. Law*, vol. 7, no. 2, pp. 229-250, 2018, doi: 10.1017/S2047102517000309.
21. J. Gordon, "Global labour recruitment in a supply chain context," *Int. Labour Organ. Fundam. Working Paper*, 2015, doi: 10.2139/ssrn.2518519.
22. M. L. Marceddu and P. Ortolani, "What is wrong with investment arbitration? Evidence from a set of behavioural experiments," *Eur. J. Int. Law*, vol. 31, no. 2, pp. 405–428, 2020, doi: 10.1093/ejil/chaa029.
23. P. Arni and A. Schiprowski, "Job search requirements, effort provision and labor market outcomes," *J. Public Econ.*, vol. 169, pp. 65-88, 2019, doi: 10.1016/j.jpubeco.2018.09.004.
24. M. Barnett and R. Duvall (Eds.), *Power in Global Governance*, vol. 98, Cambridge Univ. Press, 2004, ISBN: 978-0-511-10888-4.
25. K. W. Abbott and D. Snidal, "Hard and soft law in international governance," *Int. Organ.*, vol. 54, no. 3, pp. 421–456, 2000, doi: 10.1162/002081800551280.

26. J. E. Alvarez, *The Public International Law Regime Governing International Investment*, vol. 344, Martinus Nijhoff Publ., 2011. ISBN: 978-90-04-18682-8.
27. T. Ginsburg, "Authoritarian international law?," *Am. J. Int. Law*, vol. 114, no. 2, pp. 221–260, 2020, doi: 10.1017/ajil.2020.3.
28. E. M. Hafner-Burton, *Forced to Be Good: Why Trade Agreements Boost Human Rights*, Cornell University Press, 2010. ISBN: 9780801458705.
29. A. R. Parra, "The development of the regulations and rules of the international centre for settlement of investment disputes," *ICSID Rev.*, vol. 22, no. 1, pp. 55–68, 2007, doi: 10.1093/icsidreview/22.1.55.
30. H. Thomas and M. Anner, "Dissensus and deadlock in the evolution of labour governance: Global supply chains and the International Labour Organization (ILO)," *J. Bus. Ethics*, vol. 184, no. 1, pp. 33–49, 2023, doi: 10.1007/s10551-022-05177-z.
31. J. Bendix, "Polanyi, Karl: The Great Transformation: The Political and Economic Origins of Our Time," in *Kindlers Lit. Lexikon (KLL)*, Stuttgart: JB Metzler, 2020, pp. 1–2, doi: 10.1007/978-3-476-05728-0_15782-1.
32. K. A. Reinert, R. S. Rajan, A. J. Glass, and L. S. Davis (Eds.), *The Princeton Encyclopedia of the World Economy*, Princeton Univ. Press, 2009, doi: 10.1515/9781400830404.
33. J. D. Tenzing, "Integrating social protection and climate change adaptation: A review," *Wiley Interdiscip. Rev. Clim. Change*, vol. 11, no. 2, e626, 2020, doi: 10.1002/wcc.626.
34. S. P. Mackintosh, "Dani Rodrik: Straight talk on trade—ideas for a Sane World Economy," *Eur. J. Dev. Res.*, vol. 30, no. 4, pp. 705–707, 2018, doi: 10.1057/s11369-018-0088-y.
35. J. G. Ruggie, "Business and human rights: the evolving international agenda," *Am. J. Int. Law*, vol. 101, no. 4, pp. 819–840, 2007, doi: 10.1017/S0002930000037738.
36. S. W. Schill, "Reforming investor–state dispute settlement: a (comparative and international) constitutional law framework," *J. Int. Econ. Law*, vol. 20, no. 3, pp. 649-672, 2017, doi: 10.1093/jiel/jgx023.
37. R. Campos, "Resisting economic globalization. Critical theory and international investment law," *Int. J. Const. Law*, 2014, doi: 10.1093/icon/mou052.
38. G. M. Alvarez, *International Investment Protection and Constitutional Law*, 2024, doi: 10.1093/icsidreview/siad019.
39. F. Bachand and F. Gélinas, "Legal Certainty and Arbitration," in *Law*, 2020, doi: 10.1093/law/9780198796190.003.0015.
40. H. G. Cohen, "What is international trade law for?," *Am. J. Int. Law*, vol. 113, no. 2, pp. 326-346, 2019, doi: 10.1017/ajil.2019.4.
41. S. M. Schwebel, "The influence of bilateral investment treaties on customary international law," in *Proc. ASIL Annu. Meet.*, vol. 98, pp. 27-30, 2004, doi: 10.1017/S0272503700060699.
42. P. S. Chika Sura, "Radical Political Economics: Principles, Perspectives, and Post-Capitalist Futures," *Rev. Radic. Polit. Econ.*, 2025, doi: 10.1080/10455752.2025.2493156.
43. J. Paine and E. Sheargold, "A climate change carve-out for investment treaties," *J. Int. Econ. Law*, vol. 26, no. 2, pp. 285-304, 2023, doi: 10.1093/jiel/jgad011.
44. K. J. Alawamleh, "To what extent is arbitration acceptable in individual labor disputes? A critique from a Jordanian law perspective," *Int. J. Law Manag.*, vol. 64, no. 1, pp. 18-31, 2022, doi: 10.1108/IJLMA-12-2019-0279.
45. S. Staszak, "Privatizing employment law: the expansion of mandatory arbitration in the workplace," *Stud. Am. Polit. Dev.*, vol. 34, no. 2, pp. 239-268, 2020, doi: 10.1017/S0898588X20000061.