

INVITATION

Breaking the Silos –

Bringing a Human Rights Perspective into the IIA reform debate

Date: Monday, 18 July 2016, 1:30 – 3 p.m.

Venue: Kenyatta International Conference Centre, CSO Forum Tent, Nairobi

The current system of investment treaties is broken. A system that, among other things, gives the right to sue governments for the loss of future profits unilaterally to foreign investors in front of private arbitration tribunals. A system that limits the ability of governments to do what they are supposed to do: making political decision for the sake of all its citizens. Today, there is no question whether a reform of international investment agreements (IIA) is needed but rather what kind of reform.

Within such a reformed system, a balance between foreign investor rights' and responsibilities' has to be found. One could think of a system where also host governments, workers in subsidiaries of foreign corporations or third parties negatively affected by foreign businesses could be granted the right to sue foreign corporations in front of an extraterritorial investment tribunal, after having exhausted all national remedies.

The issue of investor responsibilities is already dealt with in another context, namely within the UN Human Rights system. The UN Guiding Principles on Business and Human Rights of 2011 provide guidance for companies' responsibilities to respect human rights in their operations, as well as for victim's access to remedy for human rights violations. Furthermore, in June 2014 the UN Human Rights Council established an open-ended intergovernmental working group to elaborate a legally binding treaty on transnational corporations and other business enterprises with respect to human rights.

To what extent are investor responsibilities already part of the current IIA reform debate? How are investor responsibilities currently discussed in the two human rights work streams dealing with the issue? How could a link between the IIA reform debate and the human rights debate provide a way forward towards a new system of just and balanced investment agreements and investment contracts?

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