



## Dispute Resolution at International Organizations \*

### Summary

**\* Please note that this summary of the panel was AI-generated and therefore has not been fully vetted for accuracy.**

The final session of Washington Arbitration Week focused on dispute resolution within international organizations and multilateral development banks (MDBs). The panel, moderated by Jeffrey Lehtinen, included experts from the International Monetary Fund (IMF), Inter-American Development Bank (IDB), and other legal practitioners specializing in international law.

The discussion began with an overview of internal dispute resolution mechanisms available to MDBs, emphasizing the harmonized approaches to investigating and sanctioning misconduct, particularly in cases involving fraud and corruption. Vanessa Duran Acosta from the IDB outlined the institution's strategies for handling high-impact cases and highlighted the importance of negotiated resolutions to enhance compliance and mitigate risks.

The panelists also examined the external dispute resolution processes, focusing on how MDBs engage in litigation outside their institutions. This included discussions on the implications of recent U.S. Supreme Court decisions regarding the privileges and immunities of international organizations, notably the 2019 case involving the International Finance Corporation (IFC), which clarified that not all international organizations enjoy absolute immunity in legal proceedings.

Brian Patterson from the IMF discussed the institution's unique position and the challenges it faces in defending its immunities while engaging in external litigation. The conversation also touched on proactive litigation strategies employed by MDBs to recover funds or assert rights, as well as the complexities of navigating international legal landscapes.

The panel concluded with reflections on the evolving nature of dispute resolution in international organizations, emphasizing the need for MDBs to adapt to a changing legal environment while safeguarding their operational integrity. The session was well-attended, reflecting the significance of the topics discussed in the context of international arbitration and development finance.



## Authors

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## Topics

Dispute Resolution, International Organizations, Administrative Tribunals, Sanction Boards, World Bank Group, Inter-American Development Bank, Disputes, Procedure, Precedent, Adjudicators, Appointing Adjudicators, Enforcing Awards, Award Enforcement

## Category

WAW

## Full Transcript

00:00:58

so let's let's see if

00:01:02

okay. Welcome to Washington arbitration

00:01:23

week. We we are on

00:01:25

our last session. This is

00:01:27

our 24th panel. So we

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have will hide the 23

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panels know during the whole

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week starting on Monday. And

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this is our closing panel



00:01:39  
and I die. I believe

00:01:41  
that this is a panel

00:01:42  
that we've never had in

00:01:43  
in Washington arbitration week. But

00:01:46  
before giving given the floor

00:01:49  
to our moderator Jeffrey Lessman,

00:01:52  
I would like to share

00:01:55  
with you an announcement the

00:01:57  
sister Forum of Washington arbitration

00:02:00  
week, which is the world

00:02:03  
arbitration update has just released

00:02:05  
its dates for 2020 for

00:02:09  
they are May 15th through



00:02:13  
24th of 2024. And as

00:02:16  
Washington arbitration week the world

00:02:19  
appreciation update is A whole

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week or more than 5

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days for him that happens.

00:02:25  
Not only in Washington DC

00:02:27  
but happens in various jurisdictions,

00:02:28  
the format is that of

00:02:31  
updating the International Community on

00:02:34  
matters of international commercial arbitration

00:02:36  
International Investment arbitration and the

00:02:40  
public international law and for

00:02:43  
that we don't meet in



00:02:46

Washington DC or at least

00:02:47

not through 5 days, but

00:02:49

we actually meet inversions diction

00:02:51

last this year. We met

00:02:52

in Mexico City and the

00:02:54

other we're also in person

00:02:55

pay in Washington DC in

00:02:58

Bogota Colombia in Spain in

00:03:01

Singapore and and the idea

00:03:04

this next year will be

00:03:06

to start in China and

00:03:08

go through the five continents

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as before the the additional



00:03:13

element that I would like

00:03:14

to share with you is

00:03:15

that it its mission is

00:03:18

to fold 1 is 2

00:03:20

Update on issues of public

00:03:21

international law international commercial arbitration

00:03:23

and investor-state arbitration and the

00:03:27

other part of its mission

00:03:30

is to decentralize International Patrician.

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So as to recognizing that

00:03:35

there's there's wonderful Council and

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the arbitrator's Not only in

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the main centres of international



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relations the Paris and New

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York and even the Washington

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DC on the London, but

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there are also wonderful International

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Community In Bruges in in

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Belgium in Croatia in in

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Panama in in in in

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Africa at cetera so that

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that's your part of the

00:04:01

mission. So with that I

00:04:04

will turn out into our

00:04:06

panel of the today's Session

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and we had been thinking



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quite a bit about the

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dispute resolution in in many.

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Jurisdictions, but we have never

00:04:21

had was dispute resolution in

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within International Organization or development

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Banks and the suggestion was

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made to us last year

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or this year early this

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year to share with the

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world at what happens in

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development Banks or what happens

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in international organizations when there

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are disputes inside because of



00:04:45  
projects that have been supported

00:04:47  
by the development bank and

00:04:49  
and there are claims of

00:04:50  
fraud or corruption. So so

00:04:53  
this final me address many

00:04:56  
things including for instance project

00:05:01  
in which the bank may

00:05:02  
be related to or the

00:05:04  
international organization may be related

00:05:05  
to but there may be

00:05:06  
claims. I stole things going

00:05:08  
sideways within the procedures of

00:05:11  
the bank and I will



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also eventually I hope also

00:05:15

address the issues that are

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very important for For the

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volume max at N4 International

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organizations which relate to their

00:05:23

functions of 70. So I'll

00:05:27

stop there because I think

00:05:28

that that Jeffrey is is

00:05:29

way more app to share

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with you that the the

00:05:34

subject matter of the panel

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and that let me introduce

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him and say oh, so



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thank you very much for

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for you're hosting both to

00:05:43

Jeffrey and also to Margarita

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Sanchez you have been great

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supporters of Washington arbitration week

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and we are very grateful

00:05:49

that you're hosting us today

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here. So Jeffrey Lettman is

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a member of a m

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a c a r l

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e s chartered his practice

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focuses on assisting clients with

00:06:02

International and government investigations Regulatory



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Compliance and complex cross-border litigation

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and arbitration. Mr. Lehtinen has

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particular experience in counseling clients

00:06:15  
in regard to civil criminal

00:06:18  
and Regulatory. Issues arising in

00:06:21  
their International operations ranging from

00:06:24  
compliance strategies to mitigate potential

00:06:27  
risk to Interlachen government investigations.

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He has conducted an internal

00:06:31  
investigation on behalf of audit

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committees and special committees concerning

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potential violations of the Foreign

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Corrupt Practices Act anti-money laundering



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regulations and economic sanctions laws

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as well as allegations relating

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to potential accounting and disclosure

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irregularities in instances of potential

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insider-trading allegations of even sexual

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harassment and other workplace misconduct.

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Jeffrey has also represented multinational

00:07:02

companies financial institutions technology companies

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professional sports teams International Development

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Banks and their officers and

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directors in connection with investigations

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before the US Securities Exchange

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Commission and the US Department



00:07:16  
of Justice the financial industry

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regulatory. Authority and numerous other

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domestic and foreign Regulatory and

00:07:24  
government bodies and I'll stop

00:07:25  
there we can go on

00:07:28  
and on but I think

00:07:29  
that we have an incredible

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moderators and an incredible panelist

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today Jennifer you have a

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tour. Thank you very much

00:07:37  
for the opportunity to be

00:07:44  
here. Thank you Washington arbitration

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week for this opportunity at



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I didn't realize that this

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was the last of 24

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mental the best for last

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but I'm just saying we're

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the only thing standing between

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you and happy out. So

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we're going to try to

00:08:02

make this resolution as interesting

00:08:06

as quick as we can

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as was antoniou said we

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really are privileged to have

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a very distinguished panel today

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and what we're going to



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be talkin about. In the

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context of multilateral development Banks

00:08:23

and international organizations from two

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different perspectives suggests a dispute

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resolution in international organization is

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a very Broad and very

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ambitious. And they've only given

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us 75 minutes. So it's

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not enough time to cover

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everything. But what we thought

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would be uprooted is to

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really focus on two separate

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aspects of dispute resolution. One



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of which perhaps all of

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us are more familiar with

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which is to say the

00:08:53

internal dispute resolution mechanisms that

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exists within mom that I

00:08:58

do but don't Banks and

00:09:00

other international organization and has

00:09:02

existed for many many years

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last year. And then the

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second aspect which is what

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happens from an external perspective

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when we're no longer talking

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about internal or sentience proceedings,



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but rather were talking about

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a multilateral bank or the

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international organization pursuing some sort

00:09:21

of dispute resolution outside of

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the confines of their institution

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that is to say commercial

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arbitration civil litigation either as

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parties are participants to that

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those proceedings or as third-party

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beneficiaries or participants of those

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things. So that is how

00:09:42

we're proposing to organize that

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the panel today along those



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pillars internal and external facing

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dispute resolution. We really do

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want to encourage a dialogue

00:09:55  
or questions as we go

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through it. You can tell

00:09:59  
perhaps by the way. I'm

00:10:00  
dressed. I'm not the most

00:10:01  
formal moderator in the world.

00:10:03  
So please do the Said

00:10:05  
that people have questions or

00:10:06  
would like to provide comments.

00:10:08  
Please feel free through out

00:10:10  
the course of the conversation.



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I want to take the

00:10:14

opportunity to without any further

00:10:16

background introduced the battle because

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they are the stars of

00:10:21

the show today up to

00:10:22

my immediate left is Brian

00:10:24

Patterson. Ryan is assistant general

00:10:27

counsel at the international monetary

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fund's IMF. Are you overseas

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internal and external litigation matters

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employment law matters and as

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well as the contracts work

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of a legal department within



00:10:41  
the IMF. Thank you Brian

00:10:43  
for being here to Brian's

00:10:45  
left is Vanessa. Duran Acosta

00:10:47  
who has joined us from

00:10:48  
the inter-american Development Bank. Vanessa

00:10:51  
has been at the ID

00:10:52  
for over 12 years and

00:10:55  
currently serves as the Integrity

00:10:57  
lead specialist litigation within the

00:11:00  
idb's office of institutional Integrity.

00:11:02  
Thank you, Vanessa. Yes, I

00:11:07  
have been to her left

00:11:08  
Maria lapetina who is I'm



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honored to be her colleague

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here at Miller and she'll

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hear Maria is a council

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here at the firm regularly

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advises multinational clients, including multilateral

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development banks on complex cross-border

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litigation and compliance matters to

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Maria's left is Jonathan Shapiro.

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John previously served at the

00:11:31

Integrity compliance officer at the

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World Bank and is currently

00:11:36

the founder and owner of

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Shapiro advisors LLC in which



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she regularly advises clients on

00:11:43

corporate compliance program design and

00:11:46

implementation and finally but not

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last all the way to

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the left is to Los

00:11:52

Feliz who is Uptown Charlotte

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at law firm of premature

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Council has practice focuses on

00:12:01

advising clients on public international

00:12:03

law matters. Representing clients in

00:12:06

legal proceedings before International courts

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and tribunals and other International

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adjudicative bodies. I was worried



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I couldn't pronounce that you

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to get that I did.

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So here we go. So

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that's the panel. I want

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to thank everybody for for

00:12:21

agreeing to participate we're going

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to start today by talking

00:12:25

about internal dispute resolution internal

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proceedings. And as we said

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at the beginning mgb's and

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other International organizations have a

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wide variety of dispute resolution

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mechanisms available at their disposal



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including a series of Internet

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internal processes and proceedings to

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identify investigate and sanctioned potential

00:12:48

misconduct by borrowers another third

00:12:51

parts of the World Bank

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Allen Stone station for as

00:12:55

with here and has too

00:12:56

many years has its own

00:12:58

section system and save his

00:13:01

proceedings as we will also

00:13:02

cure. Those spots does the

00:13:06

liberty of bodies within multilateral

00:13:08

development banks have their own



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unique idiosyncrasies around you need

00:13:12  
for amateur for seeking to

00:13:14  
resolve internal procedures. And so

00:13:17  
we figured a good starting

00:13:18  
point is to set the

00:13:20  
scene a little bit by

00:13:21  
talkin up from our experts

00:13:23  
in terms of what those

00:13:24  
internal dispute resolution mechanisms look

00:13:27  
like so we start with

00:13:29  
you Vanessa Vanessa. We want

00:13:32  
to talk about broadly speaking

00:13:41  
the parameters of the itbp



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internal dispute mechanism for resolving

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disputes. Afternoon, everybody. Thanks for

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having me. I know that's

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an interesting question Barry brought

00:13:59

a message that I want

00:14:01

to highlight is that for

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example in the case of

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the ID and the MTV

00:14:07

party to the uniform framework

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for preventing and combating fraud

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and Corruption sign in 2006

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and all the MTV party

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to the agreement which are



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the World by ATB ebrd.

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We follow a consistent and

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harmonized approach to both how

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we conduct investigations and how

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we can create the cases

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before our correspondent bodies in

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our case. We have this

00:14:42

time officer at the first

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instance when the office of

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institutional Integrity submitted the statement

00:14:49

of charges and evidence is

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evidence under the preponderance of

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preponderance of the evidence the



00:15:01

first officer followed by the

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sanctions. Committee in case of

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an appeal but all of

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the ndp's follow general principles,

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for example, we have harmonized

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definitions of what it is

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practically following principles and guidelines

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for how we conduct investigations

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how we sanction the parties.

00:15:28

We also have a principles

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on the treatment of corporate

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groups. So it's it's interesting

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to see how harmonized our



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practices are talking a little

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bit more about the IMDb

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the ID for the last

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6-7 years, the the office

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of institutional Integrity has implemented.

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And it's a strategy to

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place higher resources to the

00:16:03

investigation and adjudication of high-impact

00:16:05

cheese high. In fact cases

00:16:08

are defined as corruption cases

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pollution cases or cases of

00:16:14

fraud during the execution of

00:16:16

a program, which usually until



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next Kings of financial or

00:16:22

technical fraud in order to

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do that. The office implemented

00:16:27

different steps first calibrated the

00:16:33

triage mechanism, which is the

00:16:35

mechanism used at the intake

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stage to evaluate a case.

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to to break the cases

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and probably resolve cases with

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low triage core with alternative

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mechanisms, for example from Sherman

00:16:54

or other type of solution

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then implemented a strong approach



00:17:04

to expanding the network of

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cooperation agreements with national authorities

00:17:11

and international organizations to cooperate

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to row by Intel on

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Chase's on confidential basis also

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implemented proactive mechanisms of for

00:17:25

the complaint for example through

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irr switch are the Integrity

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Wiz reviews of portfolio or

00:17:35

sectors and also and most

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importantly his ternative. I can

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only way to increase the

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high in fact case has



00:17:46  
the negotiated which require in

00:17:54  
order to be eligible for

00:17:56  
a running the re that

00:17:58  
the investigative party has evidence

00:18:03  
of Either Integrity wrist to

00:18:08  
the idb group Finance activity

00:18:11  
or significant profit in part,

00:18:16  
either by the investigators parties

00:18:18  
or by third-party. We were

00:18:23  
able to increase significantly the

00:18:27  
number of Thai impact cases

00:18:28  
in our court. For example,

00:18:32  
in 2016. 54% of our



00:18:36

cases were high impact in

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2021. It was 92% and

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these cases we need intel

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from a prevention perspective. importance

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because they they they in

00:19:00

a way they deal the

00:19:02

most strategic lessons for operation

00:19:06

when it comes to implementing

00:19:09

recommendations on how to mitigate

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Integrity risk from a litigation

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perspective their complex cases highly

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rated because they Encompass usually

00:19:21

complicated it seems with multiple



00:19:25  
parties multiple jurisdictions and from

00:19:28  
a sanctioned perspective these cases

00:19:30  
usually are we stopped with

00:19:33  
imposition of a sanction that

00:19:35  
is not only a department

00:19:37  
but Department with a condition

00:19:40  
for example implementation of compliance

00:19:46  
program or a monitor strip.

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In a nutshell something that's

00:19:52  
very complex. But in a

00:19:54  
nutshell blank perspective given the

00:20:04  
number of years that you

00:20:05  
were there in particular be



00:20:07

interested for your views on

00:20:09

the following which is we're

00:20:11

calling these internal dispute resolution.

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Of course, they involved parties

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that are external to empty

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because we're talkin about sanctions

00:20:20

proceedings against borrowers guarantors or

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other participants that are outside

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of the MVP of cell,

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but with respect to which

00:20:29

the disputed get resolved internally

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and so what I'd like

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to if you can share



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it with the World Bank

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perspective on this and didn't

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expect that you can comment

00:20:40

what are some of the

00:20:41

similarities or differences between how

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sad and multilateral approach has

00:20:47

these types of matter verses

00:20:48

a more traditional Nashua Orange

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Port Authority I don't speak

00:21:06

for the World Bank. so

00:21:22

I think that way things

00:21:27

about Quebec IMDb corruption allegations

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Minister projects funded project is



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traditional lending instrument or a

00:22:00  
grand Bank administered a maybe

00:22:03  
that is the bank administering

00:22:05  
a multilateral trust fund to

00:22:06  
where the bank's money is

00:22:08  
being touched. The bank has

00:22:10  
jurisdiction companies are not in

00:22:13  
privity of contract with the

00:22:16  
bank companies, which are the

00:22:18  
subject of int investigation are

00:22:21  
companies that have won contracts

00:22:23  
under projects funded by the

00:22:25  
bank, but that the bank



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utilizes the audit clause in

00:22:29

the loan agreement which gives

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them jurisdiction Okay, so Int

00:22:37

has a robust a worldwide

00:22:41

investigative remitting and they exercise

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has still not surprisingly. Sometimes

00:22:48

people will not adhere to

00:22:50

the procurement guidelines and engaging

00:22:53

one of the prohibited practices

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int from my recollection and

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recent conversation as an intake

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unit. They have Regional teams,

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which investigate these these allegations.



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Sometimes company will especially a

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larger company with with with

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subsidiaries etcetera not be aware.

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Globally that this is taking

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place. It might be a

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remote subsidiaria of a country

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office until one side and

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T begins an investigation sure,

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the flares go up and

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eventually in many instances the

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company. How will we resolve

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this dispute? Right? So we're

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going to resolve it through



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either cooperation through the use

00:23:38  
of counsel to come in

00:23:40  
and try to figure out

00:23:41  
what happened as a Vanessa

00:23:44  
said there's an increasing movement

00:23:47  
towards a negotiated resolution. So

00:23:49  
int will conduct an investigation

00:23:51  
to collect evidence. They will

00:23:53  
potentially send out a letter

00:23:57  
to the company under natural

00:23:59  
due process using alleged to

00:24:01  
have done the following what

00:24:02  
you have to say about



00:24:03  
it off in Council. Come

00:24:05  
in and they will begin

00:24:07  
a negotiation. How do we

00:24:09  
resolve this? Right and so

00:24:11  
often ineffective modality is a

00:24:15  
negotiated resolution agreement. And what

00:24:18  
that does is it allows

00:24:20  
int on behalf of the

00:24:22  
World Bank to demonstrate to

00:24:24  
the owners of the bank

00:24:25  
which are countries that they

00:24:28  
are safe guarding the banks

00:24:30  
the funds that donors have



00:24:32

entrusted to the bank and

00:24:36

it's helpful because it allows

00:24:39

an entity and mitigate its

00:24:42

risk and it allows int

00:24:45

or or the World Bank

00:24:46

to learn about particular schemes

00:24:49

that are taking place. I

00:24:51

think there's a difference between

00:24:52

a traditional law enforcement organization

00:24:58

and stay Intr the World

00:25:01

by First Alliance, he doesn't

00:25:02

have law enforcement jurisdiction Inc.

00:25:05

Can't investigate public officials. The



00:25:07

closest thing I N T

00:25:08

can do if there's belief

00:25:10

that there's a public a

00:25:12

corrupt public official is to

00:25:14

do what's called a criminal

00:25:16

referral which says a country

00:25:18

a we believe that the

00:25:20

the laws of your country

00:25:21

may have been in violated

00:25:23

and here is the basis

00:25:26

for that belief you go

00:25:27

forward and then investigate but

00:25:29

I am to your the



00:25:30

World Bank doesn't have jurisdiction

00:25:31

over over public officials and

00:25:33

has jurisdiction over company. And

00:25:37

so With regard to the

00:25:44

harmonizing that Vanessa was talking

00:25:48

about we have I sometimes

00:25:51

use we can't get it

00:25:52

out of my head am

00:25:54

DB wheel across the bar

00:25:56

anything over a year sort

00:25:58

of like a felony a

00:25:59

year-and-a-day is subject to cross

00:26:02

the barman but the bank



00:26:04

is in enforcement jurisdiction the

00:26:06

bank is it that the

00:26:07

World Bank as is as

00:26:09

are the other amputees their

00:26:10

development that their stewards of

00:26:13

funds that are being used

00:26:14

to alleviate poverty and and

00:26:16

you know, it sounds trite

00:26:17

but it's true build a

00:26:19

better tomorrow in the developing

00:26:21

world. There is an interest

00:26:24

in having properly skilled properly

00:26:30

managed companies execute bank-funded contract



00:26:34

and not being knocked out

00:26:39

of those rolls. And so

00:26:44

the bank wants to say

00:26:45

to those companies. We don't

00:26:50

like the way you've been

00:26:52

conducting your business. We have

00:26:53

these procurement guidelines our evidence

00:26:55

indicates that you have violated

00:26:57

them. And so we're going

00:27:00

to hold you accountable. We're

00:27:02

going to hopefully come to

00:27:05

an agreement where you acknowledge

00:27:06

your wicked ways and less



00:27:09

said about restoring your ability

00:27:12

to work for bank-funded project.

00:27:16

But we need you to

00:27:17

change the way you do

00:27:18

that from a sanctioning perspective

00:27:21

it first started with your

00:27:24

BBQ go stand in the

00:27:25

corner for 4 years and

00:27:26

think about what you've done

00:27:27

by the problem with that

00:27:30

was after four years. There's

00:27:32

been no change to the

00:27:33

behave and if it's a



00:27:35

large conglomerate, so then the

00:27:39

non-sanctioned entity just picked up

00:27:41

where it's sanctioned a partner

00:27:43

or subsidiary left off now

00:27:46

it's the varmint with additional

00:27:48

release which is With the

00:27:51

default, we're not going to

00:27:52

allow you to work on

00:27:54

dank on the project until

00:27:56

certain conditions are met often.

00:27:58

Those are the imposition of

00:28:00

a Integrity compliance program. That

00:28:03

is effectively Implement. Right? So



00:28:05

what is it looking to

00:28:06

do to check Stitcher investigate

00:28:09

remediate those allegations which brought

00:28:12

about that conduct which brought

00:28:15

the entity in front of

00:28:16

the organization in the first

00:28:18

one? I believe that we're

00:28:21

headed towards the third generation,

00:28:22

which is let's keep the

00:28:25

companies working but we're going

00:28:27

to trust and verify I

00:28:28

would put to the mtdcommunity.

00:28:30

It's time for them to



00:28:32

start considering that the default

00:28:35

judgment should be conditional non

00:28:38

debarment except for those cases

00:28:40

of really pervasive fraud or

00:28:41

corruption is antithetical to Development

00:28:44

Bank to take out good

00:28:45

companies from bidding on projects

00:28:47

leaving less potentially scrupulous one

00:28:50

you want to keep working.

00:28:52

We're happy to have you

00:28:53

keep working. But you're going

00:28:56

to have to have a

00:28:57

third-party verify that you are



00:28:59  
in fact implementing the corporate

00:29:02  
compliance for the companies will

00:29:03  
tell you we just want

00:29:05  
to keep working. IMDb should

00:29:08  
consider letting them continue to

00:29:10  
work but under very strict

00:29:12  
control. So release is you

00:29:25  
are you are no longer

00:29:27  
eligible to bid on Bank

00:29:28  
funded projects for a period

00:29:30  
of three years and that.

00:29:33  
Can extend unless the conditions

00:29:35  
are met one of those



00:29:37

conditions in again often. It's

00:29:40

the imposition of an Integrity

00:29:41

conditional non debarment is okay,

00:29:46

you know, we're shocked shocked.

00:29:49

There's gambling at Rick's we

00:29:50

don't know how this happened.

00:29:52

We believe you we want

00:29:53

to work with you, but

00:29:55

we're going to mandate that

00:29:57

if you want to keep

00:29:58

working on world bank or

00:30:00

multilateral development Banks projects. You

00:30:04

can do so however a



00:30:07

conditional non debarment is like

00:30:10

a suspended sentence almost with

00:30:13

condition. You can keep hitting

00:30:15

we want to keep you

00:30:16

in the mix. We want

00:30:17

your skills. We want the

00:30:19

competition but there's going to

00:30:20

be very clear robust conditionality

00:30:24

which might involve the imposition

00:30:26

of an Integrity compliance program

00:30:29

and we're not going to

00:30:32

allow you to report on

00:30:34

all the wonderful things that



00:30:36

you've done you're going to

00:30:38

be working with a third

00:30:39

party to whom you will

00:30:41

be subjected to their scrutiny

00:30:45

and their training and experience

00:30:47

and that party shall be

00:30:48

reporting to the MD be

00:30:50

so the entity keeps working

00:30:53

and the MVB can feel

00:30:55

comfortable going to its board

00:30:56

to say we have this

00:30:59

Company that continues to work

00:31:01

but we are doing our



00:31:03

level-headed best to ensure that

00:31:05

the way they're conducting their

00:31:07

business comports with the ethics

00:31:09

and business practices that are

00:31:13

Bank owners mandate is it

00:31:16

it is is a way

00:31:18

that we would feel comfortable

00:31:19

having them use the money.

00:31:22

shut up in a minute

00:31:24

to talk about privileges that

00:31:26

before we do that unless

00:31:29

I'm just curious from the

00:31:31

idb perspective is Trend toward



00:31:36

a higher incidence of negotiated

00:31:38

settlement before we changed off

00:31:43

exit if you want to

00:31:44

share something for the increased

00:31:47

use of So before getting

00:31:54

into that for the IV

00:31:55

be the Baseline sanctioning according

00:31:58

to are functioning. Knight is

00:32:00

a varmint. Without condition. That's

00:32:06

also changing a little bit.

00:32:07

We're moving forward position of

00:32:11

the varmints with conditional release

00:32:14

or the non-conditional department, which



00:32:19  
is at this point very

00:32:21  
rare in the idb sanctions

00:32:23  
system and part of that

00:32:25  
is a lot of it

00:32:28  
because something's lamentation ordained priests

00:32:31  
implementation of a new race.

00:32:33  
They are an alternative mechanism

00:32:39  
to resolving cases of prohibited

00:32:41  
practices. The criteria is best

00:32:48  
and evaluated by the office

00:32:50  
of institutional Integrity together with

00:32:52  
officer provides a range of

00:32:57  
sanctions and also a range



00:32:59

of potential condition that could

00:33:02

be negotiated investigated party. Can

00:33:09

entrance when they go she

00:33:10

ate it agreement because or

00:33:13

Nike favorable to them because

00:33:16

they have the opportunity to

00:33:18

negotiate with him that way

00:33:21

unless severe sanctions and they

00:33:25

avoid the process of the

00:33:28

full investigation and the adjudication

00:33:32

process. So in that sense

00:33:34

is appealing to the investigator

00:33:36

party to to entering these



00:33:39

in a raisin to and

00:33:41

to provide food corporation in

00:33:45

that operation means that they

00:33:46

have to agree on a

00:33:49

statement of facts which includes

00:33:51

not only a description of

00:33:57

their involvement in the park

00:33:59

to go to practice but

00:34:00

potentially thing bultman of Surf

00:34:04

Party. So at the end

00:34:08

of the NRA, the there's

00:34:11

always a sanction is not

00:34:12

a process. That would not



00:34:13

end in total. Kind of

00:34:20

situation but the important thing

00:34:23

is that he's the left

00:34:24

of your sanction and usually

00:34:26

involves the component of a

00:34:28

monitor sheep, and I'm going

00:34:31

Corporation and we started doing

00:34:35

the NRA so far it's

00:34:37

fine. It's in our race

00:34:40

and he's becoming a ternative

00:34:43

that he's appealing to to

00:34:46

investigated party since World War

00:34:48

II. Thank you, Vanessa John



00:34:55

before we move to our

00:34:57

next topic. I want to

00:34:58

see are there other questions

00:35:00

that people have on the

00:35:01

internal dispute resolution items. If

00:35:07

they are not stopped and

00:35:09

said he's going to move

00:35:12

into it the second topic,

00:35:13

which really, is it important

00:35:16

bridge between internal dispute resolution

00:35:20

and the external dispute resolution

00:35:22

that we're going to discuss

00:35:23

and that bridge is the



00:35:26  
concept of privileges and immunities

00:35:27  
and I think that's as

00:35:29  
many of you know, with

00:35:32  
dealt with multilateral banks or

00:35:34  
International organizations within the last

00:35:37  
several years the idea of

00:35:39  
privileges and immunities enjoyed by

00:35:41  
multilateral an international organization has

00:35:46  
been a very very hot

00:35:47  
topic of discussion has been

00:35:49  
a hot topic of discussion

00:35:50  
in the private sector within

00:35:53  
the empty be space as



00:35:56

well as in the u.s.

00:35:57

Judicial system. And other purposes

00:36:01

up the conversation today, we're

00:36:04

going to look at it

00:36:04

through the lens of us

00:36:07

jurisprudence. Any particular there have

00:36:09

been two very significant cases

00:36:12

that have come out in

00:36:14

the last several years that

00:36:16

haven't looked at the extent

00:36:18

than the scope of privileges

00:36:20

and immunities enjoyed by International

00:36:23

organizations. What is a u.s.



00:36:25  
Supreme Court case and the

00:36:26  
other is a court case

00:36:28  
that was decided here by

00:36:29  
the the DC circuit Appellate

00:36:32  
Court. I promise you we're

00:36:34  
not going to give a

00:36:35  
lesson but because you are

00:36:43  
such an important feature of

00:36:45  
thinking about this to resolution

00:36:48  
in m d b a

00:36:49  
n d D's You want

00:36:51  
to just talk about that

00:36:53  
for a second there's a



00:36:54

way to set the scene

00:36:55

for a broader conversation about

00:36:58

external. So let's start with

00:37:02

what the US Supreme Court

00:37:03

did in 2019 and 2019

00:37:08

the Supreme Court issued a

00:37:10

decision in the case of

00:37:12

the international Finance Corporation for

00:37:15

the aisle seat of the

00:37:20

World Bank Berea like to

00:37:23

invite you if you want

00:37:25

to share some words on

00:37:26

the Supreme Court do in



00:37:28

the jam case and how

00:37:30

do you see that impacted

00:37:31

dispute resolution in the MGM

00:37:33

International Space? Better let me

00:38:05

look at that you enjoy

00:38:12

your support, but joy, and

00:38:15

I mentioned that as a

00:38:17

starting point mostly because he's

00:38:22

pork focus on whether or

00:38:24

not but I wanted to

00:38:28

highlight from the outset that

00:38:29

there are other privileges that

00:38:31

come into play with the



00:38:37

other mechanism to keep the

00:38:40

immunity through that the relevant

00:38:41

because there are there are

00:38:45

others that we should be

00:38:46

considering as well return to

00:38:48

the damn key question really

00:38:50

under in this in this

00:38:52

case was whether the IFC

00:38:56

could enjoy absolute immunity from

00:38:58

suit under the eye. And

00:39:13

how the number of requirements

00:39:15

under the loan agreement to

00:39:16

ensure for example, that there



00:39:18

weren't going to be extensive

00:39:20

environmental damage as a result

00:39:21

of that didn't happen there

00:39:32

was damage and so a

00:39:36

group of Indian fishermen to

00:39:38

the IFC or failure effectively

00:39:41

to comply with with the

00:39:42

cabinets under under the loan

00:39:44

agreement the IFC tried to

00:39:46

argue that it enjoys. Absolutely

00:39:49

need the number of argument

00:39:52

about the purpose of organizations

00:39:55

and the financing auto financing



00:40:02  
projects and ultimately lost in

00:40:04  
the 71 decision the Supreme

00:40:05  
Court found that International organizations

00:40:08  
are not granted the same

00:40:13  
immunity that are the immunity

00:40:26  
of chartres and some that

00:40:37  
will come back to you.

00:40:38  
If you talk a little

00:40:39  
bit more about to eat

00:40:40  
Revolution it for example these

00:40:41  
include language about the books

00:40:44  
and Records. Essentially subject to

00:40:50  
Discovery or to production and



00:40:52  
in a matter and the

00:40:54  
language in each other's is

00:40:55  
very clear that that is

00:40:56  
absolutely so I'll work talking

00:40:58  
here in the gym case

00:40:59  
about whether or not these

00:41:01  
organizations are subjective. If we're

00:41:13  
going to come back and

00:41:14  
talk about the jam case

00:41:16  
with me because you can

00:41:18  
imagine the implications that a

00:41:20  
Supreme Court decision that hat

00:41:22  
for four decades since the



00:41:25

lateral system had been established

00:41:28

first world war and the

00:41:32

international station attendant very heavily

00:41:35

on the concept that they

00:41:36

enjoyed absolutely near absolute immunity

00:41:40

both with respect to shoot

00:41:42

as well as they're broke

00:41:43

the records and now in

00:41:45

2019 to get a Supreme

00:41:46

Court decision that comes out

00:41:48

and says well, wait a

00:41:49

second. It's not quite right

00:41:52

that Mom that I really



00:41:53

enjoy absolutely. So we've seen

00:41:56

some additional judicial action that

00:41:58

has taken place after that

00:42:00

Supreme Court has talked about

00:42:02

that in a minute before

00:42:03

we move off of the

00:42:05

jam case Brian going to

00:42:07

come to you because if

00:42:09

the IMF is is a

00:42:11

different type of preacher. Anyways

00:42:14

from the multilateral banks and

00:42:17

other International organizations draw the

00:42:27

distinction between the language that



00:42:29

exists under the charters of

00:42:31

mbbs vs. Other organizations, like

00:42:36

the I am reaffirmed that

00:42:47

the UN and the IMF

00:42:51

where there is explicit clear

00:42:53

language in their Charter reaffirms

00:42:56

his concept of absolute immunity

00:42:58

come to you and get

00:43:01

your perspective. Obviously, you're a

00:43:03

you're a senior person that

00:43:05

I am not enough that

00:43:06

you're speaking on behalf of

00:43:07

biometric hearing your personal stuff,



00:43:09

but considering your knowledge of

00:43:11

the ocean. How do you

00:43:14

interpret the the jam decision

00:43:16

insofar as it relates to

00:43:18

an organization like the IMF

00:43:20

and how do you see

00:43:21

that sort of impacting the

00:43:23

infp? Thanks, Jeff. Yeah, I

00:43:29

mean The gym decision is

00:43:32

certainly an earthquake or all

00:43:36

International organizations, including two who

00:43:41

were singled out by Justice

00:43:44

Roberts the IMF United Nations



00:43:45  
as having absolute immunity in

00:43:48  
their Charter. So therefore not

00:43:49  
affected by the decision directly,

00:43:51  
but never let us off

00:43:53  
and we were very happy

00:43:54  
to see that language in

00:43:56  
there and there's good reason

00:43:58  
for the difference of the

00:44:01  
IMF and you went on

00:44:02  
one hand and emptied. He's

00:44:04  
on the other hand and

00:44:06  
other organization in case of

00:44:09  
any bees, of course, they



00:44:10  
were designed to raise funding

00:44:15  
in capital markets and our

00:44:17  
major players major issue in

00:44:20  
many capital markets and stuff

00:44:22  
from the outside. It was

00:44:23  
felt sensible that they should

00:44:27  
be subject to diction. At

00:44:31  
least a portion of their

00:44:32  
activities which are so important.

00:44:35  
Where is the IMF yesterday

00:44:43  
to do. So, all of

00:44:46  
our funding is public money

00:44:47  
and all of our lending



00:44:49

is made to National Treasures

00:44:53

and central banks. So it

00:44:54

is a very classic Sovereign

00:44:57

Sovereign activity on Commercial and

00:45:01

at least 19 totally appropriate.

00:45:17

but nevertheless before Jam the

00:45:23

other TVs as well and

00:45:24

all other Global inter governmental

00:45:27

institutions did not seriously contemplate

00:45:31

that absent an allegation of

00:45:34

a waiver of immunity or

00:45:35

outside of the actual wave

00:45:38

immunity. They could be hauled



00:45:40

into the local courts of

00:45:42

any one country and especially

00:45:45

not answer for their activities

00:45:47

on the other side of

00:45:48

the globe simply because they

00:45:51

have an office in in

00:45:52

the first country that is

00:45:53

essentially the facts of the

00:45:56

case and if I scored

00:46:00

in the country more than

00:46:01

any other is responsible for

00:46:04

creating sustaining the multilateral system

00:46:06

for 80 years says you



00:46:09

can haul these institutions into

00:46:10

port. Take me to call

00:46:13

Denzel Washington quotes that can

00:46:15

be hauled into court in

00:46:15

Moscow and Tehran and anywhere

00:46:17

else and it's a very

00:46:18

sad outcome and an unnecessary

00:46:22

outcome because the artist recorded

00:46:28

in the DC circuit threw

00:46:29

the case out on another

00:46:31

very closely related subject matter

00:46:34

jurisdiction, which was that the

00:46:36

government of the complaint was



00:46:39

not so cool case. Wanted

00:46:58

to address this issue. I

00:47:01

just back to Maria's point

00:47:02

about how important it is

00:47:03

when you're dealing with International

00:47:06

organizations or look at their

00:47:11

Charters. Very carefully mention Charter

00:47:17

is different. The amenities are

00:47:18

different from the other organizations.

00:47:22

And and then we're over

00:47:24

there's National statutory law on

00:47:28

Stacy how many countries have

00:47:32

National Gas Station near me?



00:47:36

And I am in u.s.

00:47:39

Hilton waiver of some extent

00:47:54

is a little bit of

00:47:57

a middle ground where there's

00:47:58

no built-in waiver, but then

00:48:00

according to Cham Cham Cham,

00:48:02

there are no exceptions built

00:48:04

in as many different layers

00:48:09

that you need to pay

00:48:10

attention to what The the

00:48:17

jam gay side in people

00:48:20

have commented on this a

00:48:21

lot and do your point



00:48:24

Brian many people have said,

00:48:25

why did the IFC just

00:48:27

settle the champ case and

00:48:29

I mean why why take

00:48:30

the risk that you get

00:48:32

a negative decision on your

00:48:34

immunities coming out of the

00:48:35

US on the other hand.

00:48:39

If you look at who

00:48:40

the plaintiffs were in the

00:48:42

jam case, it was a

00:48:43

it's an environmental NGO that

00:48:46

essentially been representing the fisherman



00:48:49

that claimed to have been

00:48:51

damaged by the project. And

00:48:53

so if it's you know,

00:48:55

those are not your quintessential

00:48:57

plaintiffs who are just trying

00:48:59

to see what organization for

00:49:01

a financial been much different

00:49:04

outcomes in my eye and

00:49:06

so one could reasonably say

00:49:09

well even if the IFC

00:49:10

were inclined to reach some

00:49:12

sort of financial settlement, Unlikely

00:49:15

to come to the table



00:49:16  
absence of pretty significant concessions

00:49:19  
non-financial concessions from the IFC,

00:49:22  
but it is interesting to

00:49:23  
think about how that case

00:49:25  
would have played out and

00:49:26  
how privileges and immunities wouldn't

00:49:28  
or would have not been

00:49:29  
affected if that case has

00:49:31  
been settled prior to a

00:49:33  
Supreme Court decision. As Brian

00:49:39  
said there have been other

00:49:40  
cases in the wake of

00:49:42  
the jam decision that have



00:49:44

now looked at privileges and

00:49:45

immunities in the context of

00:49:47

litigation and the second case

00:49:51

that we wanted to touch

00:49:52

on briefly that came out

00:49:55

of the beauties of the

00:50:04

IV in so far as

00:50:07

it related to a spanking.

00:50:10

And that's a decision called

00:50:12

that's known as Rosencrantz. I

00:50:14

would too late after the

00:50:15

plaintiffs in the case. And

00:50:16

so Vanessa, since you aren't



00:50:18

we have The Misfortune of

00:50:19

Being didd representative on the

00:50:21

panel would love to hear

00:50:23

your perspective on Rosencrantz and

00:50:26

particularly Howard decision like Rosencrantz,

00:50:30

Jam has call multilateral Banks

00:50:36

like the ivp or perhaps

00:50:37

others to think again about

00:50:39

their litigation risk, and and

00:50:41

what are some of the

00:50:42

things that were saying multilateralism

00:50:45

International Organization think about perhaps

00:50:47

for the first time in



00:50:49

an area where there's a

00:50:51

realization that they may not

00:50:53

protect them. Absolutely. That would

00:50:57

be my personal opinion because

00:50:59

highly complex and litigated. So

00:51:06

the the sense that that

00:51:09

in this case, mainly what

00:51:12

was question is that the

00:51:14

changes I let somebody relations

00:51:17

by the ivy on how

00:51:20

this time shows procedures were

00:51:22

conducted allegations in the process.

00:51:29

So the ITV move to



00:51:34  
request lack of subject-matter jurisdiction,

00:51:39  
in this case, I start

00:51:42  
me immunities under the yellow

00:51:46  
is the international organization. The

00:51:54  
plaintiff alleged that in this

00:51:57  
case the commercial activity and

00:52:00  
the waiver that was mentioned

00:52:01  
on the the office there

00:52:05  
for alleging that they had

00:52:09  
the court had jurisdiction over

00:52:11  
the issue. But in this

00:52:13  
case the court unanimously decided

00:52:16  
that the ground was to



00:52:19

determine whether or not the

00:52:22

sanctions procedures were a property

00:52:26

Polo and that the court

00:52:28

considered he's not contractually nature

00:52:32

type of dispute relates to

00:52:38

a power the power that

00:52:42

Sovereign at states have to

00:52:46

decide there are handling of

00:52:53

fun and the reference that

00:52:56

were made to the idb

00:52:58

Charter the charges that was

00:53:00

signed back in 1959 by

00:53:03

48 members is that the



00:53:06

members granted the idb? The

00:53:12

power to implement appropriate procedures

00:53:19

and mechanisms to safeguard that

00:53:22

the proceeds of the loans.

00:53:25

Are you for the intended

00:53:29

development purposes and these really

00:53:33

change the conversation of the

00:53:37

source of the jurisdiction of

00:53:39

the IBB and obb as

00:53:43

the source that he's not

00:53:45

contractually and that's been the

00:53:51

case chances are that a

00:53:54

lot of the traditional way



00:53:56

we have been thinking of

00:53:59

conducting investigations. For example, everything

00:54:02

that's clean to the audit

00:54:04

classes the writing section. It's

00:54:07

not necessarily it's our jurisdiction

00:54:09

is not necessary to have

00:54:11

contractual relationship the interpretation and

00:54:15

the rights and and the

00:54:16

mini broaden up in a

00:54:20

sense that the jurisdiction goes

00:54:24

beyond a contractual relationship. Privileges

00:54:32

and immunities any questions I

00:54:38

will say you got a



00:54:44

Supreme Court decision that basically

00:54:47

has found that absent explicit

00:54:51

language in the charter the

00:54:52

MVPs do not enjoying after

00:54:54

a couple of years later.

00:54:57

You got a an appellate

00:54:59

court decision that upholds the

00:55:01

immunities for the ID in

00:55:03

a particular situation, but I

00:55:07

anticipate its opening coming out

00:55:21

of the gym case and

00:55:23

what I'm curious to get

00:55:24

your perspective on this is



00:55:25

a little bit of stuff

00:55:26

but I'll ask anyway, what

00:55:29

should empty bees and other

00:55:30

organizations? Now how should they

00:55:33

be positioning themselves and sort

00:55:36

of the post Jam era

00:55:37

where they may find their

00:55:39

selves defendants much more frequently

00:55:42

than they would have expected.

00:55:43

What do they be considering?

00:55:46

What position did you thinking

00:55:47

about? I could have just

00:55:50

opened one. Thank you. Jessica



00:55:52

Johnson. Yes. Aaron is being

00:56:03

discussed here. the World Bank

00:56:07

and IMF ium specialization I

00:56:17

know this that happens at

00:56:19

the US level. Are you

00:56:21

at sports either press and

00:56:24

US patent on the scope

00:56:26

of immunity is only applicable

00:56:29

if you can buy the

00:56:32

court made you wrong. So

00:56:36

I wonder if this is

00:56:37

just something I just thinking

00:56:40

about whether to consider the



00:56:44

idea of requesting an opinion

00:56:45

from the ore on. What

00:56:47

is the score on the

00:56:49

current international law. General application

00:56:57

if you run the risk

00:57:03

of getting a final decision

00:57:16

about discovered that that went

00:57:28

in that direction including at

00:57:30

least one that was drafted

00:57:32

by a very unsuccessful lawyer

00:57:34

based in Washington, and there

00:57:39

were many many of Micah's

00:57:40

brief filed that actually went



00:57:42

very much in line with

00:57:43

what you suggested. If you

00:57:50

and the other one is

00:58:05

when I do besides. What

00:58:10

the first thing you have

00:58:11

to talk about here and

00:58:13

external private body. You have

00:58:17

internal body like you have

00:58:24

a States? International organizations in

00:58:32

UN General Assembly Affiliated follows

00:58:43

a decision by 9:30 after

00:58:51

work to a member State.

00:58:58

State Beach I posted it



00:59:03

today. Estas a un official

00:59:10

that was killed somewhere and

00:59:12

then the UN was trying

00:59:13

to see if they would

00:59:14

be half of it on

00:59:19

the board said, yes. So

00:59:20

what are you talkin about

00:59:22

this? I think that's probably

00:59:42

a good topic which is

00:59:45

you do as we say.

00:59:54

I thank you for for

00:59:57

educating awesome on external disputes

01:00:01

with the development banks at



01:00:04

11 idea that occurred to

01:00:08

me seeing the the variety

01:00:11

of development banks that we

01:00:13

have here or or members

01:00:16

of of the World Bank

01:00:18

group is is out their

01:00:20

different functions new terms of

01:00:24

different types of of of

01:00:26

of organization within the World

01:00:29

Bank group or other development

01:00:31

Banks and and and I

01:00:35

understand that there may be

01:00:36

braces in the case of



01:00:38

the IMF greater levels of

01:00:41

event of immunity done. For

01:00:43

instance that what why one

01:00:45

might see with respect to

01:00:47

the with the IFC it

01:00:51

is this something is that

01:00:53

is that occur Compression in

01:00:55

terms of depending on on

01:00:57

their constitution or under under

01:01:01

functions, they would have less

01:01:05

or more immunity for nieces.

01:01:06

I'm thinking in terms of

01:01:07

the IFC might have more



01:01:10  
dealings with private parties and

01:01:13  
and they might operate and

01:01:15  
it in themselves as a

01:01:16  
private parties at whereas somebody

01:01:19  
like like the IMF might

01:01:21  
might have a greater level

01:01:23  
of an energy. So would

01:01:25  
you would you like to

01:01:26  
come in on that? And

01:01:27  
and as a follow-up question,

01:01:29  
what about behaviors that that

01:01:34  
we're activity that you could

01:01:36  
construe as a as a



01:01:38

really private or commercial wood

01:01:42

would the music simply a

01:01:44

close to disappear or the

01:01:46

functional immunity would would would

01:01:49

be simply a really low

01:01:51

would you two like to

01:01:53

come and visit? Pretty much

01:01:55

a question to everyone but

01:01:56

no. But I don't know

01:02:00

the answer, but I can

01:02:01

give you a call and

01:02:02

see what these institutions do

01:02:06

is fundamentally commercial. They borrow



01:02:08  
money. So I think that's

01:02:12  
one of the last one

01:02:13  
that you would apply to

01:02:14  
a state Central Bank for

01:02:16  
it. I think it's different

01:02:17  
for this institution is a

01:02:19  
Stepside I should be protected

01:02:24  
even so I think but

01:02:25  
I don't know the answer

01:02:26  
to but yeah, I mean,

01:02:29  
I think it's very hard

01:02:32  
to draw a logical line.

01:02:34  
Other than like what I



01:02:36

said when the IMF and

01:02:38

the World Bank was established

01:02:39

at the same time in

01:02:41

the same International Conference in

01:02:43

Bretton Woods It was deliberately

01:02:46

decided the institution that is

01:02:49

dealing with central banks and

01:02:50

treasuries will be absolutely man.

01:02:52

That is going to have

01:02:53

to raise as much of

01:02:55

its money in the capital

01:02:57

markets will not absolutely so

01:03:01

that was that was clear



01:03:02

and I guess logical at

01:03:04

the time but not the

01:03:10

lending that we do to

01:03:11

central banks in treasuries, but

01:03:14

huge expensive buildings we have

01:03:17

in Washington that renovation project

01:03:21

in the city at the

01:03:22

time and you know, five

01:03:24

hundred million dollars in contracts

01:03:27

and all kinds of things

01:03:28

like that. So these are

01:03:29

commercial activities, but they're absolutely

01:03:32

is not been our practice



01:03:35

Market is not required us

01:03:39

to waive immunity. So make

01:03:43

it different organization doesn't have

01:03:44

the leverage with Financial Security

01:03:50

that justify that that position

01:03:53

they do you wait for

01:03:58

me to get a lot

01:03:59

of room to think about

01:04:11

privileges and immunities which which

01:04:12

these organizations old extremely extremely

01:04:15

close and dear to their

01:04:17

hearts is there maybe it

01:04:20

may not be a project-based



01:04:22  
commercial base that sort of

01:04:24  
Put that first arrow through

01:04:27  
the armor. It may be

01:04:29  
something as mundane as a

01:04:31  
staff dispute. So all of

01:04:33  
these organizations have internal justice

01:04:36  
system and we talked about

01:04:38  
the US Supreme Court of

01:04:40  
the DC court of appeals.

01:04:41  
I think people should be

01:04:43  
thinking about the various courts

01:04:45  
in Europe that have specialized

01:04:48  
remix and jurisdiction and one



01:04:51

could I could see a

01:04:52

case where a court in

01:04:54

Europe would have a matter

01:04:56

brought before it where one

01:04:58

of the parties is a

01:05:00

citizen of the EU or

01:05:03

a citizen of the country

01:05:05

where the courts it and

01:05:07

they say I am an

01:05:08

aggrieved party. I believe you

01:05:11

have juristic shows while we're

01:05:14

talking about Project based Financial

01:05:16

Workshop into Sovereign. It may



01:05:19

be something as mundane as

01:05:22

a wrongful termination. Or something

01:05:25

like that where a court

01:05:27

would look and say under

01:05:28

our national Lok. This would

01:05:30

be a cause of action

01:05:31

and therefore we will hear

01:05:33

the case. Do you know

01:05:37

could be the mouse that

01:05:38

roared? So we're not in

01:05:41

the time that we had

01:05:41

left. I want to sort

01:05:43

of pretended more in the



01:05:45  
direction of the external. So

01:05:47  
we sort of internal factor

01:05:52  
between internal disputes and external

01:05:55  
dispute already situations in which

01:06:07  
the IMF in dispute some

01:06:16  
of the other organizations with

01:06:18  
a cover. Can you come

01:06:20  
in a little bit about

01:06:20  
the circumstances in which the

01:06:23  
IMF has found himself historically

01:06:26  
involved external dispute resolution. Now

01:06:29  
that is played out. Sure

01:06:33  
yet that there I would



01:06:36

say three basic categories of

01:06:38

litigation that we see and

01:06:41

even setting aside project related

01:06:44

litigation that might occur of

01:06:47

course of cases. Were we

01:06:48

are acting offensively the IMF

01:06:50

board has decided to waive

01:06:52

the immunity in order to

01:06:53

vindicate institutional right in the

01:06:55

National courts could be property

01:06:57

rights contracts electric property other

01:07:01

things like that. And we

01:07:04

do have an internal dispute



01:07:05  
resolution system or are limited

01:07:08  
juice and for also lending

01:07:11  
issues with the the treasures

01:07:13  
in central banks that we

01:07:14  
haven't had occasion like and

01:07:16  
BP's sometimes to go into

01:07:18  
court offensively. I've been at

01:07:20  
its rights under a lending

01:07:22  
program. Second category. We see

01:07:25  
more than any is cases.

01:07:28  
Where were just defending the

01:07:30  
immunity or arguing about the

01:07:33  
presence of a wave or



01:07:34

the scope of a waiver

01:07:35

things like that and deployment

01:07:38

base streets are definitely in

01:07:39

that category because we do

01:07:41

see and Labour Court in

01:07:43

Latin America and Africa and

01:07:45

end in European courts, former

01:07:47

employees of people try to

01:07:49

take you to court on

01:07:51

a certain fundamental employment-based or

01:07:54

constitutional rights and we have

01:07:55

to argue over it so

01:07:59

far mostly successful, but there's



01:08:01  
a pretty big one. Is

01:08:11  
now sending or absolute immunity.

01:08:13  
I'm still an interested party

01:08:14  
in a whole lot of

01:08:15  
commercial type location right now.

01:08:18  
We had there's these two

01:08:20  
cases going on in England

01:08:21  
where countries are either shooting

01:08:25  
creditors are being sued by

01:08:26  
creditors gray and the imf's

01:08:28  
lending or advice was is

01:08:31  
a feature in the complaints

01:08:33  
with the defenses and some



01:08:35  
information that the IMF just

01:08:36  
provided confidentially at RR is

01:08:42  
evidence. Documents information coming to

01:08:50  
play and not always successfully

01:08:53  
and then another interesting category.

01:08:56  
It's just Well, we are

01:08:59  
not lending in the private

01:09:02  
sector were holding a lot

01:09:03  
of assets of countries or

01:09:05  
we have preferred creditor status

01:09:07  
at Visa V countries and

01:09:10  
other creditors. Today's countries might

01:09:14  
want to attach those assets



01:09:16

or break up our preferred

01:09:18

creditor status to so that

01:09:20

kind of litigation happens a

01:09:22

fair amount certainly. There's many

01:09:25

cases in the DC circuit

01:09:28

and over the years and

01:09:34

then all kinds of predators

01:09:35

trying to find that's all

01:09:37

the world including lots of

01:09:40

assets of Argentina at the

01:09:42

Federal Reserve Bank account. They're

01:09:45

trying to pass that And

01:10:05

we're waiting for a judgement



01:10:07  
toward judgment creditors of the

01:10:13  
Taliban by victims of terrorism

01:10:14  
have gotten a big judgment

01:10:17  
in a different cord in

01:10:19  
the United States and they're

01:10:20  
not going around trying to

01:10:21  
find a set to attach

01:10:22  
to execute judgment. The Taliban

01:10:25  
is in tobacco control of

01:10:26  
the government of Afghanistan, right?

01:10:28  
I'm going to ask Anna

01:10:29  
Stan has assets around the

01:10:30  
world including at the Federal



01:10:33

Reserve and making others. So

01:10:38

we're defending attempts to to

01:10:41

attach those assets to take

01:10:44

them away from the people

01:10:45

of Afghanistan by victims in

01:10:50

the United States. I want

01:10:57

to come to you as

01:10:58

we kind of round out

01:10:59

the session to talk about

01:11:02

other situations in which mgb's

01:11:06

with other International organizations have

01:11:09

decided to launch proactive litigation

01:11:12

or organizations launch interactive litigation.



01:11:26

And in fact even subject

01:11:28

to significant in situations where

01:11:32

I've been lending billions and

01:11:34

billions of dollars around the

01:11:35

world yet. They seem to

01:11:37

be trepidatious at litigating to

01:11:41

preserve their interests in recovery

01:11:43

that have been either not

01:11:46

repay this appropriated or some

01:11:48

combination. Want to come to

01:11:50

you and ask you about

01:11:51

your experience is what you've

01:11:53

observed in terms of situations



01:11:55

were mpps have decided to

01:11:58

launch medication. And what are

01:12:00

the different considerations that play

01:12:02

in those decisions? I know

01:12:05

you have a lot of

01:12:06

international experience in the context

01:12:11

of proactive mitigation of the

01:12:13

map. But in other forests.

01:12:18

But I would start by

01:12:19

picking up on on something

01:12:20

that Brian was talking about

01:12:21

what you just drove the

01:12:22

inherent International nature of a



01:12:27

litigation brought by MD PC

01:12:28

into a car have a

01:12:30

lot of time. We're talking

01:12:31

about parties that are all

01:12:32

over the world. So from

01:12:33

the very sore conception of

01:12:35

the keys and thinking about

01:12:36

Services processor trying to figure

01:12:38

out how to do that

01:12:38

with the party somewhere else

01:12:40

instead of at every juncture

01:12:41

along the timeline of the

01:12:43

structure of a cross-border considerations



01:12:47  
implication navigation for MDB to

01:12:55  
say I'm going to try

01:12:56  
to recover a very significant

01:12:59  
amount of money to which

01:12:59  
I am entitled but it's

01:13:02  
not it's not an easy

01:13:03  
lawsuit often is a lot

01:13:05  
of parties. And so just

01:13:08  
thinking about for the nuts

01:13:10  
and bolts of the litigation

01:13:11  
from the outside as I

01:13:12  
was saying, you know, they're

01:13:13  
there is this International component



01:13:15

how to serve how to

01:13:16

find Discovery Discovery 2 All

01:13:18

over the world Oki one

01:13:20

now. I need to recover

01:13:22

the assets. He has to

01:13:23

be all over the world

01:13:24

and bringing any to bring

01:13:25

in counseling multiple jurisdictions to

01:13:28

help me find the assets

01:13:29

Doubt Me freeze the assets

01:13:31

by these judgments. So, you

01:13:34

know, I think it's really

01:13:35

one really important consideration of



01:13:38

the outside has to think

01:13:39

about so that International footprint

01:13:41

and how to spell employ

01:13:45

a very International cross-border strategy

01:13:49

to be able to deliver

01:13:51

game. to be able to

01:13:54

litigate let alone successfully litigated

01:13:55

and then to recover whatever

01:13:57

it is that you learned

01:13:59

or one in the judgment

01:14:00

and we talked about a

01:14:05

lot is it's a Dia

01:14:06

of of immunity and how



01:14:08  
these litigations can result in

01:14:11  
that in adverse conditions for

01:14:13  
the ndp's another party Nicki

01:14:23  
and other parties are seeking

01:14:24  
Discovery from them and you

01:14:26  
can very clearly see how

01:14:27  
the ID for example of

01:14:29  
an hour judge would react

01:14:36  
to that use the phrase

01:14:37  
that I think we've probably

01:14:38  
all heard him off with

01:14:39  
a sword and shield you

01:14:40  
could see how I would



01:14:42  
say you're asking for Discovery

01:14:44  
and I can also result

01:14:47  
in Trinidad vs. Season 4

01:14:49  
for these institutions. So I

01:14:51  
guess I'm pulling in its

01:14:59  
religious. Ticky actually litigating but

01:15:01  
also the risk of an

01:15:03  
adverse decision, especially when we're

01:15:05  
talking about these is very

01:15:05  
valuable immunity is is out

01:15:08  
play and could really Ultimately

01:15:11  
undermine the efforts of the

01:15:13  
organization. So those are just



01:15:15  
to think of few considerations

01:15:17  
that come into play Early

01:15:20  
when when thinking about litigating

01:15:22  
an amazing probably some of

01:15:24  
the considerations that make it

01:15:25  
difficult for Something so we've

01:15:38  
been talking about this is

01:15:39  
where the organization is a

01:15:40  
party to this. I just

01:15:42  
want to give you an

01:15:43  
example where organization adjudicate back

01:15:46  
to parties that are not

01:15:47  
related to the organization are



01:15:49  
engaged and one example is

01:15:52  
the international civil aviation organization

01:15:57  
has a council which is

01:15:59  
in charge of deciding disputes

01:16:01  
on civil aviation and recently

01:16:09  
have some states close their

01:16:11  
airspace. I don't know if

01:16:13  
you remember I think it

01:16:15  
was 2017 Qatar and Bahrain

01:16:19  
Egypt closed space to Kateri

01:16:24  
a rest for a couple

01:16:26  
of years and decided to

01:16:27  
Sue this for Kentucky for



01:16:29

a cow. In that case

01:16:31

the way that they will

01:16:33

come she wants is like

01:16:35

any other arbitration there was

01:16:36

an application filed a secretary

01:16:38

of education reducing if it's

01:16:42

okay babe Servants of the

01:16:44

other side than the other

01:16:45

defendant or the respondent state

01:16:48

or states have the right

01:16:49

to file account on Memorial

01:16:50

by I rejoined their face

01:16:53

like an arbitration. The best



01:16:54

example is interesting I think

01:17:01

because the council is composed

01:17:03

of 50 First Dates members

01:17:06

of the organization and its

01:17:08

member states appoint diplomats as

01:17:10

members representing their States United.

01:17:12

How is basically a diplomatic

01:17:15

is a quasi-judicial body, but

01:17:18

the people decide in the

01:17:20

cases that might be lawyers,

01:17:22

but they're diplomats and their

01:17:24

representing the state government relief.

01:17:29

Are impartial but they represented



01:17:31

government that would be a

01:17:32

basically because of an invention

01:17:44

allows the state parties to

01:17:45

the treaty either disagree with

01:17:48

the decision by the council

01:17:49

to appeal to International court

01:17:51

of justice. So I find

01:17:55

these examples very interesting but

01:17:56

only because it's a case

01:17:57

where you can actually decide

01:17:59

at this. But I think

01:18:01

it's one of the very

01:18:02

few examples where you have



01:18:03  
an appeal mechanism and international

01:18:05  
human rights system. You have

01:18:09  
different faces for you in

01:18:12  
general in international law is

01:18:14  
one of the very few

01:18:15  
when you can go to

01:18:17  
the icj an appeal that

01:18:19  
decision in this has happened

01:18:21  
in two cases. You have

01:18:23  
any 1972 interview to between

01:18:24  
India and Pakistan when there

01:18:26  
was a war between the

01:18:27  
two countries and their space



01:18:28

what's goes on that led

01:18:30

to a bike our decision

01:18:31

based Council decided to settle

01:18:44

the dispute. They forced a

01:18:53

decided to correct an example

01:19:04

of how you can have

01:19:07

access to other gifts are

01:19:09

a mechanism that are not

01:19:11

traditional arbitration or wear and

01:19:15

have is your soul by

01:19:18

this organization sending these guys

01:19:19

that I mention it. I

01:19:20

find that interested is interesting



01:19:22

and I think it's one

01:19:25

of the few examples that

01:19:27

we can find an international

01:19:28

practice, but where at that's

01:19:29

permissible. We've covered a lot

01:19:33

of ground each of the

01:19:35

topics that we thought we

01:19:37

should be subject to a

01:19:38

law enforcement or business to

01:19:42

cover a lot of complicated

01:19:48

subject matter. If there are

01:19:52

not respond anything. I want

01:20:10

to wish everybody a What



01:20:19

that mean? You'll let me

01:20:20

close off. I mean, I

01:20:20

don't want to make longer

01:20:23

but I want to thank

01:20:25

you again Miller and serve

01:20:26

earlier because my margarita thought

01:20:29

that that this was going

01:20:31

to be a slow number

01:20:34

Arlo number Concord title and

01:20:37

the foolish that the room

01:20:39

is full. So this is

01:20:41

this is a testament to

01:20:43

the panelists the the organization



01:20:47

Miller Chevrolet and of course

01:20:49

Jeffrey and a for a

01:20:50

wonderful moderation. So thank you

01:20:52

very much and thank you

01:20:53

for for being with us

01:20:54

on a Friday night where

01:20:57

the sky is is gray

01:20:59

and thanks thanks to everyone

01:21:02

who has been with us

01:21:03

and especially the special thanks

01:21:05

to the team that helped

01:21:07

us put this together. Lucia

01:21:10

and Juan Pablo boxer in



01:21:12  
the in the in the

01:21:13  
in the monitoring room in

01:21:16  
the Inn. Fry's in Columbia

01:21:19  
and thanks to all the

01:21:20  
sponsors and the old The

01:21:22  
Advisory board members and to

01:21:24  
the Washington arbitration community and

01:21:26  
everyone who traveled here for

01:21:28  
Washington arbitration week. The next

01:21:31  
Washington arbitration week is still

01:21:33  
after Thanksgiving in 2024. If

01:21:37  
you have a topic you

01:21:38  
have a topic like if



01:21:40

you're walking to work on

01:21:43

just or just a thought

01:21:44

of that comes to you

01:21:45

when you're under the shower

01:21:46

or getting your hair done

01:21:47

by Tomas and then do

01:21:53

let us know. We put

01:21:55

it together. Okay. Take care,

01:21:57

and thank you. so let's

00:00:59

let's see if okay. Welcome

00:01:21

to Washington arbitration week. We

00:01:24

we are on our last

00:01:25

session. This is our 24th



00:01:29

panel. So we have will

00:01:31

hide the 23 panels know

00:01:33

during the whole week starting

00:01:37

on Monday. And this is

00:01:38

our closing panel and I

00:01:40

die. I believe that this

00:01:41

is a panel that we've

00:01:42

never had in in Washington

00:01:44

arbitration week. But before giving

00:01:46

given the floor to our

00:01:49

moderator Jeffrey Lessman, I would

00:01:53

like to share with you

00:01:55

an announcement the sister Forum



00:01:59  
of Washington arbitration week, which

00:02:01  
is the world arbitration update

00:02:04  
has just released its dates

00:02:07  
for 2020 for they are

00:02:10  
May 15th through 24th of

00:02:14  
2024. And as Washington arbitration

00:02:18  
week the world appreciation update

00:02:19  
is A whole week or

00:02:22  
more than 5 days for

00:02:24  
him that happens. Not only

00:02:26  
in Washington DC but happens

00:02:28  
in various jurisdictions, the format

00:02:30  
is that of updating the



00:02:32

International Community on matters of

00:02:34

international commercial arbitration International Investment

00:02:39

arbitration and the public international

00:02:41

law and for that we

00:02:45

don't meet in Washington DC

00:02:46

or at least not through

00:02:48

5 days, but we actually

00:02:49

meet inversions diction last this

00:02:51

year. We met in Mexico

00:02:53

City and the other we're

00:02:54

also in person pay in

00:02:56

Washington DC in Bogota Colombia

00:02:59

in Spain in Singapore and



00:03:03

and the idea this next

00:03:05

year will be to start

00:03:07

in China and go through

00:03:08

the five continents as before

00:03:10

the the additional element that

00:03:14

I would like to share

00:03:15

with you is that it

00:03:16

its mission is to fold

00:03:18

1 is 2 Update on

00:03:20

issues of public international law

00:03:22

international commercial arbitration and investor-state

00:03:25

arbitration and the other part

00:03:28

of its mission is to



00:03:30  
decentralize International Patrician. So as

00:03:33  
to recognizing that there's there's

00:03:36  
wonderful Council and the arbitrator's

00:03:39  
Not only in the main

00:03:41  
centres of international relations the

00:03:44  
Paris and New York and

00:03:45  
even the Washington DC on

00:03:47  
the London, but there are

00:03:48  
also wonderful International Community In

00:03:53  
Bruges in in Belgium in

00:03:55  
Croatia in in Panama in

00:03:57  
in in in Africa at

00:03:59  
cetera so that that's your



00:04:00

part of the mission. So

00:04:03

with that I will turn

00:04:05

out into our panel of

00:04:07

the today's Session and we

00:04:12

had been thinking quite a

00:04:13

bit about the dispute resolution

00:04:16

in in many. Jurisdictions, but

00:04:21

we have never had was

00:04:22

dispute resolution in within International

00:04:25

Organization or development Banks and

00:04:29

the suggestion was made to

00:04:31

us last year or this

00:04:33

year early this year to



00:04:35

share with the world at

00:04:37

what happens in development Banks

00:04:39

or what happens in international

00:04:41

organizations when there are disputes

00:04:43

inside because of projects that

00:04:46

have been supported by the

00:04:47

development bank and and there

00:04:49

are claims of fraud or

00:04:51

corruption. So so this final

00:04:54

me address many things including

00:04:58

for instance project in which

00:05:01

the bank may be related

00:05:02

to or the international organization



00:05:05

may be related to but

00:05:06

there may be claims. I

00:05:07

stole things going sideways within

00:05:10

the procedures of the bank

00:05:11

and I will also eventually

00:05:14

I hope also address the

00:05:15

issues that are very important

00:05:19

for For the volume max

00:05:20

at N4 International organizations which

00:05:22

relate to their functions of

00:05:25

70. So I'll stop there

00:05:27

because I think that that

00:05:28

Jeffrey is is way more



00:05:30

app to share with you

00:05:33

that the the subject matter

00:05:35

of the panel and that

00:05:37

let me introduce him and

00:05:38

say oh, so thank you

00:05:40

very much for for you're

00:05:41

hosting both to Jeffrey and

00:05:44

also to Margarita Sanchez you

00:05:46

have been great supporters of

00:05:47

Washington arbitration week and we

00:05:48

are very grateful that you're

00:05:50

hosting us today here. So

00:05:53

Jeffrey lettman is a member



00:05:56  
of a m a c

00:05:57  
a r l e s

00:05:58  
chartered his practice focuses on

00:06:01  
assisting clients with International and

00:06:03  
government investigations Regulatory Compliance and

00:06:07  
complex cross-border litigation and arbitration.

00:06:10  
Mr. Lehtinen has particular experience

00:06:14  
in counseling clients in regard

00:06:17  
to civil criminal and Regulatory.

00:06:19  
Issues arising in their International

00:06:21  
operations ranging from compliance strategies

00:06:25  
to mitigate potential risk to

00:06:28  
Interlachen government investigations. He has



00:06:30

conducted an internal investigation on

00:06:32

behalf of audit committees and

00:06:35

special committees concerning potential violations

00:06:38

of the Foreign Corrupt Practices

00:06:40

Act anti-money laundering regulations and

00:06:43

economic sanctions laws as well

00:06:45

as allegations relating to potential

00:06:48

accounting and disclosure irregularities in

00:06:50

instances of potential insider-trading allegations

00:06:53

of even sexual harassment and

00:06:56

other workplace misconduct. Jeffrey has

00:07:00

also represented multinational companies financial

00:07:04

institutions technology companies professional sports



00:07:06  
teams International Development Banks and

00:07:09  
their officers and directors in

00:07:11  
connection with investigations before the

00:07:14  
US Securities Exchange Commission and

00:07:16  
the US Department of Justice

00:07:17  
the financial industry regulatory. Authority

00:07:20  
and numerous other domestic and

00:07:22  
foreign Regulatory and government bodies

00:07:24  
and I'll stop there we

00:07:27  
can go on and on

00:07:28  
but I think that we

00:07:30  
have an incredible moderators and

00:07:32  
an incredible panelist today Jennifer



00:07:35

you have a tour. Thank

00:07:37

you very much for the

00:07:37

opportunity to be here. Thank

00:07:45

you Washington arbitration week for

00:07:48

this opportunity at I didn't

00:07:50

realize that this was the

00:07:51

last of 24 mental the

00:07:56

best for last but I'm

00:07:58

just saying we're the only

00:07:59

thing standing between you and

00:08:00

happy out. So we're going

00:08:02

to try to make this

00:08:03

resolution as interesting as quick



00:08:08  
as we can as was

00:08:10  
antoniou said we really are

00:08:12  
privileged to have a very

00:08:14  
distinguished panel today and what

00:08:16  
we're going to be talkin

00:08:17  
about. In the context of

00:08:21  
multilateral development Banks and international

00:08:24  
organizations from two different perspectives

00:08:26  
suggests a dispute resolution in

00:08:30  
international organization is a very

00:08:32  
Broad and very ambitious. And

00:08:35  
they've only given us 75

00:08:36  
minutes. So it's not enough



00:08:37

time to cover everything. But

00:08:40

what we thought would be

00:08:41

uprooted is to really focus

00:08:43

on two separate aspects of

00:08:46

dispute resolution. One of which

00:08:48

perhaps all of us are

00:08:50

more familiar with which is

00:08:52

to say the internal dispute

00:08:54

resolution mechanisms that exists within

00:08:57

mom that I do but

00:08:58

don't Banks and other international

00:09:00

organization and has existed for

00:09:03

many many years last year.



00:09:04

And then the second aspect

00:09:06

which is what happens from

00:09:08

an external perspective when we're

00:09:11

no longer talking about internal

00:09:12

or sentence proceedings, but rather

00:09:15

were talking about a multilateral

00:09:16

bank or the international organization

00:09:19

pursuing some sort of dispute

00:09:22

resolution outside of the confines

00:09:24

of their institution that is

00:09:26

to say commercial arbitration civil

00:09:29

litigation either as parties are

00:09:31

participants to that those proceedings



00:09:34

or as third-party beneficiaries or

00:09:38

participants of those things. So

00:09:41

that is how we're proposing

00:09:43

to organize that the panel

00:09:45

today along those pillars internal

00:09:48

and external facing dispute resolution.

00:09:51

We really do want to

00:09:53

encourage a dialogue or questions

00:09:56

as we go through it.

00:09:57

You can tell perhaps by

00:09:59

the way. I'm dressed. I'm

00:10:00

not the most formal moderator

00:10:03

in the world. So please



00:10:04

do the Said that people

00:10:05

have questions or would like

00:10:06

to provide comments. Please feel

00:10:09

free through out the course

00:10:10

of the conversation. I want

00:10:14

to take the opportunity to

00:10:15

without any further background introduced

00:10:18

the battle because they are

00:10:20

the stars of the show

00:10:21

today up to my immediate

00:10:23

left is Brian Patterson. Ryan

00:10:26

is assistant general counsel at

00:10:28

the international monetary fund's IMF.



00:10:31

Are you overseas internal and

00:10:33

external litigation matters employment law

00:10:36

matters and as well as

00:10:38

the contracts work of a

00:10:39

legal department within the IMF.

00:10:42

Thank you Brian for being

00:10:43

here to Brian's left is

00:10:45

Vanessa. Duran Acosta who has

00:10:48

joined us from the inter-american

00:10:49

Development Bank. Vanessa has been

00:10:52

at the ID for over

00:10:53

12 years and currently serves

00:10:55

as the Integrity lead specialist



00:10:58

litigation within the idb's office

00:11:01

of institutional Integrity. Thank you,

00:11:03

Vanessa. Yes, I have been

00:11:07

to her left Maria lapetina

00:11:10

who is I'm honored to

00:11:11

be her colleague here at

00:11:13

Miller and she'll hear Maria

00:11:15

is a council here at

00:11:16

the firm regularly advises multinational

00:11:19

clients, including multilateral development banks

00:11:21

on complex cross-border litigation and

00:11:24

compliance matters to Maria's left

00:11:27

is Jonathan Shapiro. John previously



00:11:30  
served at the Integrity compliance

00:11:33  
officer at the World Bank

00:11:34  
and is currently the founder

00:11:37  
and owner of Shapiro advisors

00:11:39  
LLC in which she regularly

00:11:42  
advises clients on corporate compliance

00:11:45  
program design and implementation and

00:11:48  
finally but not last all

00:11:50  
the way to the left

00:11:51  
is to Los Feliz who

00:11:53  
is Uptown Charlotte at law

00:11:55  
firm of premature Council has

00:11:59  
practice focuses on advising clients



00:12:02

on public international law matters.

00:12:05

Representing clients in legal proceedings

00:12:06

before International courts and tribunals

00:12:09

and other International adjudicative bodies.

00:12:13

I was worried I couldn't

00:12:15

pronounce that you to get

00:12:16

that I did. So here

00:12:18

we go. So that's the

00:12:19

panel. I want to thank

00:12:20

everybody for for agreeing to

00:12:21

participate we're going to start

00:12:24

today by talking about internal

00:12:25

dispute resolution internal proceedings. And



00:12:29  
as we said at the

00:12:30  
beginning mgb's and other International

00:12:33  
organizations have a wide variety

00:12:36  
of dispute resolution mechanisms available

00:12:38  
at their disposal including a

00:12:41  
series of Internet internal processes

00:12:43  
and proceedings to identify investigate

00:12:47  
and sanctioned potential misconduct by

00:12:50  
borrowers another third parts of

00:12:52  
the World Bank Allen Stone

00:12:54  
station for as with here

00:12:55  
and has too many years

00:12:56  
has its own section system



00:12:59  
and save his proceedings as

00:13:01  
we will also cure. Those

00:13:05  
spots does the liberty of

00:13:06  
bodies within multilateral development banks

00:13:08  
have their own unique idiosyncrasies

00:13:12  
around you need for amateur

00:13:13  
for seeking to resolve internal

00:13:15  
procedures. And so we figured

00:13:17  
a good starting point is

00:13:19  
to set the scene a

00:13:20  
little bit by talkin up

00:13:22  
from our experts in terms

00:13:24  
of what those internal dispute



00:13:25  
resolution mechanisms look like so

00:13:29  
we start with you Vanessa

00:13:30  
Vanessa. We want to talk

00:13:32  
about broadly speaking the parameters

00:13:42  
of the itbp internal dispute

00:13:45  
mechanism for resolving disputes. Afternoon,

00:13:51  
everybody. Thanks for having me.

00:13:53  
I know that's an interesting

00:13:58  
question Barry brought a message

00:14:01  
that I want to highlight

00:14:02  
is that for example in

00:14:04  
the case of the ID

00:14:06  
and the MTV party to



00:14:08  
the uniform framework for preventing

00:14:12  
and combating fraud and Corruption

00:14:14  
sign in 2006 and all

00:14:17  
the MTV party to the

00:14:19  
agreement which are the World

00:14:22  
by ATB ebrd. We follow

00:14:29  
a consistent and harmonized approach

00:14:32  
to both how we conduct

00:14:34  
investigations and how we can

00:14:37  
create the cases before our

00:14:39  
correspondent bodies in our case.

00:14:41  
We have this time officer

00:14:43  
at the first instance when



00:14:45  
the office of institutional Integrity

00:14:47  
submitted the statement of charges

00:14:49  
and evidence is evidence under

00:14:51  
the preponderance of preponderance of

00:14:57  
the evidence the first officer

00:15:03  
followed by the sanctions. Committee

00:15:08  
in case of an appeal

00:15:09  
but all of the ndp's

00:15:12  
follow general principles, for example,

00:15:16  
we have harmonized definitions of

00:15:18  
what it is practically following

00:15:21  
principles and guidelines for how

00:15:24  
we conduct investigations how we



00:15:26

sanction the parties. We also

00:15:29

have a principles on the

00:15:32

treatment of corporate groups. So

00:15:35

it's it's interesting to see

00:15:38

how harmonized our practices are

00:15:41

talking a little bit more

00:15:44

about the IMDb the ID

00:15:47

for the last 6-7 years,

00:15:49

the the office of institutional

00:15:52

Integrity has implemented. And it's

00:15:56

a strategy to place higher

00:16:00

resources to the investigation and

00:16:04

adjudication of high-impact cheese high.



00:16:07

In fact cases are defined

00:16:09

as corruption cases pollution cases

00:16:13

or cases of fraud during

00:16:15

the execution of a program,

00:16:17

which usually until next Kings

00:16:20

of financial or technical fraud

00:16:23

in order to do that.

00:16:25

The office implemented different steps

00:16:30

first calibrated the triage mechanism,

00:16:35

which is the mechanism used

00:16:36

at the intake stage to

00:16:39

evaluate a case. to to

00:16:43

break the cases and probably



00:16:46

resolve cases with low triage

00:16:48

core with alternative mechanisms, for

00:16:52

example from Sherman or other

00:16:54

type of solution then implemented

00:16:59

a strong approach to expanding

00:17:05

the network of cooperation agreements

00:17:09

with national authorities and international

00:17:12

organizations to cooperate to row

00:17:15

by Intel on Chase's on

00:17:17

confidential basis also implemented proactive

00:17:21

mechanisms of for the complaint

00:17:26

for example through irr switch

00:17:31

are the Integrity Wiz reviews



00:17:33

of portfolio or sectors and

00:17:36

also and most importantly his

00:17:40

ternative. I can only way

00:17:44

to increase the high in

00:17:45

fact case has the negotiated

00:17:48

which require in order to

00:17:55

be eligible for a running

00:17:57

the re that the investigative

00:18:00

party has evidence of Either

00:18:06

Integrity wrist to the idb

00:18:09

group Finance activity or significant

00:18:13

profit in part, either by

00:18:17

the investigators parties or by



00:18:19  
third-party. We were able to

00:18:23  
increase significantly the number of

00:18:27  
Thai impact cases in our

00:18:29  
court. For example, in 2016.

00:18:34  
54% of our cases were

00:18:37  
high impact in 2021. It

00:18:42  
was 92% and these cases

00:18:45  
we need intel from a

00:18:49  
prevention perspective. importance because they

00:18:56  
they they in a way

00:19:01  
they deal the most strategic

00:19:03  
lessons for operation when it

00:19:07  
comes to implementing recommendations on



00:19:11

how to mitigate Integrity risk

00:19:14

from a litigation perspective their

00:19:16

complex cases highly rated because

00:19:19

they Encompass usually complicated it

00:19:23

seems with multiple parties multiple

00:19:26

jurisdictions and from a sanctioned

00:19:29

perspective these cases usually are

00:19:32

we stopped with imposition of

00:19:34

a sanction that is not

00:19:35

only a department but Department

00:19:38

with a condition for example

00:19:42

implementation of compliance program or

00:19:47

a monitor strip. In a



00:19:51

nutshell something that's very complex.

00:19:53

But in a nutshell blank

00:20:02

perspective given the number of

00:20:04

years that you were there

00:20:05

in particular be interested for

00:20:08

your views on the following

00:20:10

which is we're calling these

00:20:12

internal dispute resolution. Of course,

00:20:15

they involved parties that are

00:20:17

external to empty because we're

00:20:19

talkin about sanctions proceedings against

00:20:21

borrowers guarantors or other participants

00:20:24

that are outside of the



00:20:26

MVP of cell, but with

00:20:28

respect to which the disputed

00:20:30

get resolved internally and so

00:20:33

what I'd like to if

00:20:34

you can share it with

00:20:35

the World Bank perspective on

00:20:37

this and didn't expect that

00:20:39

you can comment what are

00:20:41

some of the similarities or

00:20:42

differences between how sad and

00:20:45

multilateral approach has these types

00:20:47

of matter verses a more

00:20:49

traditional Nashua Orange Port Authority



00:21:02

I don't speak for the

00:21:06

World Bank. so I think

00:21:22

that way things about Quebec

00:21:32

IMDb corruption allegations Minister projects

00:21:56

funded project is traditional lending

00:21:59

instrument or a grand Bank

00:22:01

administered a maybe that is

00:22:03

the bank administering a multilateral

00:22:05

trust fund to where the

00:22:07

bank's money is being touched.

00:22:09

The bank has jurisdiction companies

00:22:12

are not in privity of

00:22:14

contract with the bank companies,



00:22:17

which are the subject of

00:22:19

int investigation are companies that

00:22:21

have won contracts under projects

00:22:24

funded by the bank, but

00:22:26

that the bank utilizes the

00:22:28

audit clause in the loan

00:22:30

agreement which gives them jurisdiction

00:22:33

Okay, so Int has a

00:22:37

robust a worldwide investigative remitting

00:22:42

and they exercise has still

00:22:45

not surprisingly. Sometimes people will

00:22:49

not adhere to the procurement

00:22:51

guidelines and engaging one of



00:22:54

the prohibited practices int from

00:22:57

my recollection and recent conversation

00:22:59

as an intake unit. They

00:23:00

have Regional teams, which investigate

00:23:02

these these allegations. Sometimes company

00:23:08

will especially a larger company

00:23:10

with with with subsidiaries etcetera

00:23:12

not be aware. Globally that

00:23:15

this is taking place. It

00:23:16

might be a remote subsidiaria

00:23:20

of a country office until

00:23:22

one side and T begins

00:23:23

an investigation sure, the flares



00:23:26

go up and eventually in

00:23:29

many instances the company. How

00:23:32

will we resolve this dispute?

00:23:34

Right? So we're going to

00:23:35

resolve it through either cooperation

00:23:37

through the use of counsel

00:23:39

to come in and try

00:23:41

to figure out what happened

00:23:42

as a Vanessa said there's

00:23:45

an increasing movement towards a

00:23:47

negotiated resolution. So int will

00:23:50

conduct an investigation to collect

00:23:52

evidence. They will potentially send



00:23:54  
out a letter to the

00:23:57  
company under natural due process

00:24:00  
using alleged to have done

00:24:01  
the following what you have

00:24:03  
to say about it off

00:24:04  
in Council. Come in and

00:24:07  
they will begin a negotiation.

00:24:08  
How do we resolve this?

00:24:09  
Right and so often ineffective

00:24:12  
modality is a negotiated resolution

00:24:15  
agreement. And what that does

00:24:19  
is it allows int on

00:24:21  
behalf of the World Bank



00:24:22

to demonstrate to the owners

00:24:25

of the bank which are

00:24:26

countries that they are safe

00:24:29

guarding the banks the funds

00:24:31

that donors have entrusted to

00:24:34

the bank and it's helpful

00:24:37

because it allows an entity

00:24:40

and mitigate its risk and

00:24:43

it allows int or or

00:24:46

the World Bank to learn

00:24:47

about particular schemes that are

00:24:50

taking place. I think there's

00:24:52

a difference between a traditional



00:24:55

law enforcement organization and stay

00:25:00

Intr the World by First

00:25:02

Alliance, he doesn't have law

00:25:03

enforcement jurisdiction Inc. Can't investigate

00:25:05

public officials. The closest thing

00:25:08

I N T can do

00:25:09

if there's belief that there's

00:25:10

a public a corrupt public

00:25:13

official is to do what's

00:25:15

called a criminal referral which

00:25:16

says a country a we

00:25:19

believe that the the laws

00:25:20

of your country may have



00:25:22

been in violated and here

00:25:24

is the basis for that

00:25:26

belief you go forward and

00:25:28

then investigate but I am

00:25:29

to your the World Bank

00:25:30

doesn't have jurisdiction over over

00:25:32

public officials and has jurisdiction

00:25:34

over company. And so With

00:25:42

regard to the harmonizing that

00:25:46

Vanessa was talking about we

00:25:49

have I sometimes use we

00:25:51

can't get it out of

00:25:52

my head am DB wheel



00:25:55  
across the bar anything over

00:25:58  
a year sort of like

00:25:59  
a felony a year-and-a-day is

00:26:01  
subject to cross the barman

00:26:03  
but the bank is in

00:26:04  
enforcement jurisdiction the bank is

00:26:07  
it that the World Bank

00:26:07  
as is as are the

00:26:09  
other amputees their development that

00:26:11  
their stewards of funds that

00:26:13  
are being used to alleviate

00:26:15  
poverty and and you know,

00:26:17  
it sounds trite but it's



00:26:18

true build a better tomorrow

00:26:20

in the developing world. There

00:26:23

is an interest in having

00:26:26

properly skilled properly managed companies

00:26:32

execute bank-funded contract and not

00:26:38

being knocked out of those

00:26:41

rolls. And so the bank

00:26:44

wants to say to those

00:26:46

companies. We don't like the

00:26:51

way you've been conducting your

00:26:53

business. We have these procurement

00:26:54

guidelines our evidence indicates that

00:26:56

you have violated them. And



00:26:59

so we're going to hold

00:27:00

you accountable. We're going to

00:27:02

hopefully come to an agreement

00:27:05

where you acknowledge your wicked

00:27:07

ways and less said about

00:27:09

restoring your ability to work

00:27:14

for bank-funded project. But we

00:27:17

need you to change the

00:27:18

way you do that from

00:27:20

a sanctioning perspective it first

00:27:22

started with your BBQ go

00:27:24

stand in the corner for

00:27:25

4 years and think about



00:27:27

what you've done by the

00:27:29

problem with that was after

00:27:31

four years. There's been no

00:27:33

change to the behave and

00:27:35

if it's a large conglomerate,

00:27:37

so then the non-sanctioned entity

00:27:40

just picked up where it's

00:27:41

sanctioned a partner or subsidiary

00:27:45

left off now it's the

00:27:47

varmint with additional release which

00:27:48

is With the default, we're

00:27:52

not going to allow you

00:27:53

to work on dank on



00:27:55  
the project until certain conditions

00:27:57  
are met often. Those are

00:27:59  
the imposition of a Integrity

00:28:01  
compliance program. That is effectively

00:28:04  
Implement. Right? So what is

00:28:06  
it looking to do to

00:28:07  
check Stitche investigate remediate those

00:28:10  
allegations which brought about that

00:28:13  
conduct which brought the entity

00:28:16  
in front of the organization

00:28:17  
in the first one? I

00:28:20  
believe that we're headed towards

00:28:21  
the third generation, which is



00:28:23

let's keep the companies working

00:28:26

but we're going to trust

00:28:28

and verify I would put

00:28:29

to the mtdcommunity. It's time

00:28:31

for them to start considering

00:28:33

that the default judgment should

00:28:36

be conditional non debarment except

00:28:39

for those cases of really

00:28:40

pervasive fraud or corruption is

00:28:43

antithetical to Development Bank to

00:28:45

take out good companies from

00:28:46

bidding on projects leaving less

00:28:49

potentially scrupulous one you want



00:28:51  
to keep working. We're happy

00:28:53  
to have you keep working.

00:28:55  
But you're going to have

00:28:56  
to have a third-party verify

00:28:58  
that you are in fact

00:29:00  
implementing the corporate compliance for

00:29:02  
the companies will tell you

00:29:04  
we just want to keep

00:29:05  
working. IMDb should consider letting

00:29:09  
them continue to work but

00:29:11  
under very strict control. So

00:29:19  
release is you are you

00:29:26  
are no longer eligible to



00:29:27

bid on Bank funded projects

00:29:29

for a period of three

00:29:30

years and that. Can extend

00:29:34

unless the conditions are met

00:29:36

one of those conditions in

00:29:38

again often. It's the imposition

00:29:40

of an Integrity conditional non

00:29:44

debarment is okay, you know,

00:29:48

we're shocked shocked. There's gambling

00:29:49

at Rick's we don't know

00:29:51

how this happened. We believe

00:29:53

you we want to work

00:29:54

with you, but we're going



00:29:56

to mandate that if you

00:29:58

want to keep working on

00:29:59

world bank or multilateral development

00:30:01

Banks projects. You can do

00:30:05

so however a conditional non

00:30:09

debarment is like a suspended

00:30:11

sentence almost with condition. You

00:30:14

can keep hitting we want

00:30:16

to keep you in the

00:30:16

mix. We want your skills.

00:30:18

We want the competition but

00:30:20

there's going to be very

00:30:20

clear robust conditionality which might



00:30:25

involve the imposition of an

00:30:27

Integrity compliance program and we're

00:30:31

not going to allow you

00:30:33

to report on all the

00:30:35

wonderful things that you've done

00:30:36

you're going to be working

00:30:38

with a third party to

00:30:41

whom you will be subjected

00:30:43

to their scrutiny and their

00:30:46

training and experience and that

00:30:47

party shall be reporting to

00:30:49

the MD be so the

00:30:51

entity keeps working and the



00:30:53

MVB can feel comfortable going

00:30:55

to its board to say

00:30:57

we have this Company that

00:31:00

continues to work but we

00:31:02

are doing our level-headed best

00:31:04

to ensure that the way

00:31:06

they're conducting their business comports

00:31:09

with the ethics and business

00:31:12

practices that are Bank owners

00:31:14

mandate is it it is

00:31:17

is a way that we

00:31:19

would feel comfortable having them

00:31:20

use the money. shut up



00:31:23

in a minute to talk

00:31:25

about privileges that before we

00:31:28

do that unless I'm just

00:31:29

curious from the idb perspective

00:31:33

is Trend toward a higher

00:31:36

incidence of negotiated settlement before

00:31:42

we changed off exit if

00:31:44

you want to share something

00:31:45

for the increased use of

00:31:51

So before getting into that

00:31:54

for the IV be the

00:31:56

Baseline sanctioning according to are

00:31:58

functioning. Knight is a varmint.



00:32:02

Without condition. That's also changing

00:32:07

a little bit. We're moving

00:32:08

forward position of the varmints

00:32:12

with conditional release or the

00:32:17

non-conditional department, which is at

00:32:20

this point very rare in

00:32:22

the idb sanctions system and

00:32:24

part of that is a

00:32:27

lot of it because something's

00:32:29

lamentation ordained priests implementation of

00:32:32

a new race. They are

00:32:35

an alternative mechanism to resolving

00:32:40

cases of prohibited practices. The



00:32:43

criteria is best and evaluated

00:32:49

by the office of institutional

00:32:50

Integrity together with officer provides

00:32:56

a range of sanctions and

00:32:58

also a range of potential

00:33:00

condition that could be negotiated

00:33:03

investigated party. Can entrance when

00:33:10

they go she ate it

00:33:11

agreement because or Nike favorable

00:33:16

to them because they have

00:33:17

the opportunity to negotiate with

00:33:20

him that way unless severe

00:33:22

sanctions and they avoid the



00:33:26

process of the full investigation

00:33:29

and the adjudication process. So

00:33:33

in that sense is appealing

00:33:35

to the investigator party to

00:33:37

to entering these in a

00:33:39

raisin to and to provide

00:33:42

food corporation in that operation

00:33:45

means that they have to

00:33:47

agree on a statement of

00:33:50

facts which includes not only

00:33:52

a description of their involvement

00:33:58

in the park to go

00:33:59

to practice but potentially thing



00:34:03

bultman of Surf Party. So

00:34:06

at the end of the

00:34:08

NRA, the there's always a

00:34:11

sanction is not a process.

00:34:13

That would not end in

00:34:14

total. Kind of situation but

00:34:22

the important thing is that

00:34:23

he's the left of your

00:34:24

sanction and usually involves the

00:34:26

component of a monitor sheep,

00:34:30

and I'm going Corporation and

00:34:33

we started doing the NRA

00:34:36

so far it's fine. It's



00:34:37

in our race and he's

00:34:40

becoming a ternative that he's

00:34:45

appealing to to investigated party

00:34:47

since World War II. Thank

00:34:54

you, Vanessa John before we

00:34:56

move to our next topic.

00:34:58

I want to see are

00:34:59

there other questions that people

00:35:00

have on the internal dispute

00:35:02

resolution items. If they are

00:35:08

not stopped and said he's

00:35:09

going to move into it

00:35:12

the second topic, which really,



00:35:14

is it important bridge between

00:35:17

internal dispute resolution and the

00:35:20

external dispute resolution that we're

00:35:23

going to discuss and that

00:35:24

bridge is the concept of

00:35:26

privileges and immunities and I

00:35:29

think that's as many of

00:35:30

you know, with dealt with

00:35:32

multilateral banks or International organizations

00:35:35

within the last several years

00:35:37

the idea of privileges and

00:35:40

immunities enjoyed by multilateral an

00:35:44

international organization has been a



00:35:46

very very hot topic of

00:35:48

discussion has been a hot

00:35:49

topic of discussion in the

00:35:52

private sector within the empty

00:35:54

be space as well as

00:35:56

in the u.s. Judicial system.

00:35:58

And other purposes up the

00:36:02

conversation today, we're going to

00:36:04

look at it through the

00:36:05

lens of us jurisprudence. Any

00:36:08

particular there have been two

00:36:11

very significant cases that have

00:36:13

come out in the last



00:36:14

several years that haven't looked

00:36:17

at the extent than the

00:36:18

scope of privileges and immunities

00:36:20

enjoyed by International organizations. What

00:36:24

is a u.s. Supreme Court

00:36:25

case and the other is

00:36:27

a court case that was

00:36:28

decided here by the the

00:36:30

DC circuit Appellate Court. I

00:36:33

promise you we're not going

00:36:34

to give a lesson but

00:36:40

because you are such an

00:36:44

important feature of thinking about



00:36:46  
this to resolution in m

00:36:49  
d b a n d

00:36:50  
D's You want to just

00:36:52  
talk about that for a

00:36:53  
second there's a way to

00:36:55  
set the scene for a

00:36:56  
broader conversation about external. So

00:36:59  
let's start with what the

00:37:02  
US Supreme Court did in

00:37:05  
2019 and 2019 the Supreme

00:37:09  
Court issued a decision in

00:37:11  
the case of the international

00:37:13  
Finance Corporation for the aisle



00:37:16

seat of the World Bank

00:37:21

Berea like to invite you

00:37:24

if you want to share

00:37:25

some words on the Supreme

00:37:27

Court do in the jam

00:37:28

case and how do you

00:37:30

see that impacted dispute resolution

00:37:32

in the MGM International Space?

00:38:00

Better let me look at

00:38:06

that you enjoy your support,

00:38:13

but joy, and I mentioned

00:38:17

that as a starting point

00:38:18

mostly because he's pork focus



00:38:22

on whether or not but

00:38:27

I wanted to highlight from

00:38:29

the outset that there are

00:38:30

other privileges that come into

00:38:31

play with the other mechanism

00:38:37

to keep the immunity through

00:38:41

that the relevant because there

00:38:44

are there are others that

00:38:45

we should be considering as

00:38:46

well return to the damn

00:38:48

key question really under in

00:38:51

this in this case was

00:38:54

whether the IFC could enjoy



00:38:56

absolute immunity from suit under

00:38:59

the eye. And how the

00:39:13

number of requirements under the

00:39:15

loan agreement to ensure for

00:39:17

example, that there weren't going

00:39:18

to be extensive environmental damage

00:39:21

as a result of that

00:39:28

didn't happen there was damage

00:39:33

and so a group of

00:39:37

Indian fishermen to the IFC

00:39:38

or failure effectively to comply

00:39:42

with with the cabinets under

00:39:43

under the loan agreement the



00:39:45

IFC tried to argue that

00:39:47

it enjoys. Absolutely need the

00:39:51

number of argument about the

00:39:52

purpose of organizations and the

00:39:55

financing auto financing projects and

00:40:03

ultimately lost in the 71

00:40:04

decision the Supreme Court found

00:40:06

that International organizations are not

00:40:08

granted the same immunity that

00:40:15

are the immunity of chartres

00:40:37

and some that will come

00:40:38

back to you. If you

00:40:38

talk a little bit more



00:40:39

about to eat Revolution it

00:40:41

for example these include language

00:40:43

about the books and Records.

00:40:49

Essentially subject to Discovery or

00:40:51

to production and in a

00:40:53

matter and the language in

00:40:55

each other's is very clear

00:40:56

that that is absolutely so

00:40:58

I'll work talking here in

00:40:59

the gym case about whether

00:41:00

or not these organizations are

00:41:02

subjective. If we're going to

00:41:13

come back and talk about



00:41:14

the jam case with me

00:41:16

because you can imagine the

00:41:19

implications that a Supreme Court

00:41:21

decision that hat for four

00:41:23

decades since the lateral system

00:41:26

had been established first world

00:41:29

war and the international station

00:41:33

attendant very heavily on the

00:41:36

concept that they enjoyed absolutely

00:41:38

near absolute immunity both with

00:41:41

respect to shoot as well

00:41:42

as they're broke the records

00:41:44

and now in 2019 to



00:41:46  
get a Supreme Court decision

00:41:47  
that comes out and says

00:41:49  
well, wait a second. It's

00:41:51  
not quite right that Mom

00:41:52  
that I really enjoy absolutely.

00:41:54  
So we've seen some additional

00:41:57  
judicial action that has taken

00:41:59  
place after that Supreme Court

00:42:00  
has talked about that in

00:42:03  
a minute before we move

00:42:05  
off of the jam case

00:42:06  
Brian going to come to

00:42:07  
you because if the IMF



00:42:10

is is a different type

00:42:12

of preacher. Anyways from the

00:42:15

multilateral banks and other International

00:42:18

organizations draw the distinction between

00:42:27

the language that exists under

00:42:30

the charters of mbbs vs.

00:42:34

Other organizations, like the I

00:42:37

am reaffirmed that the UN

00:42:50

and the IMF where there

00:42:52

is explicit clear language in

00:42:54

their Charter reaffirms his concept

00:42:57

of absolute immunity come to

00:43:01

you and get your perspective.



00:43:02

Obviously, you're a you're a

00:43:04

senior person that I am

00:43:05

not enough that you're speaking

00:43:06

on behalf of biometric hearing

00:43:08

your personal stuff, but considering

00:43:10

your knowledge of the ocean.

00:43:13

How do you interpret the

00:43:15

the jam decision insofar as

00:43:17

it relates to an organization

00:43:19

like the IMF and how

00:43:20

do you see that sort

00:43:22

of impacting the infp? Thanks,

00:43:27

Jeff. Yeah, I mean The



00:43:31

gym decision is certainly an

00:43:33

earthquake or all International organizations,

00:43:38

including two who were singled

00:43:43

out by Justice Roberts the

00:43:44

IMF United Nations as having

00:43:47

absolute immunity in their Charter.

00:43:48

So therefore not affected by

00:43:50

the decision directly, but never

00:43:53

let us off and we

00:43:54

were very happy to see

00:43:55

that language in there and

00:43:57

there's good reason for the

00:43:58

difference of the IMF and



00:44:02

you went on one hand

00:44:03

and emptied. He's on the

00:44:05

other hand and other organization

00:44:07

in case of any bees,

00:44:09

of course, they were designed

00:44:11

to raise funding in capital

00:44:16

markets and our major players

00:44:18

major issue in many capital

00:44:21

markets and stuff from the

00:44:22

outside. It was felt sensible

00:44:25

that they should be subject

00:44:28

to diction. At least a

00:44:32

portion of their activities which



00:44:34

are so important. Where is

00:44:37

the IMF yesterday to do.

00:44:44

So, all of our funding

00:44:46

is public money and all

00:44:49

of our lending is made

00:44:51

to National Treasures and central

00:44:53

banks. So it is a

00:44:55

very classic Sovereign Sovereign activity

00:44:59

on Commercial and at least

00:45:02

19 totally appropriate. but nevertheless

00:45:20

before Jam the other TVs

00:45:24

as well and all other

00:45:25

Global inter governmental institutions did



00:45:29  
not seriously contemplate that absent

00:45:33  
an allegation of a waiver

00:45:35  
of immunity or outside of

00:45:37  
the actual wave immunity. They

00:45:39  
could be hauled into the

00:45:41  
local courts of any one

00:45:43  
country and especially not answer

00:45:46  
for their activities on the

00:45:47  
other side of the globe

00:45:48  
simply because they have an

00:45:51  
office in in the first

00:45:52  
country that is essentially the

00:45:55  
facts of the case and



00:45:57

if I scored in the

00:46:00

country more than any other

00:46:01

is responsible for creating sustaining

00:46:05

the multilateral system for 80

00:46:07

years says you can haul

00:46:09

these institutions into port. Take

00:46:13

me to call Denzel Washington

00:46:14

quotes that can be hauled

00:46:15

into court in Moscow and

00:46:16

Tehran and anywhere else and

00:46:18

it's a very sad outcome

00:46:20

and an unnecessary outcome because

00:46:23

the artist recorded in the



00:46:28

DC circuit threw the case

00:46:29

out on another very closely

00:46:32

related subject matter jurisdiction, which

00:46:35

was that the government of

00:46:37

the complaint was not so

00:46:50

cool case. Wanted to address

00:46:59

this issue. I just back

00:47:01

to Maria's point about how

00:47:02

important it is when you're

00:47:05

dealing with International organizations or

00:47:07

look at their Charters. Very

00:47:12

carefully mention Charter is different.

00:47:17

The amenities are different from



00:47:18

the other organizations. And and

00:47:24

then we're over there's National

00:47:26

statutory law on Stacy how

00:47:29

many countries have National Gas

00:47:34

Station near me? And I

00:47:37

am in u.s. Hilton waiver

00:47:52

of some extent is a

00:47:56

little bit of a middle

00:47:57

ground where there's no built-in

00:47:59

waiver, but then according to

00:48:00

Cham Cham Cham, there are

00:48:03

no exceptions built in as

00:48:08

many different layers that you



00:48:09

need to pay attention to

00:48:11

what The the jam gay

00:48:18

side in people have commented

00:48:21

on this a lot and

00:48:23

do your point Brian many

00:48:24

people have said, why did

00:48:26

the IFC just settle the

00:48:27

champ case and I mean

00:48:29

why why take the risk

00:48:31

that you get a negative

00:48:33

decision on your immunities coming

00:48:34

out of the US on

00:48:39

the other hand. If you



00:48:40

look at who the plaintiffs

00:48:41

were in the jam case,

00:48:42

it was a it's an

00:48:44

environmental NGO that essentially been

00:48:47

representing the fisherman that claimed

00:48:50

to have been damaged by

00:48:51

the project. And so if

00:48:54

it's you know, those are

00:48:55

not your quintessential plaintiffs who

00:48:58

are just trying to see

00:49:00

what organization for a financial

00:49:02

been much different outcomes in

00:49:05

my eye and so one



00:49:07

could reasonably say well even

00:49:09

if the IFC were inclined

00:49:11

to reach some sort of

00:49:12

financial settlement, Unlikely to come

00:49:15

to the table absence of

00:49:17

pretty significant concessions non-financial concessions

00:49:21

from the IFC, but it

00:49:22

is interesting to think about

00:49:23

how that case would have

00:49:25

played out and how privileges

00:49:27

and immunities wouldn't or would

00:49:29

have not been affected if

00:49:30

that case has been settled



00:49:31  
prior to a Supreme Court

00:49:33  
decision. As Brian said there

00:49:39  
have been other cases in

00:49:41  
the wake of the jam

00:49:42  
decision that have now looked

00:49:44  
at privileges and immunities in

00:49:46  
the context of litigation and

00:49:49  
the second case that we

00:49:51  
wanted to touch on briefly

00:49:52  
that came out of the

00:49:55  
beauties of the IV in

00:50:06  
so far as it related

00:50:07  
to a spanking. And that's



00:50:11  
a decision called that's known

00:50:12  
as Rosencrantz. I would too

00:50:14  
late after the plaintiffs in

00:50:15  
the case. And so Vanessa,

00:50:17  
since you aren't we have

00:50:18  
The Misfortune of Being didd

00:50:20  
representative on the panel would

00:50:23  
love to hear your perspective

00:50:24  
on Rosencrantz and particularly Howard

00:50:29  
decision like Rosencrantz, Jam has

00:50:34  
call multilateral Banks like the

00:50:36  
ivp or perhaps others to

00:50:38  
think again about their litigation



00:50:40

risk, and and what are

00:50:42

some of the things that

00:50:43

were saying multilateralism International Organization

00:50:46

think about perhaps for the

00:50:48

first time in an area

00:50:50

where there's a realization that

00:50:52

they may not protect them.

00:50:54

Absolutely. That would be my

00:50:58

personal opinion because highly complex

00:51:02

and litigated. So the the

00:51:07

sense that that in this

00:51:10

case, mainly what was question

00:51:13

is that the changes I



00:51:14

let somebody relations by the

00:51:19

ivy on how this time

00:51:21

shows procedures were conducted allegations

00:51:28

in the process. So the

00:51:32

ITV move to request lack

00:51:38

of subject-matter jurisdiction, in this

00:51:40

case, I start me immunities

00:51:43

under the yellow is the

00:51:47

international organization. The plaintiff alleged

00:51:56

that in this case the

00:51:58

commercial activity and the waiver

00:52:00

that was mentioned on the

00:52:02

the office there for alleging



00:52:06

that they had the court

00:52:09

had jurisdiction over the issue.

00:52:11

But in this case the

00:52:13

court unanimously decided that the

00:52:17

ground was to determine whether

00:52:21

or not the sanctions procedures

00:52:24

were a property Polo and

00:52:27

that the court considered he's

00:52:29

not contractually nature type of

00:52:32

dispute relates to a power

00:52:39

the power that Sovereign at

00:52:44

states have to decide there

00:52:50

are handling of fun and



00:52:55  
the reference that were made

00:52:57  
to the idb Charter the

00:52:59  
charges that was signed back

00:53:01  
in 1959 by 48 members

00:53:04  
is that the members granted

00:53:09  
the idb? The power to

00:53:14  
implement appropriate procedures and mechanisms

00:53:20  
to safeguard that the proceeds

00:53:24  
of the loans. Are you

00:53:27  
for the intended development purposes

00:53:30  
and these really change the

00:53:35  
conversation of the source of

00:53:38  
the jurisdiction of the IBB



00:53:40

and obb as the source

00:53:45

that he's not contractually and

00:53:49

that's been the case chances

00:53:52

are that a lot of

00:53:54

the traditional way we have

00:53:57

been thinking of conducting investigations.

00:54:00

For example, everything that's clean

00:54:02

to the audit classes the

00:54:04

writing section. It's not necessarily

00:54:07

it's our jurisdiction is not

00:54:09

necessary to have contractual relationship

00:54:13

the interpretation and the rights

00:54:15

and and the mini broaden



00:54:19  
up in a sense that

00:54:21  
the jurisdiction goes beyond a

00:54:25  
contractual relationship. Privileges and immunities

00:54:33  
any questions I will say

00:54:39  
you got a Supreme Court

00:54:45  
decision that basically has found

00:54:48  
that absent explicit language in

00:54:51  
the charter the MVPs do

00:54:53  
not enjoying after a couple

00:54:56  
of years later. You got

00:54:57  
a an appellate court decision

00:55:00  
that upholds the immunities for

00:55:02  
the ID in a particular



00:55:04

situation, but I anticipate its

00:55:20

opening coming out of the

00:55:22

gym case and what I'm

00:55:23

curious to get your perspective

00:55:24

on this is a little

00:55:26

bit of stuff but I'll

00:55:26

ask anyway, what should empty

00:55:29

bees and other organizations? Now

00:55:32

how should they be positioning

00:55:34

themselves and sort of the

00:55:36

post Jam era where they

00:55:38

may find their selves defendants

00:55:41

much more frequently than they



00:55:42

would have expected. What do

00:55:45

they be considering? What position

00:55:46

did you thinking about? I

00:55:50

could have just opened one.

00:55:51

Thank you. Jessica Johnson. Yes.

00:55:55

Aaron is being discussed here.

00:56:06

the World Bank and IMF

00:56:08

ium specialization I know this

00:56:18

that happens at the US

00:56:20

level. Are you at sports

00:56:22

either press and US patent

00:56:24

on the scope of immunity

00:56:27

is only applicable if you



00:56:32

can buy the court made

00:56:33

you wrong. So I wonder

00:56:36

if this is just something

00:56:38

I just thinking about whether

00:56:41

to consider the idea of

00:56:44

requesting an opinion from the

00:56:46

ore on. What is the

00:56:48

score on the current international

00:56:49

law. General application if you

00:57:03

run the risk of getting

00:57:04

a final decision about discovered

00:57:17

that that went in that

00:57:28

direction including at least one



00:57:30

that was drafted by a

00:57:33

very unsuccessful lawyer based in

00:57:34

Washington, and there were many

00:57:40

many of Micah's brief filed

00:57:41

that actually went very much

00:57:43

in line with what you

00:57:44

suggested. If you and the

00:58:05

other one is when I

00:58:06

do besides. What the first

00:58:10

thing you have to talk

00:58:12

about here and external private

00:58:14

body. You have internal body

00:58:18

like you have a States?



00:58:27

International organizations in UN General

00:58:40

Assembly Affiliated follows a decision

00:58:43

by 9:30 after work to

00:58:56

a member State. State Beach

00:59:02

I posted it today. Estas

00:59:08

a un official that was

00:59:10

killed somewhere and then the

00:59:12

UN was trying to see

00:59:14

if they would be half

00:59:15

of it on the board

00:59:19

said, yes. So what are

00:59:21

you talkin about this? I

00:59:41

think that's probably a good



00:59:42

topic which is you do

00:59:46

as we say. I thank

00:59:56

you for for educating awesome

00:59:58

on external disputes with the

01:00:01

development banks at 11 idea

01:00:07

that occurred to me seeing

01:00:08

the the variety of development

01:00:13

banks that we have here

01:00:14

or or members of of

01:00:17

the World Bank group is

01:00:19

is out their different functions

01:00:21

new terms of different types

01:00:25

of of of of organization



01:00:28

within the World Bank group

01:00:30

or other development Banks and

01:00:33

and and I understand that

01:00:35

there may be braces in

01:00:37

the case of the IMF

01:00:39

greater levels of event of

01:00:41

immunity done. For instance that

01:00:44

what why one might see

01:00:45

with respect to the with

01:00:49

the IFC it is this

01:00:52

something is that is that

01:00:53

occur Compression in terms of

01:00:55

depending on on their constitution



01:00:59

or under under functions, they

01:01:02

would have less or more

01:01:05

immunity for nieces. I'm thinking

01:01:07

in terms of the IFC

01:01:09

might have more dealings with

01:01:10

private parties and and they

01:01:14

might operate and it in

01:01:15

themselves as a private parties

01:01:17

at whereas somebody like like

01:01:19

the IMF might might have

01:01:21

a greater level of an

01:01:24

energy. So would you would

01:01:26

you like to come in



01:01:27

on that? And and as

01:01:29

a follow-up question, what about

01:01:32

behaviors that that we're activity

01:01:35

that you could construe as

01:01:37

a as a really private

01:01:39

or commercial wood would the

01:01:42

music simply a close to

01:01:44

disappear or the functional immunity

01:01:48

would would would be simply

01:01:50

a really low would you

01:01:52

two like to come and

01:01:54

visit? Pretty much a question

01:01:55

to everyone but no. But



01:02:00

I don't know the answer,

01:02:00

but I can give you

01:02:02

a call and see what

01:02:04

these institutions do is fundamentally

01:02:07

commercial. They borrow money. So

01:02:10

I think that's one of

01:02:12

the last one that you

01:02:13

would apply to a state

01:02:14

Central Bank for it. I

01:02:16

think it's different for this

01:02:18

institution is a Stepside I

01:02:23

should be protected even so

01:02:24

I think but I don't



01:02:26

know the answer to but

01:02:27

yeah, I mean, I think

01:02:30

it's very hard to draw

01:02:32

a logical line. Other than

01:02:35

like what I said when

01:02:37

the IMF and the World

01:02:38

Bank was established at the

01:02:40

same time in the same

01:02:41

International Conference in Bretton Woods

01:02:45

It was deliberately decided the

01:02:48

institution that is dealing with

01:02:49

central banks and treasuries will

01:02:50

be absolutely man. That is



01:02:53

going to have to raise

01:02:54

as much of its money

01:02:55

in the capital markets will

01:02:58

not absolutely so that was

01:03:01

that was clear and I

01:03:03

guess logical at the time

01:03:04

but not the lending that

01:03:11

we do to central banks

01:03:12

in treasuries, but huge expensive

01:03:16

buildings we have in Washington

01:03:18

that renovation project in the

01:03:21

city at the time and

01:03:23

you know, five hundred million



01:03:25

dollars in contracts and all

01:03:28

kinds of things like that.

01:03:29

So these are commercial activities,

01:03:30

but they're absolutely is not

01:03:34

been our practice Market is

01:03:38

not required us to waive

01:03:39

immunity. So make it different

01:03:43

organization doesn't have the leverage

01:03:45

with Financial Security that justify

01:03:52

that that position they do

01:03:55

you wait for me to

01:03:59

get a lot of room

01:03:59

to think about privileges and



01:04:11

immunities which which these organizations

01:04:12

old extremely extremely close and

01:04:16

dear to their hearts is

01:04:19

there maybe it may not

01:04:21

be a project-based commercial base

01:04:23

that sort of Put that

01:04:25

first arrow through the armor.

01:04:28

It may be something as

01:04:29

mundane as a staff dispute.

01:04:32

So all of these organizations

01:04:33

have internal justice system and

01:04:37

we talked about the US

01:04:38

Supreme Court of the DC



01:04:40

court of appeals. I think

01:04:42

people should be thinking about

01:04:43

the various courts in Europe

01:04:45

that have specialized remix and

01:04:49

jurisdiction and one could I

01:04:51

could see a case where

01:04:53

a court in Europe would

01:04:55

have a matter brought before

01:04:57

it where one of the

01:04:59

parties is a citizen of

01:05:01

the EU or a citizen

01:05:04

of the country where the

01:05:06

courts it and they say



01:05:07

I am an aggrieved party.

01:05:09

I believe you have juristic

01:05:12

shows while we're talking about

01:05:15

Project based Financial Workshop into

01:05:18

Sovereign. It may be something

01:05:20

as mundane as a wrongful

01:05:23

termination. Or something like that

01:05:26

where a court would look

01:05:27

and say under our national

01:05:29

Lok. This would be a

01:05:31

cause of action and therefore

01:05:33

we will hear the case.

01:05:35

Do you know could be



01:05:37  
the mouse that roared? So

01:05:40  
we're not in the time

01:05:41  
that we had left. I

01:05:42  
want to sort of pretended

01:05:44  
more in the direction of

01:05:46  
the external. So we sort

01:05:47  
of internal factor between internal

01:05:54  
disputes and external dispute already

01:06:04  
situations in which the IMF

01:06:08  
in dispute some of the

01:06:16  
other organizations with a cover.

01:06:18  
Can you come in a

01:06:20  
little bit about the circumstances



01:06:22

in which the IMF has

01:06:25

found himself historically involved external

01:06:28

dispute resolution. Now that is

01:06:30

played out. Sure yet that

01:06:33

there I would say three

01:06:37

basic categories of litigation that

01:06:39

we see and even setting

01:06:43

aside project related litigation that

01:06:45

might occur of course of

01:06:48

cases. Were we are acting

01:06:49

offensively the IMF board has

01:06:51

decided to waive the immunity

01:06:52

in order to vindicate institutional



01:06:55

right in the National courts

01:06:56

could be property rights contracts

01:06:59

electric property other things like

01:07:01

that. And we do have

01:07:04

an internal dispute resolution system

01:07:06

or are limited juice and

01:07:09

for also lending issues with

01:07:12

the the treasures in central

01:07:13

banks that we haven't had

01:07:15

occasion like and BP's sometimes

01:07:17

to go into court offensively.

01:07:19

I've been at its rights

01:07:21

under a lending program. Second



01:07:24  
category. We see more than

01:07:26  
any is cases. Where were

01:07:28  
just defending the immunity or

01:07:31  
arguing about the presence of

01:07:34  
a wave or the scope

01:07:35  
of a waiver things like

01:07:36  
that and deployment base streets

01:07:39  
are definitely in that category

01:07:40  
because we do see and

01:07:41  
Labour Court in Latin America

01:07:43  
and Africa and end in

01:07:45  
European courts, former employees of

01:07:48  
people try to take you



01:07:50

to court on a certain

01:07:51

fundamental employment-based or constitutional rights

01:07:55

and we have to argue

01:07:56

over it so far mostly

01:07:59

successful, but there's a pretty

01:08:08

big one. Is now sending

01:08:12

or absolute immunity. I'm still

01:08:13

an interested party in a

01:08:14

whole lot of commercial type

01:08:16

location right now. We had

01:08:19

there's these two cases going

01:08:21

on in England where countries

01:08:23

are either shooting creditors are



01:08:25

being sued by creditors gray

01:08:27

and the imf's lending or

01:08:29

advice was is a feature

01:08:31

in the complaints with the

01:08:33

defenses and some information that

01:08:36

the IMF just provided confidentially

01:08:39

at RR is evidence. Documents

01:08:49

information coming to play and

01:08:52

not always successfully and then

01:08:54

another interesting category. It's just

01:08:58

Well, we are not lending

01:09:01

in the private sector were

01:09:02

holding a lot of assets



01:09:03

of countries or we have

01:09:05

preferred creditor status at Visa

01:09:09

V countries and other creditors.

01:09:12

Today's countries might want to

01:09:14

attach those assets or break

01:09:17

up our preferred creditor status

01:09:18

to so that kind of

01:09:21

litigation happens a fair amount

01:09:23

certainly. There's many cases in

01:09:27

the DC circuit and over

01:09:31

the years and then all

01:09:34

kinds of predators trying to

01:09:36

find that's all the world



01:09:37

including lots of assets of

01:09:41

Argentina at the Federal Reserve

01:09:42

Bank account. They're trying to

01:09:53

pass that And we're waiting

01:10:06

for a judgement toward judgment

01:10:11

creditors of the Taliban by

01:10:13

victims of terrorism have gotten

01:10:16

a big judgment in a

01:10:17

different cord in the United

01:10:19

States and they're not going

01:10:20

around trying to find a

01:10:21

set to attach to execute

01:10:23

judgment. The Taliban is in



01:10:26  
tobacco control of the government

01:10:27  
of Afghanistan, right? I'm going

01:10:29  
to ask Anna Stan has

01:10:30  
assets around the world including

01:10:32  
at the Federal Reserve and

01:10:34  
making others. So we're defending

01:10:40  
attempts to to attach those

01:10:42  
assets to take them away

01:10:45  
from the people of Afghanistan

01:10:46  
by victims in the United

01:10:51  
States. I want to come

01:10:58  
to you as we kind

01:10:59  
of round out the session



01:11:00

to talk about other situations

01:11:03

in which mgb's with other

01:11:06

International organizations have decided to

01:11:10

launch proactive litigation or organizations

01:11:24

launch interactive litigation. And in

01:11:27

fact even subject to significant

01:11:29

in situations where I've been

01:11:32

lending billions and billions of

01:11:34

dollars around the world yet.

01:11:36

They seem to be trepidatious

01:11:39

at litigating to preserve their

01:11:42

interests in recovery that have

01:11:44

been either not repay this



01:11:47  
appropriated or some combination. Want

01:11:50  
to come to you and

01:11:50  
ask you about your experience

01:11:52  
is what you've observed in

01:11:54  
terms of situations were mpps

01:11:56  
have decided to launch medication.

01:11:59  
And what are the different

01:12:00  
considerations that play in those

01:12:03  
decisions? I know you have

01:12:06  
a lot of international experience

01:12:08  
in the context of proactive

01:12:12  
mitigation of the map. But

01:12:14  
in other forests. But I



01:12:18

would start by picking up

01:12:19

on on something that Brian

01:12:21

was talking about what you

01:12:21

just drove the inherent International

01:12:25

nature of a litigation brought

01:12:27

by MD PC into a

01:12:29

car have a lot of

01:12:30

time. We're talking about parties

01:12:32

that are all over the

01:12:32

world. So from the very

01:12:33

sore conception of the keys

01:12:35

and thinking about Services processor

01:12:37

trying to figure out how



01:12:38

to do that with the

01:12:39

party somewhere else instead of

01:12:41

at every juncture along the

01:12:42

timeline of the structure of

01:12:44

a cross-border considerations implication navigation

01:12:54

for MDB to say I'm

01:12:55

going to try to recover

01:12:57

a very significant amount of

01:12:59

money to which I am

01:13:00

entitled but it's not it's

01:13:02

not an easy lawsuit often

01:13:05

is a lot of parties.

01:13:06

And so just thinking about



01:13:09

for the nuts and bolts

01:13:10

of the litigation from the

01:13:11

outside as I was saying,

01:13:12

you know, they're there is

01:13:14

this International component how to

01:13:15

serve how to find Discovery

01:13:17

Discovery 2 All over the

01:13:19

world Oki one now. I

01:13:21

need to recover the assets.

01:13:22

He has to be all

01:13:23

over the world and bringing

01:13:24

any to bring in counseling

01:13:27

multiple jurisdictions to help me



01:13:28

find the assets Doubt Me

01:13:30

freeze the assets by these

01:13:32

judgments. So, you know, I

01:13:34

think it's really one really

01:13:37

important consideration of the outside

01:13:38

has to think about so

01:13:39

that International footprint and how

01:13:44

to spell employ a very

01:13:46

International cross-border strategy to be

01:13:50

able to deliver game. to

01:13:53

be able to litigate let

01:13:54

alone successfully litigated and then

01:13:56

to recover whatever it is



01:13:57

that you learned or one

01:14:00

in the judgment and we

01:14:04

talked about a lot is

01:14:06

it's a Dia of of

01:14:07

immunity and how these litigations

01:14:10

can result in that in

01:14:12

adverse conditions for the ndp's

01:14:13

another party Nicki and other

01:14:24

parties are seeking Discovery from

01:14:25

them and you can very

01:14:26

clearly see how the ID

01:14:28

for example of an hour

01:14:35

judge would react to that



01:14:36

use the phrase that I

01:14:37

think we've probably all heard

01:14:38

him off with a sword

01:14:39

and shield you could see

01:14:41

how I would say you're

01:14:43

asking for Discovery and I

01:14:46

can also result in Trinidad

01:14:47

vs. Season 4 for these

01:14:49

institutions. So I guess I'm

01:14:53

pulling in its religious. Tickle

01:15:00

actually litigating but also the

01:15:02

risk of an adverse decision,

01:15:04

especially when we're talking about



01:15:05

these is very valuable immunity

01:15:07

is is out play and

01:15:09

could really Ultimately undermine the

01:15:13

efforts of the organization. So

01:15:15

those are just to think

01:15:16

of few considerations that come

01:15:18

into play Early when when

01:15:21

thinking about litigating an amazing

01:15:23

probably some of the considerations

01:15:24

that make it difficult for

01:15:34

Something so we've been talking

01:15:38

about this is where the

01:15:39

organization is a party to



01:15:41  
this. I just want to

01:15:43  
give you an example where

01:15:43  
organization adjudicate back to parties

01:15:47  
that are not related to

01:15:48  
the organization are engaged and

01:15:51  
one example is the international

01:15:55  
civil aviation organization has a

01:15:58  
council which is in charge

01:16:00  
of deciding disputes on civil

01:16:02  
aviation and recently have some

01:16:10  
states close their airspace. I

01:16:13  
don't know if you remember

01:16:14  
I think it was 2017



01:16:16

Qatar and Bahrain Egypt closed

01:16:22

space to Kateri a rest

01:16:24

for a couple of years

01:16:26

and decided to Sue this

01:16:29

for Kentucky for a cow.

01:16:30

In that case the way

01:16:33

that they will come she

01:16:34

wants is like any other

01:16:35

arbitration there was an application

01:16:36

filed a secretary of education

01:16:40

reducing if it's okay babe

01:16:43

Servants of the other side

01:16:44

than the other defendant or



01:16:47  
the respondent state or states

01:16:48  
have the right to file

01:16:49  
account on Memorial by I

01:16:52  
rejoined their face like an

01:16:53  
arbitration. The best example is

01:16:59  
interesting I think because the

01:17:02  
council is composed of 50

01:17:05  
First Dates members of the

01:17:06  
organization and its member states

01:17:08  
appoint diplomats as members representing

01:17:12  
their States United. How is

01:17:13  
basically a diplomatic is a

01:17:15  
quasi-judicial body, but the people



01:17:19

decide in the cases that

01:17:21

might be lawyers, but they're

01:17:22

diplomats and their representing the

01:17:25

state government relief. Are impartial

01:17:30

but they represented government that

01:17:31

would be a basically because

01:17:41

of an invention allows the

01:17:45

state parties to the treaty

01:17:46

either disagree with the decision

01:17:48

by the council to appeal

01:17:50

to International court of justice.

01:17:52

So I find these examples

01:17:55

very interesting but only because



01:17:57

it's a case where you

01:17:57

can actually decide at this.

01:18:00

But I think it's one

01:18:01

of the very few examples

01:18:02

where you have an appeal

01:18:03

mechanism and international human rights

01:18:09

system. You have different faces

01:18:12

for you in general in

01:18:13

international law is one of

01:18:15

the very few when you

01:18:17

can go to the icj

01:18:18

an appeal that decision in

01:18:20

this has happened in two



01:18:21

cases. You have any 1972

01:18:24

interview to between India and

01:18:25

Pakistan when there was a

01:18:27

war between the two countries

01:18:28

and their space what's goes

01:18:29

on that led to a

01:18:30

bike our decision based Council

01:18:33

decided to settle the dispute.

01:18:52

They forced a decided to

01:18:53

correct an example of how

01:19:05

you can have access to

01:19:08

other gifts are a mechanism

01:19:10

that are not traditional arbitration



01:19:13

or wear and have is

01:19:17

your soul by this organization

01:19:18

sending these guys that I

01:19:20

mention it. I find that

01:19:21

interested is interesting and I

01:19:25

think it's one of the

01:19:25

few examples that we can

01:19:27

find an international practice, but

01:19:29

where at that's permissible. We've

01:19:33

covered a lot of ground

01:19:34

each of the topics that

01:19:36

we thought we should be

01:19:37

subject to a law enforcement



01:19:39

or business to cover a

01:19:47

lot of complicated subject matter.

01:19:49

If there are not respond

01:19:57

anything. I want to wish

01:20:10

everybody a What that mean?

01:20:19

You'll let me close off.

01:20:20

I mean, I don't want

01:20:21

to make longer but I

01:20:24

want to thank you again

01:20:25

Miller and serve earlier because

01:20:27

my margarita thought that that

01:20:29

this was going to be

01:20:31

a slow number Arlo number



01:20:35

Concord title and the foolish

01:20:38

that the room is full.

01:20:40

So this is this is

01:20:41

a testament to the panelists

01:20:44

the the organization Miller Chevrolet

01:20:48

and of course Jeffrey and

01:20:49

a for a wonderful moderation.

01:20:51

So thank you very much

01:20:52

and thank you for for

01:20:53

being with us on a

01:20:54

Friday night where the sky

01:20:58

is is gray and thanks

01:21:01

thanks to everyone who has



01:21:03

been with us and especially

01:21:04

the special thanks to the

01:21:06

team that helped us put

01:21:08

this together. Lucia and Juan

01:21:10

Pablo boxer in the in

01:21:12

the in the in the

01:21:14

monitoring room in the Inn.

01:21:18

Fry's in Columbia and thanks

01:21:20

to all the sponsors and

01:21:21

the old The Advisory board

01:21:22

members and to the Washington

01:21:25

arbitration community and everyone who

01:21:27

traveled here for Washington arbitration



01:21:29  
week. The next Washington arbitration

01:21:32  
week is still after Thanksgiving

01:21:34  
in 2024. If you have

01:21:37  
a topic you have a

01:21:39  
topic like if you're walking

01:21:40  
to work on just or

01:21:43  
just a thought of that

01:21:44  
comes to you when you're

01:21:45  
under the shower or getting

01:21:47  
your hair done by Tomas

01:21:49  
and then do let us

01:21:53  
know. We put it together.

01:21:56  
Okay. Take care, and thank



01:21:58

you.