

Strategic Lawyering involving Contract or Treaty Breaches & Human Rights Violations *

Summary

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

The Washington Arbitration Update session held in Singapore focused on strategic lawyering related to contract breaches and human rights violations. The event was moderated by Rodger Houston, a seasoned international dispute resolution expert, who emphasized the importance of addressing issues that arise in investment arbitration, particularly in the context of globalization and the fragmentation of international law.

Key speakers included Stephanie, an assistant professor at SMU, who provided an overview of international human rights frameworks and their implications for arbitration. She discussed the development of human rights law post-World War II and highlighted the challenges of integrating human rights obligations into investment treaties. Maria Lucia, a senior associate from Bogota, addressed the intersection of human rights and contractual rights, particularly through the lens of investment arbitration and the Bangladesh Accord, which established a binding arbitration mechanism for labor disputes.

Robert Houston, also a speaker, introduced the concept of holistic lawyering, advocating for a comprehensive approach that not only addresses legal issues but also considers the broader social context affecting clients. He emphasized the need for innovative treaty models that incorporate human rights obligations for investors.

The panelists explored the complexities of reconciling investment treaty obligations with human rights standards, noting that while there is a growing recognition of human rights in investment law, significant challenges remain. The discussion highlighted the necessity for a strategic approach to legal representation that encompasses both public and private interests, ultimately aiming for a more equitable resolution of disputes involving human rights violations.

The session concluded with a call for continued dialogue and collaboration in the field of international arbitration, particularly regarding the integration of human rights considerations into investment treaties and arbitration practices.

Authors

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Topics

Lawyering, Lawyers, Contract breaches, Treaty breaches, Human Rights Violations

Category

WAU

Full Transcript

00:00:00

Shall we start? Welcome to

00:00:03

World arbitration update. This is

00:00:06

at World arbitration update from

00:00:08

Singapore. This is the third

00:00:10

year that we do it

00:00:11

in Singapore and the dis

00:00:14

very much. Thanks to K&L

00:00:17

Gates and special thanks to

00:00:20

Robert and who is going

00:00:25

to be a moderator on

00:00:28

a panel that will discuss

00:00:33

mainly be strategic lowering involving.

00:00:38

Contract or pretty beaches and

00:00:41

human right violations and I

00:00:43

apologize because I did not

00:00:44

introduce myself and my name

00:00:46

is I am a partner

00:00:51

at the extra glp here

00:00:54

in Washington d.c. Which is

00:00:55

a boutique Law Firm on

00:00:56

investor-state arbitration and also public

00:00:59

international law as well as

00:01:01

International commercial arbitration. I'm also

00:01:04

a professor at Georgetown law

00:01:06

teaching investment arbitration and together

00:01:11

with Ian Laird four years

00:01:13

ago. We co-founded World application

00:01:15

update which is a forum

00:01:18

that provides where has two

00:01:21

main objectives one is to

00:01:24

update on issues of investment

00:01:27

re arbitration International commercial arbitration

00:01:30

as well as public international

00:01:32

law and to we are

00:01:36

at the wall of Jason

00:01:37

update. We're trying to the

00:01:40

centralized International arbitration and noting

00:01:44

that has as incredible venues

00:01:48

as they may be Paris

00:01:51

and London and Even Washington

00:01:55

DC as well as New

00:01:57

York, they are not the

00:01:59

only centers of arbitration in

00:02:00

the world. So we really

00:02:01

want to reach out to

00:02:02

every other Center because we

00:02:05

know that there are fantastic

00:02:06

at Council arbitrators in Asia

00:02:09

and Latin America and Africa

00:02:11

and I in Western Europe

00:02:13

etcetera. So with that I

00:02:16

will now pass to introduce

00:02:18

our moderator Rush a posse

00:02:21

in Lisa the can kennel

00:02:33

gates at straight to practice

00:02:35

in Singapore in Asia. Has

00:02:42

he has 20 years of

00:02:43

experience in international dispute resolution

00:02:46

and has worked in both

00:02:48

London and Singapore. He's qualified

00:02:51

both an advocate and solicitor

00:02:53

of the Supreme Court of

00:02:55

Singapore as well as admitted

00:02:57

as a solicitor of England

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and Wales. He's also a

00:03:01

qualified arbitrator and is a

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fellow of both the chartered

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Institute of arbitrators of the

00:03:07

UK as well as the

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Singapore Institute of arbitrators. Russia

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is on the panel of

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arbitrators of a number of

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arbitration station in play klrc

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a pika and the hki

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is a c is also

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a board member and director

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of the UK Charter in

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Hoover RV Traders in Singapore

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Branch by the has experience

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in international arbitration with seats

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in Singapore, Indonesia and Vietnam

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China got Dubai and menu.

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Countries with that I would

00:03:43

leave you too. I will

00:03:47

yield the floor to Rodger

00:03:49

and welcome everyone World application

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update. Thank you very much

00:03:55

was the only correction I

00:03:59

would offer to the Bayou

00:04:01

is that unfortunate now have

00:04:02

30 years of experience and

00:04:04

I was not particularly thrilled

00:04:07

to learn that three decades

00:04:09

of behalf of studying and

00:04:13

learning Robert. Welcome everybody. My

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name is Rodger both as

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Jose said that I'm based

00:04:22

in Singapore together with my

00:04:24

colleague proper Houston. We are

00:04:27

active members of our firms

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invest State practice and we're

00:04:31

very thrilled to to hosting

00:04:34

this event on April 30th

00:04:37

that we are doing this

00:04:39

and we hope to present

00:04:42

to you a very interesting

00:04:46

topic that has numerous Dimensions

00:04:48

is that we have had

00:04:50

to contend with during the

00:04:53

call. I kissed the last

00:04:55

12 to 18 months. The

00:05:01

contacts too many of our

00:05:03

comments come from our work

00:05:07

done across the globe five

00:05:09

continents with 14 of the

00:05:13

attractions we have with our

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colleagues from all these officers

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provide a useful and necessary

00:05:19

insight into the practice of

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internet slow. Today. We're going

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to focus on strategic luring

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involving contract or 3T beaches

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and human rights violations. I'm

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going to spend a few

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minutes to put be a

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discussion that will follow in

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in some contexts so you

00:05:41

can understand where you're coming

00:05:43

from. It is a well-known

00:05:47

Paradox that long-standing what's globalization

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has resulted in increasing uniform

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teeth in the lights or

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societies across the world. It

00:06:01

has a dog's pee also

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lead to increasing fragmentation. Asthma

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specialist legal regimes Andrews conventions

00:06:12

of principles of international and

00:06:16

domestic legislation to deal with

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specific issues that impact Society

00:06:22

trade culture and life in

00:06:24

general. This fragmentation has been

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accompanied by the development of

00:06:32

almost in parallel, but separately

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autonomous legal institutions International conventions

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domestic legislation and principles of

00:06:48

practice among space what used

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to be referred to as

00:06:55

international law today breaks down

00:06:57

to my last check at

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least 11 specialist areas, which

00:07:02

nurse such as international human

00:07:05

rights law investment law trade

00:07:08

law concerning armed conflict business

00:07:13

and human rights the law

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of the sea migration and

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Refugee law environmental law and

00:07:20

climate change international criminal law

00:07:23

of public international law and

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private. The emergence of these

00:07:29

new and specialist areas of

00:07:31

row containing self-contained remedies often

00:07:35

in Your Graffiti functionally limited

00:07:39

treaties create problems of coherent

00:07:43

in international law. aside from

00:07:50

the potential for large-scale conflicts

00:07:53

between human rights law on

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the one hand and investment

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Law & Order for example

00:07:58

of price to challenges Adam

00:08:02

or macro and micro-level issues

00:08:08

such as Global concern for

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final change Fisheries depletion on

00:08:12

human rights do not fall

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neatly into any particular packet

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and there's the constant need

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to mediate and I'm sending

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interaction between these regimes this

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also comes up, you know

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dated a practice where we

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find traditional causes of action

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of a breach of contract

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a breach of the treaty

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because there is an obstacle

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because there's no because the

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time but in that is

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supposed to look beyond the

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straight and narrow is when

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two things off of the

00:08:48

bus When it comes to

00:08:50

what can we do to

00:08:52

bring Justice for the train

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to Avenues that would not

00:08:58

normally occur to black and

00:09:00

white lawyers that we were

00:09:02

training to be receiving fraction

00:09:08

between these different things is

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a very broad area. We

00:09:11

are committed to rain today

00:09:13

more bike tires and manageable.

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We are going to focus

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on a subset of regime

00:09:18

in traction and that is

00:09:19

the focus of international human

00:09:21

rights and contractual obligations at

00:09:25

the risk of over statement

00:09:26

of how do how do

00:09:29

international human rights impact and

00:09:33

impossibly conflict or is he

00:09:35

coming to tension with I'm

00:09:37

trying to write an investor

00:09:39

State bikes take for example,

00:09:41

the underlying investment contract usually

00:09:46

related to the exportation of

00:09:48

a natural real. For the

00:09:50

development of Greenfield Public infrastructure,

00:09:52

the the rights and lives

00:10:00

of indigenous people living in

00:10:03

the affected area. It is

00:10:05

not it is not uncommon

00:10:07

that in the execution of

00:10:09

the project environmental concerns in

00:10:13

pollution any fluid from factories

00:10:15

and and other infrastructure that

00:10:17

builds the the info does

00:10:22

the laser treatment of the

00:10:26

outbreak of disease because of

00:10:27

unsanitary conditions of the project

00:10:31

become unpopular it is used

00:10:32

as political football between rival

00:10:35

political parties and create civil

00:10:38

unrest using to military action

00:10:40

and ultimately the relationship breaks

00:10:43

down the station and is

00:10:45

accused of heavy-handed action in

00:10:46

criminal prosecution of the individual.

00:10:49

Incarceration of the principles and

00:10:53

with allegations of a Eastside

00:10:58

having reached obligations to of

00:11:02

people in we could have

00:11:04

been understand how you never

00:11:08

get them. I'm honored to

00:11:10

have three three distinguished speakers

00:11:14

with us today. Stephanie is

00:11:18

an assistant professor of law

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at SMU in the Jungfrau

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School of Law. She will

00:11:24

be speaking quest for the

00:11:26

framework of international human rights

00:11:27

and be in the context

00:11:33

of international disputes. I hope

00:11:38

I pronounce your name correctly

00:11:39

will be speaking to us

00:11:42

on contract breaches involving human

00:11:46

rights violations. What do story

00:11:51

is a council that took

00:11:54

a chance and he will

00:11:56

be speaking to us about

00:11:57

Titi preachers involving internet for

00:12:01

human rights law in finding.

00:12:03

My colleague. Robert was a

00:12:05

senior associate here based in

00:12:06

Singapore when approach the topic

00:12:10

of a holistic development of

00:12:12

a legal strategy in human

00:12:14

rights cases. I have a

00:12:16

more detailed buyers for each

00:12:19

of my speakers which will

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circulate in the handouts at

00:12:22

the end of trees and

00:12:24

thank you very much and

00:12:26

I'd like to hand over

00:12:27

now. All right. Anything I

00:12:48

need to do. Bolingbrook Okay,

00:13:26

can you hear me? Okay,

00:13:28

great. Thank you very much.

00:13:31

Right. School at the introduction

00:13:33

many things to you. Both

00:13:34

Rodger and Robert for inviting

00:13:36

me as an academic. I

00:13:37

am looking forward to learn

00:13:39

something if it's always good

00:13:41

to have this kind of

00:13:43

conversation. So I was invited

00:13:45

to speak at the frame,

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I guess for the discussion

00:13:48

that we have today and

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remind everybody of a general

00:13:53

overview and framework of international

00:13:55

human rights essay developed right

00:13:59

after the second world war.

00:14:01

So what I would do

00:14:02

if I can I'm so

00:14:06

I didn't do a video

00:14:07

back to the foundation quickly

00:14:09

Speak about the typology of

00:14:11

State on vacations and briefly

00:14:14

restrictions and delegations. And then

00:14:16

also the mechanisms of protection

00:14:18

vagina streaming rights 16 to

00:14:20

get show and non-traditional mechanism

00:14:22

as well as the particular

00:14:23

issue of the exhaustion of

00:14:25

local remedies. Do I need

00:14:28
to go back to the

00:14:29
foundations of when it all

00:14:31
started human rights as part

00:14:33
of public international law really

00:14:35
started after the second World

00:14:36
War 2 National labor organization

00:14:41
already before the second it

00:14:43
already started with the universal

00:14:45
Declaration of Human Rights complaint

00:14:48
in 1948. It is the

00:14:52
historical Maisto document that sets

00:14:55
the basis for a number

00:14:57
of treaties. And as of

00:15:01

today over 70 human rights

00:15:03

treaties has been concluded most

00:15:05

important among these 3D bass

00:15:07

instruments in the human rights

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and international human rights are

00:15:13

the two continents and the

00:15:15

international Covenant on civil and

00:15:17

political rights and the international,

00:15:20

economic social and cultural rights

00:15:21

and both adopted in 1966.

00:15:27

Types of conventions that are

00:15:31

part of the nine most

00:15:32

important human rights treaties as

00:15:35

they are these Universal Human

00:15:38

Rights Convention dealings with specific

00:15:41

Bronx. So very famous of

00:15:44

causes the convention on genocide

00:15:47

and probation of torture is

00:15:51

related to the protection of

00:15:52

specific categories of people here

00:15:55

Eastwood related to Refugee children

00:15:58

a woman's right and you

00:16:02

see here and gray the

00:16:03

universal system that is generally

00:16:05

divided into those that a

00:16:07

treaty based. So the list

00:16:11

Yonder in the middle and

00:16:12

then also the charter based

00:16:14

out of the UN Charter

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and refers to Human Rights

00:16:18

and an article 76 as

00:16:21

well as in the Preamble

00:16:22

and is it is of

00:16:24

course the Cornerstone of the

00:16:26

UN system. Human rights around

00:16:28

the world in the charter

00:16:30

base system. We have to

00:16:31

do you enter my Rights

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Council and under the treaty

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base. We have a number

00:16:35

of treaty bodies that's related

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to each of these do

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I have on the slide

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22 that relate to the

00:16:43

two most important components of

00:16:45

human rights committee and the

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committee on economic social and

00:16:49

cultural rights. Now the human

00:16:53

rights a system is very

00:16:54

much related also to Regional

00:16:57

systems and two European convention

00:16:59

on human rights adopted in

00:17:02

1950 was the first one

00:17:05

that sets the intimidation and

00:17:08

for the elevation of a

00:17:10

supranational system on human rights

00:17:13

in the region of Europe

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It Was Then followed by

00:17:16

the American convention on human

00:17:17

rights and later African Charter

00:17:20

on human and peoples rights

00:17:22

Saudi African have this addition

00:17:25

on the people's right to

00:17:26

Shamokin. Unity rides and the

00:17:29

latest one that are about

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to ensure the rights of

00:17:31

the 2004 now the European

00:17:35

the American Auntie African they

00:17:36

have Regional codes as well

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as well as commissions which

00:17:42

are the non-traditional bodies. I

00:17:44

will come to that at

00:17:45

what's the end of my

00:17:46

presentation again, when we move

00:17:52

on to the the types

00:17:55

of state of legation. I

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did not want to make

00:17:58

the flight to fool with

00:18:00

a long list of the

00:18:01

substantive rights that eating the

00:18:04

list of international human rights,

00:18:06

and I'm just reminding you

00:18:09

of a few the right

00:18:11

to self-determination equality and non-discrimination

00:18:14

right-to-life freedom from torture Freedom

00:18:18

From Slavery freedom of assembly

00:18:20

and Association freedom of expression

00:18:22

to process. Right to work

00:18:25

right to education cultural rights

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rights to health and also

00:18:29

the international human rights as

00:18:32

they evolve and change and

00:18:35

new rides are edit. Some

00:18:37

of you might have heard

00:18:38
of the Recently Added right

00:18:40
to a healthy environment confirmed

00:18:42
by the general assembly in

00:18:43
July 2022 Silverado reason, I'm

00:18:48
safe application under international human

00:18:51
rights law respect protect for

00:18:53
sale 73 Bus words that

00:18:55
many of you have heard.

00:18:57
It dates actually back from

00:18:59
a a reported was written

00:19:02
by mr. Ida's Norwegian diplomatic.

00:19:05
I'm not wrong who started

00:19:08
with this type ology and

00:19:10

it is very useful because

00:19:11

it gives them operational content

00:19:13

to these types of off

00:19:15

of Rights and the state

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Centric responsibilities that they find

00:19:20

in the system respect as

00:19:23

an obligation for the means

00:19:25

to abstain from interfering with

00:19:27

the existing enjoyment of Human

00:19:28

Rights. Protect means the obligation

00:19:32

to protect individuals and groups

00:19:35

against human rights abuses so

00:19:39

states must intervene in private

00:19:41

relationship. This is a majority

00:19:44

to actively interfering but it

00:19:46

is an obligation of means

00:19:48

then for fill. This is

00:19:50

the dutiful states to make

00:19:52

to take measures that he's

00:19:55

the Fulfillment of the realization

00:19:58

of Human Rights. So this

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might require states to provide

00:20:02

certain goods or services for

00:20:05

individuals that are able to

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cure them by themselves. For

00:20:08

example Healthcare at job and

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or to sustain a living

00:20:19

Now I have on this

00:20:20

night the question of the

00:20:21

international human rights in the

00:20:23

private domain just as the

00:20:25

potential Segway Of course what

00:20:27

we're going to discuss in

00:20:29

in this in the seminar

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is this question about is

00:20:34

there a horizontal effect meaning

00:20:36

that also private sector? Of

00:20:37

course the first entity that

00:20:40

we might think of a

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powerful multinational corporations should they

00:20:44

also have the beer the

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responsibility to act of human

00:20:49

rights as states to steal

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the states of Moana Polly

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of Human Rights. I'm and

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what other seeded given their

00:21:01

power and influence. They should

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be horizontal effect. Now we

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know from the druggie a

00:21:08

report on corporate responsibility to

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respect human rights is that

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from these three respect protect

00:21:14

and for sale and the

00:21:16

respect to human rights? I'm

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in a white enlarged to

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corporate responsibility as well. And

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here it means that the

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corporation should act with you

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diligence to avoid infringing on

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the rights of others so

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mean that at least you

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didn't make sense human rights

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are being respected and where

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there is a risk of

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potential human rights violation that

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these risks are mitigated and

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you will and you see

00:21:43
this in many of the

00:21:45
recently a doctor's to diligence

00:21:47
legislations that come from such

00:21:49
jurisdictions. However, that said does

00:21:52
the system as it stands

00:21:54
until today is say State

00:21:56
eccentric and puts the burden

00:21:59
of responsibility on States Berkeley

00:22:04
Flea on restrictions and deprivations

00:22:09
of a human rights, which

00:22:10
also introduces some of the

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hurricane between the different write

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s in any constitutional A

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system that freedom can be

00:22:21

restricted by the conditions here

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to our bylaws in the

00:22:27

proportionality assessment. You would need

00:22:29

a legitimate objective. He needs

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to be transparent non-discriminatory an

00:22:34

arbitrary and a measure needs

00:22:37

to be proportional to call

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personality took the sensor that

00:22:41

the medication is actually necessary

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in order to achieve a

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legitimate objective. This is for

00:22:50

Restriction now derogations in treaties

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are allowed in real cases

00:22:58

of absolute emergency. This is

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public emergency under the iccpr.

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And in times of National

00:23:06

Emergency under the European convention

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on human rights and interests

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into the African convention on

00:23:14

human rights does not contain

00:23:16

a similar derogation provision. Now

00:23:20

we find in the iccpr

00:23:23

take the sample also that

00:23:26

there are certain rights that

00:23:27

can never be there. Okay,

00:23:30

and this is so they

00:23:32

have an absolute character. The

00:23:36

list includes the right to

00:23:38

life the provision of torture

00:23:40

provision of slavery provision of

00:23:42

punishment without love and provision

00:23:44

of arbitrary and detention. But

00:23:51

I come back now to

00:23:52

the mechanisms of protection and

00:23:53

TOD the landscape is opposed

00:23:55

to depending on what kind

00:23:57

of instrument we are we're

00:23:59

talking about again, if we

00:24:01

talked about the child and

00:24:04

I see you and Human

00:24:05

Rights Council. This is not

00:24:08

A traditional body at all.

00:24:10

It is a political body.

00:24:12

We have from the UN

00:24:13

system and resolutions that can

00:24:15

and be adopted on issues

00:24:17

of Human Rights and also

00:24:19

mentioned earlier put some put

00:24:21

on a new recognition of

00:24:23

human rights such as the

00:24:24

right to a healthy environment

00:24:25

we have is, teas and

00:24:32

which judicial bodies however that

00:24:36

is a possibility for individual

00:24:39

complaints and the iccpr but

00:24:41

only if the optional protocol

00:24:43

has been ratified Interesting when

00:24:49

it comes to the mechanism

00:24:50

of protection and that is

00:24:51

why the regional systems are

00:24:53

in that respect. So powerful

00:24:55

is that they come with

00:24:57

a extradition proceeding allowing for

00:25:00

individual complaints. So very well

00:25:03

known as the inter-american commission

00:25:07

and a court. So commission

00:25:10

would be the non-traditional body

00:25:11

to call the guy that

00:25:12

you just your body African

00:25:14

court that is fairly recent

00:25:17

from 2004 in the Arab

00:25:20

countries. We only have it,

00:25:21

tea so far. So again

00:25:23

don't know what is a

00:25:28

specific or nonspecific but what

00:25:30

is certainly something to that

00:25:33

is different from investor-state dispute

00:25:34

settlement. You said in the

00:25:36

human rights system before an

00:25:39

individual can go to any

00:25:41

of these courts. That is

00:25:43

the exhaustion of a local

00:25:45

remedies. And the rest of

00:25:48

those behind a bush or

00:25:49

studies course, we're not seen

00:25:55

as a apple that market

00:25:57

mechanism edoardo as a subsidiary

00:26:00

function or a complimentary function

00:26:03

to National court system important

00:26:07

Point National Judicial Systems and

00:26:12

National votes for the iccpr.

00:26:17

If the protocol is ratified

00:26:21

off aloka remedies and also

00:26:26

the exceptions of when the

00:26:29

exertion of local remedies applies

00:26:33

or is actually excluded has

00:26:36

very much being developed in

00:26:37

the case law of these

00:26:38

different a Judicial bodies. And

00:26:43

I think with this I

00:26:45

don't want to enter into

00:26:46

more of these details, but

00:26:48

I think that Marie sets

00:26:49

the scene for discussion today.

00:26:52

Okay? Thank you very much.

00:26:54

Thank you very much Stephanie.

00:26:57

It was remiss of me

00:26:59

to have not properly introduced

00:27:04

you I was going to

00:27:04

do that before each speaker

00:27:06

made the presentation School obese

00:27:09

after the fact in addition

00:27:11

to Stephanie being an assistant

00:27:13

professor of law at SMU

00:27:15

for the last three or

00:27:16

four years is concurrently are

00:27:19

a number of appointment being

00:27:21

a member of the economic

00:27:23

Forum on investor-state dispute settlement

00:27:25

with an straw visor to

00:27:29

the asia-pacific research and training

00:27:31

Network on foreign direct investment.

00:27:34

And for those of you

00:27:37

who don't get out much

00:27:38

that is the UN economic

00:27:39

and social commission for Asian

00:27:41

Pacific. I'm in finding she's

00:27:44

also being an associate with

00:27:45

the is DD International Institute

00:27:48

for sustainable development. She is

00:27:51

currently working on an exciting

00:27:54

paper on one of the

00:27:56

areas of specialization which are

00:27:58

sustainable development in international business

00:28:01

ethics and corporate social responsibility

00:28:03

international trade and investment application

00:28:07

International Energy transition roll and

00:28:10

European external relations blow. Thank

00:28:13

you Stephanie. I feel but

00:28:21

with that. I'd like to

00:28:23

introduce everybody to Maria Lucia.

00:28:26

She joins us going to

00:28:29

be from Bogota in Columbia.

00:28:30

She's a specialist in the

00:28:33

regulation of renewable energy and

00:28:35

Energy Efficiency. She's a senior

00:28:37

associate in strategy in the

00:28:41

arbitration and in Hello practice,

00:28:44

as I said, she's based

00:28:45

in Bogota Colombia. Unfortunately, one

00:28:47

of the few countries I

00:28:49

haven't had the pleasure of

00:28:50

being yet. She's also containing

00:28:52

Adjunct professor of international arbitration

00:28:54

procedure and an assistant professor

00:28:57

of law at University. Del

00:29:00

Rosario. She also served as

00:29:03

a coach for the Jesup

00:29:06

food court competition team welcome,

00:29:11

Maria Maria is going to

00:29:14

speak to us today about

00:29:17

the impact of human rights

00:29:20

violations on contractual rights. Thank

00:29:27

you brother name for organizing

00:29:29

is been a lot. Of

00:29:29

course. You're welcome to to

00:29:31

come to Columbia and visit.

00:29:33

It is a pleasure to

00:29:34

be here and to share

00:29:35

of course. This is faced

00:29:37

with Rob with the Stephanie

00:29:38

on withdrawals. And of course

00:29:40

with Drew, it's great to

00:29:42

see The Incredibles work that

00:29:44

you guys with your firm

00:29:46

are doing every year in

00:29:47

putting together the chapter of

00:29:49

Singapore of world arbitration update.

00:29:52

So thank you so much

00:29:53

for that. So as mentioned

00:29:55

by Raj out today, it

00:29:56

would like to focus my

00:29:57

presentation in discussing whether arbitration

00:30:01

could be suitable mechanism to

00:30:04

address business and human rights

00:30:05

related disputes and I would

00:30:08

like to fuck with these

00:30:09

presentation into perspective from the

00:30:11

perspective of investment arbitration without

00:30:14

going to substance because of

00:30:16

course the possible potential breaches

00:30:18

might be addressed by brothers

00:30:20

and by Rob and from

00:30:22

the perspective of contractile disputes.

00:30:25

So first from the perspective

00:30:27

of investment treaty arbitration, it

00:30:29

is not only known that

00:30:30

there is a tension between

00:30:32

the protection of Human Rights

00:30:34

and States obligations that work

00:30:37

for investors nowadays, the majority

00:30:41

of International Investment agreements starting

00:30:43

Force are typically a symmetrical

00:30:46

this means that what happened

00:30:48

is that investment arbitration agreements

00:30:50

imposed obligation on host the

00:30:53

states but not of the

00:30:54

country and not an Investor's

00:30:56

however in the past years

00:30:59

we we have been able

00:31:00

to do scene achieved in

00:31:03

his approach and this has

00:31:05

allowed us to see how

00:31:06

human rights issues can actually

00:31:09

play a role in investment

00:31:10

arbitration disputes. I didn't contract

00:31:12

old Pizza as I will

00:31:14

address at the end of

00:31:16

of this presentation. However, something

00:31:19

that I want to clarify

00:31:21

before getting to the discussion

00:31:23

about These mechanisms that have

00:31:27

been implemented in the past

00:31:28

years in investment treaties. I

00:31:30

would like to clarify that

00:31:32

although human rights concerns can

00:31:35

nowadays be reflected in some

00:31:37

way in investment treaty arbitration

00:31:40

through a few mechanisms such

00:31:43

classes that have been included

00:31:45

in investment treaties do not

00:31:48

give affirmative rice to individuals

00:31:50

affected by business-related human rights

00:31:52

violations rather at the end

00:31:56

what what they aim to

00:31:57

protect is the host of

00:31:59

state regulatory space in a

00:32:01

human rights Motors on 2nd.

00:32:04

The other things that I

00:32:04

would like to clarify is

00:32:06

that they do not convert

00:32:09

any direct access to remedy

00:32:11

for alleged victims of such

00:32:13

kind of violations. This is

00:32:15

why it's so important in

00:32:16

his presentation to also see

00:32:18

the perspective from contractual disputes

00:32:21

and to a food forward.

00:32:25

Examples such as the Bangladesh

00:32:27

records which might be irrelevant

00:32:29

example here to see how

00:32:31

human rights issues can actually

00:32:35

be sold in a mother

00:32:38

to arbitration. So in principle,

00:32:40

or if we would like

00:32:42

to talk about investment arbitration

00:32:44

against foreign investment a investors

00:32:47

for alleged breach of human

00:32:49

rights on their International Investment

00:32:51

agreements these my principles to

00:32:54

conditions. The first one is

00:32:56

that we need to have

00:32:58

human rights obligations on investors

00:33:01

and investment treaties and second

00:33:03

there. We need a provision

00:33:06

unconcerned by investors to International

00:33:09

patricians or such violations without

00:33:13

these two conditions these one

00:33:16

word. So this can be

00:33:18

possible, of course by the

00:33:20

development of investment treaty practiced

00:33:23

and as you know, the

00:33:24

fact that investment treaties are

00:33:26

part of public international law

00:33:27

and this includes human rights

00:33:30

obligations as has been explained

00:33:32

by the Stephanie. This has

00:33:33

led us to the recognition

00:33:35

that for investors have duties

00:33:37

in the context of boring

00:33:39

Investments. And of course. They

00:33:41

might have human rights responsibilities.

00:33:43

So thanks to be like

00:33:46

new approach. We can say

00:33:48

that currently we can identify

00:33:50

three regional or International mechanism

00:33:53

dubno days exists to promote

00:33:56

Investments using a easy approach

00:34:00

and a human rights approach.

00:34:01

So the first of these

00:34:03

approaches is those treaties that

00:34:06

reflect the need to promote

00:34:08

and protect sustainable Investments and

00:34:11

they include human rights and

00:34:13

corporate social responsibility references in

00:34:16

the Preamble and Non biting

00:34:18

obligations. However, the problem is

00:34:22

here. Of course is that

00:34:24

this is not that useful

00:34:25

as Preamble General like enforceability.

00:34:28

So Adam disease this is

00:34:32

an advance but this is

00:34:33

not like the best approach

00:34:34

that we need in order

00:34:37

to to to balance. It

00:34:39

seems them on to have

00:34:40

an arbitration as I'm making

00:34:44

me some 222 these calls

00:34:46

her to enforce human rights

00:34:48

violation example of this kind

00:34:50

of Pretties. We have big

00:34:52

happy birthday hungry bitno Sade

00:34:55

Adu Vietnam FDA. That's just

00:34:58

two of the of the

00:34:59

examples by we have several

00:35:00

and investment treaties with these

00:35:03

kind of probation seen in

00:35:04

their prayers as a mechanism.

00:35:06

I will mention those kind

00:35:09

of treaties that have pluses

00:35:11

that aim to preserve and

00:35:14

guaranteed the right to regulate

00:35:15

in this case. We have

00:35:17

the Apollonia FDA which has

00:35:20

a general exception clause in

00:35:22

article 22013 and according to

00:35:26

that flaws or States. May

00:35:29

adopt measures to protect human

00:35:31

animal or plant life or

00:35:33

health. And I have like

00:35:37

a position here and needs

00:35:39

that even if this place

00:35:41

might be clear and I

00:35:44

might be a very well

00:35:46

drafted exception Clause even in

00:35:50

those cases and even if

00:35:51

we have such a strong

00:35:53

classes as these ones these

00:35:55

clothes as my also be

00:35:56

rejected by trouble tribunals depending

00:35:59

on their interpretation. This is

00:36:01

the case of the Agora

00:36:03

versus Colombia case in which

00:36:05

although Columbia a argued that

00:36:09

they were not obliged to

00:36:13

pay compensation and they were

00:36:15

under these cloths exclude and

00:36:20

liability to play compensation at

00:36:22

the end the tribunal in

00:36:24

its interpretation of this class.

00:36:29

Put forward a different position

00:36:32

on this. So if we

00:36:34

if we are dealing with

00:36:35

this kind of interpretation of

00:36:37

the end exception Closet in

00:36:39

treaties are not that useful

00:36:41

because they are allowing State

00:36:42

just a certain measures to

00:36:44

act entertainment but without incurring

00:36:48

in international responsibility, so as

00:36:52

a third approach, we have

00:36:53

those kind of treaties with

00:36:55

Provisions that try to balance

00:36:58

write an applications for States

00:37:00

and investors and and we'd

00:37:02

be signing those kind of

00:37:04

treaties that provide a card

00:37:06

low investment treaty obligations to

00:37:08

respect human rights on investors.

00:37:11

So as an example of

00:37:12

these we have the Nigerian

00:37:14

World Cup 2016 be a

00:37:16

team. We also have they

00:37:18

dropped but not be getting

00:37:20

Desmond quote on the echo

00:37:22

was the protocol on investment

00:37:25

of the African continent of

00:37:26

free trade area, which is

00:37:28

still not Boards, but Adam

00:37:30

is an advanced that that

00:37:33

Africa is doing chores including

00:37:37

obligations on investors. So what

00:37:45

are the plans that we

00:37:46

need to fix here? Because

00:37:48

these have been like really

00:37:51

good a ways to try

00:37:53

to solve the problems and

00:37:55

of course are an advancing

00:37:57

itself, but they're not like

00:38:01

a complete solution. So what

00:38:03

we need to fix here

00:38:05

is first we need of

00:38:07

course to include allegations on

00:38:09

investors and investment treaties, but

00:38:11

that's not enough and this

00:38:13

is something that I think

00:38:14

that Brock will address later

00:38:16

in his presentation about the

00:38:17

other problem. It's a jurisdictional

00:38:19

problem because investment treaties are

00:38:23

negotiated are not answering to

00:38:27

buy States another investor. So

00:38:29

of course only missed their

00:38:31

treaties my my luck concerned

00:38:34

by investors to be bound

00:38:35

to this kind of obligation

00:38:37

to respect minimum International standards.

00:38:40

So what we propose and

00:38:42

what we have been actually

00:38:44

discussing from from my working

00:38:46

strategy with different stakeholders is

00:38:49

a particular 3D architecture that

00:38:53

incorporates treaty obligations boredom Busters,

00:38:56

but not only Treaty obligations

00:39:00

for investors but also a

00:39:03

possibility to include an Annex

00:39:05

in which the investor has

00:39:06

confirmed its consent to be

00:39:08

bound by obligations regarding human

00:39:10

rights. This is what I

00:39:12

have a spectrum Batman arbitration.

00:39:15

And now moving to the

00:39:16

contractual disputes. The first thing

00:39:19

that I would like to

00:39:20

measure needs, of course. The

00:39:22

jurisdiction in contractual disputes Sun

00:39:24

Ultra Moon trade disputes comes,

00:39:27

of course from a compromise

00:39:29

Zurich to us an example

00:39:31

of this and and how

00:39:33

to deal human rights or

00:39:35

how to use arbitration to

00:39:37

to solve human rights issues

00:39:40

is the mechanism has been

00:39:42

established in the Bible that

00:39:44

records. So the Bangladesh Accords

00:39:46

is a legal binding agreement

00:39:49

that was signed between Garmin

00:39:52

Brands. I I believe that

00:39:56

it was approximately to 200

00:39:59

the government bonds on trade

00:40:00

unions on the objective of

00:40:02

this agreement was to ensure

00:40:03

worker health and safety in

00:40:06

Bangladesh text you and garment

00:40:08

industry. This is a by

00:40:11

itself icing the groundbreaking because

00:40:15

of the end what we

00:40:17

achieve with this Bangladesh records

00:40:19

is that labor unions agreed

00:40:22

to arbitrate disputes and agree

00:40:24

to arbitrate disputes that are

00:40:26

related to Human Rights. So

00:40:29

they agree that arbitration could

00:40:31

be actually a mechanism to

00:40:33

enforce business and human rights

00:40:35

disputes. What happened in 2016,

00:40:39

is that the labor unions

00:40:42

that were part of disagreement

00:40:43

brought to claims against to

00:40:46

fashion brands, we wouldn't know

00:40:48

which for a special Browns

00:40:49

because this this is confidential

00:40:50

and they broke to arbitration

00:40:53

clean before the PCA. A

00:40:57

DMV the ended up settling

00:40:59
the dispute that the resolution

00:41:03
was not on the merits

00:41:04
but they have been here

00:41:07
is that the tribunal decides

00:41:10
that it had jurisdiction to

00:41:12
resolve this kind of disputes.

00:41:13
Of course, there is still

00:41:15
a lot to to learn

00:41:16
from these because we were

00:41:18
not able to see a

00:41:19
resolution on some discussion on

00:41:21
the merits which which is

00:41:23
also key here to see

00:41:24

how I drive, you know

00:41:26

my deal with this kind

00:41:27

of issues or none on

00:41:29

the merits bad, but I

00:41:31

think that this is a

00:41:32

very good example on how

00:41:34

I retrieve Shane can you

00:41:36

use can be used to

00:41:37

to resolve this this kind

00:41:39

of disputes? I would like

00:41:41

to finalize these these bad.

00:41:44

a measuring. The case of

00:41:48

the blonde girl Bangladesh records

00:41:50

of course was super specific

00:41:52
and also it was a

00:41:55
successful because of the pressure

00:41:58
that the industry had back

00:42:01
then in Bangladesh. This is

00:42:03
not the case of every

00:42:05
industry in the world. So

00:42:07
we might want to think

00:42:08
or ask ourselves whether the

00:42:10
most of the Bangladesh records

00:42:12
can actually be replicated in

00:42:15
other Industries, but this is

00:42:18
something that we we might

00:42:20
discuss later in the store.

00:42:24

Thank you very much. I

00:42:28

do not like to introduce

00:42:30

you to order easy council

00:42:33

with a Chance in Perth.

00:42:34

He specializes in international commercial

00:42:37

arbitration investor-state dispute settlement in

00:42:40

public international law is practiced

00:42:43

covers Europe Asia Africa and

00:42:47

North America in addition to

00:42:50

energy mining infrastructure and telecoms.

00:42:53

He has a specific focus

00:42:56

on Space Esports and cannabis.

00:43:01

Put up has acted under

00:43:03

most major arbitration rules in

00:43:06

various capacities. And he also

00:43:08

has experience with WTO dispute

00:43:10

and enforcement of the wards

00:43:13

against Southern States. He will

00:43:18

speak to us today about

00:43:20

investment treaty obligation and the

00:43:23

interface in potential conflict with

00:43:28

international human rights that the

00:43:37

outer space Kennedy Center East

00:43:40

Portland rooster way to make

00:43:41

you believe that I'm respectable

00:43:43

guy when in fact what

00:43:44

I do a lot is

00:43:45

energy and Mining so it's

00:43:47

very sad thing for today's

00:43:49

discussion site was just a

00:43:50

very attentive and making you

00:43:52

saying that you're actually talking

00:43:53

to someone that you can

00:43:55

you no respect and listen

00:43:56

to peacefully I'm looking forward

00:43:59

to The opportunity to discuss

00:44:02

with Michael Connelly is because

00:44:03

I've listened attentively to what

00:44:06

they have to say. It's

00:44:07

extremely interesting and I believe

00:44:09

that the idea of building

00:44:11

into treaties some causes really

00:44:13

Target human rights is a

00:44:15

very interesting one in and

00:44:17

making investor carry the weight

00:44:19

of obligations when they spend

00:44:21

30 so very interesting idea

00:44:23

until I look forward to

00:44:25

discussing it in Altoona later.

00:44:27

I appreciate you running a

00:44:29

little bit behind time. So

00:44:31

I do not propose to

00:44:32

read your list of various

00:44:35

violations because believe you me

00:44:37

when I say violation of

00:44:40

Human Rights take many shapes

00:44:41

colors in swarms in his

00:44:43

ass and treaty disputes. They

00:44:45

happen in dire circumstances in

00:44:47

respect of virus active for

00:44:49

the parties themselves their weaknesses

00:44:51

exit right to try sometimes

00:44:53

even the arbitrator's but but

00:44:56

what I propose to do

00:44:58

now really is to give

00:45:00

you a sense. From where

00:45:02

the human rights violations can

00:45:05

call in any respect of

00:45:08

whom in what circumstances broadly

00:45:10

so interesting Lee we're talking

00:45:13

about three keys right in

00:45:14

as read write stand at

00:45:15

the very beginning, you know

00:45:17

investment treaties that part of

00:45:19

the deep public international law

00:45:20

sanity just like human rights

00:45:22

one would possibly believe that

00:45:24

somehow they're cousins and their

00:45:26

things to say to each

00:45:27

other this certainly do but

00:45:29

the reality is investment treaty

00:45:32

arbitration is pretty much a

00:45:34

self-contained a domain really and

00:45:38

is there is one thing

00:45:39

already I can say is

00:45:40

that no matter the time

00:45:41

of human rights violation were

00:45:42

talking about traditionally. There is

00:45:45

a reluctance on the part

00:45:46

of arbitrators in Investments arbitrations

00:45:50

to nexgen rosendin refactoring the

00:45:55

Human Rights Commission and into

00:45:57

be perfectly clear this Cuts

00:45:58

both ways. It is not

00:46:00

worth all this. There's two

00:46:01

exams investors from human rights

00:46:03

violations. It's also simply a

00:46:07

way to make sure that

00:46:09

address the same states are

00:46:11

not embroiled in boiled. Sorry

00:46:13

in human rights disputes under

00:46:15

the veil of an investment

00:46:17

treaty disputes. So that the

00:46:19

first the first consideration really

00:46:21

is yes in International Investment

00:46:24

law and human rights law

00:46:25

or cousins are part of

00:46:26

the public international law family,

00:46:28

but this world somehow interconnected

00:46:31

with each other that much

00:46:32

at least again arbitrators or

00:46:34

not that Keen on on

00:46:36

mixing them up in their

00:46:37

districts does the very first

00:46:40

element the second element is

00:46:41

and I think it's an

00:46:42

important consideration. Investment treaties as

00:46:47

the name suggests dog year

00:46:48

to word Investments Del gear

00:46:50

to wear the business activities

00:46:53

first and foremost, right? They'll

00:46:55

get to work economic relations

00:46:56

in Sutton e. Human rights

00:46:59

covering the property elements of

00:47:01

a Venus flytrap ins, but

00:47:03

then again, this is not

00:47:04

the main focus of investment

00:47:06

treaties at least on the

00:47:07

surface. Why do I say

00:47:10

on the surface? Because what

00:47:12

is extremely interesting is that

00:47:14

when you read investment treaties

00:47:16

you often come across as

00:47:18

you know, the same Clauses

00:47:19

you've got guarantees expropriated against

00:47:21

expropriations. You've got a guarantees

00:47:25

of fair and Equitable treatment,

00:47:27

you could guarantees a free

00:47:29

Roberta Giffin of friends. You

00:47:31

got guarantees against discrimination and

00:47:34

just by seeing discrimination fair

00:47:36

treatment already. These are not

00:47:38

sure Notions that are not

00:47:39

entirely foreign to the world

00:47:41

of Human Rights or interests

00:47:43

in Glee. So as I

00:47:46

said, these are two separate

00:47:47

worlds, but not so much

00:47:48

because when you look at

00:47:49

the contents of investment treaties,

00:47:51

you can see some commonalities

00:47:53

with fundamental human rights as

00:47:55

I have already said when

00:47:57

we consider the notion of

00:47:58

an expropriation, we're talking about

00:48:00

the deprivation of a private

00:48:03

individual or private company's assets

00:48:07

property. There is a fundamental

00:48:09

right to enjoy being on

00:48:11

your ship in property, right

00:48:13

interesting Lee. However, when you

00:48:15

are dealing with appropriation claims

00:48:17

in investment with your betray

00:48:18

friends that you can write

00:48:20

aspect of you know, private

00:48:22

property doesn't arise so much

00:48:23

and there is a focus

00:48:24

really on how its preparation

00:48:28

is defined in the Attic

00:48:29

about investment treaty and more

00:48:30

broadly under international law with

00:48:33

without three references to Human

00:48:35

Rights. Okay. So if we're

00:48:38

taking first the investor as

00:48:41

the object of potential human

00:48:44

By your license right as

00:48:46

the target of potential human

00:48:47

right violation by August 8th.

00:48:49

I guess one of them

00:48:50

that is never a friend

00:48:51

that way though. He's a

00:48:53

expropriation really because the state

00:48:56

is unlawfully taking away private

00:48:59

property of an individual beat

00:49:01

a foreign citizen right where

00:49:05

the core of human rights

00:49:07

violation. I suppose can really

00:49:09

be observed. He's under the

00:49:11

big umbrella of fair and

00:49:13

Equitable treatment, as you know,

00:49:15

any investment treaties most of

00:49:17

them. I daresay contain some

00:49:20

form of big a front

00:49:21

of a fair and Equitable

00:49:23

treatment of foreign investors, and

00:49:26

I just did the Beauty

00:49:27

and the nightmare behind the

00:49:29

f e t standard is

00:49:32

that it is not so

00:49:35

well-defined an indoor mini creatures

00:49:38

that can hide behind the

00:49:40

notion act in classification. Parts

00:49:44

of the state that don't

00:49:46

know just a matter of

00:49:47

treating an investment properly. It

00:49:50

goes way beyond that it

00:49:51

goes about providing some security

00:49:54

some safety to the investors

00:49:56

into their Investments not committing

00:49:59

denial of Justice or 14

00:50:02

due process. So all of

00:50:03

those Notions are also contained

00:50:06

in the ACT standard and

00:50:08

certainly the right to a

00:50:09

fair trial the right to

00:50:11

due process is is an

00:50:12

ocean fun Demento to Human

00:50:14

Rights a lot of investment

00:50:17

arbitration revolve around the breach

00:50:19

of any possible treatment through

00:50:22

the violation of due process

00:50:23

through a denial of justice

00:50:26

and in some cases even

00:50:28

through the violations of real

00:50:31

personal rights of Freedom something

00:50:35

that is very common. Unfortunately

00:50:38

in investment arbitrations all allegations

00:50:41

of denial. Due process are

00:50:45

in denial of justice, but

00:50:46

not just in civil proceedings

00:50:48

of proceedings concerning the investment

00:50:51

of the foreign investor, but

00:50:54

they also concerned the treatment

00:50:56

of the people running the

00:50:58

investment of being the target

00:51:00

of a criminal investigation to

00:51:03

Target of criminal proceedings open

00:51:05

in the wake of those

00:51:06

investors making a claim against

00:51:08

the state, right? So if

00:51:10

we're looking at potential human

00:51:12

rights violations committed against investors,

00:51:15

denial of Justice through a

00:51:18

nice appropriation of judicial proceedings

00:51:21

in the whole state by

00:51:22

the whole state is certainly

00:51:24

one of them write quite

00:51:27

a bit about violations of

00:51:30

human rights of investors, but

00:51:32

one should not think that

00:51:33

investors themselves potentially cannot be

00:51:37

accused of committing criminal rights

00:51:38

violation in here than the

00:51:41

object of the human rights

00:51:43

violations. Investor it is the

00:51:45

state. The question is what

00:51:49

do we mean released by

00:51:50

the state? Do we just

00:51:51

mean the organs of the

00:51:52

state government doing mean yet

00:51:54

in Croatian wolf in time

00:51:56

when state alleges that investors

00:51:59

have committed violations of human

00:52:02

rights. They don't really talk

00:52:03

so much about the investors

00:52:05

violating the human rights of

00:52:06

the status of the government.

00:52:08

That's more violation of the

00:52:10

human rights of its people

00:52:11

right? And that is where

00:52:14

do I get the mining

00:52:15

and an element of it

00:52:18

comes into the discussion because

00:52:20

in my experience certainly in

00:52:23

Nice France revolves a lot

00:52:24

around mining disputes frankly the

00:52:28

claims that you often hear

00:52:30

the counterclaims or the difference

00:52:32

is right by States against

00:52:34

investors in relation to human

00:52:37

rights violations. A lot of

00:52:39

the time they have to

00:52:40

do with the protection of

00:52:41

human health and the production

00:52:43

The environment what is interesting

00:52:46

when you raise the notion

00:52:48

of environment and human health

00:52:50

is that I think it

00:52:53

is arguable that their inclusion

00:52:55

in human rights has been

00:52:58

growing overtime. Right and the

00:53:01

notion that an investor would

00:53:03

violate regulations pertaining to the

00:53:05

environment or with conduct it

00:53:07

say for instance Mania operations

00:53:10

in the weather address to

00:53:11

Humana health friend as a

00:53:14

human rights violation. It is

00:53:16

rather a relatively New Concept

00:53:18

in the distance between a

00:53:20

patrician traditionally, what would be

00:53:24

alleged is that the investor

00:53:26

has violated domestic regulations pertaining

00:53:28

to the environment and that

00:53:30

would be raised as a

00:53:31

defense to invalidate the validity

00:53:34

of the investment for instance.

00:53:36

But what is interesting now,

00:53:38

is that more and more

00:53:39

you see governments defending themselves

00:53:40

investment treaty arbitration say no.

00:53:43

That the investor has violated

00:53:45

Domestic Relations, but that the

00:53:47

investor has violated human rights

00:53:50

of the local Depot near

00:53:52

the mining sites for instance.

00:53:53

Right? So the way you

00:53:56

could say that state Elevate

00:53:58

the rights of their own

00:53:59

people into the sphere of

00:54:01
the dispute now whether it

00:54:03
is a restaurant to do

00:54:04
this again, I think I'll

00:54:06
be traitors based on what

00:54:07
you know from provisional decisions

00:54:09
are quite hostile to entertain

00:54:10
those claims, but they are

00:54:12
your case is definitely what

00:54:14
this mean the consideration of

00:54:16
the behavior of the investor

00:54:18
in respect of Princeton station

00:54:21
to have access to clean

00:54:22
water the right of the

00:54:24

local populations to have access

00:54:26

to a penal enlargement. And

00:54:27

certainly there is a trend

00:54:29

in the is D&S community

00:54:32

of factoring in much more

00:54:35

than before the protection of

00:54:38

the environment and the right

00:54:39

to human Nails, right? This

00:54:41

is why to tie back

00:54:42

to what Maria Lucia? Earlier,

00:54:44

you seemed more and more

00:54:46

and sweeties Express carve out

00:54:48

in references to language would

00:54:51

only find before in WTO

00:54:53

agreements in relation to the

00:54:54

protection of Human Rights and

00:54:57

the environment and finally the

00:55:00

last month. I would like

00:55:01

to touch your pain before

00:55:02

passing the back tone to

00:55:03

to Rob and who is

00:55:05

going to provide more details

00:55:06

as to differences between human

00:55:08

rights violation in respect of

00:55:09

investors as opposed to States

00:55:11

and vice versa is the

00:55:13

notion. We should not forget

00:55:15
that the arbitral proceedings themselves

00:55:19
potentially can be the theater

00:55:21
of human rights violations because

00:55:23
again going back to the

00:55:25
notion of right to due

00:55:27
process right to a fair

00:55:28
trial right to Simply dressed

00:55:31
is there have been president

00:55:33
of cases where they have

00:55:35
been allegations of human rights

00:55:37
violations not by the state

00:55:39
that by Dingus for Good

00:55:40
by the arbitrator's themselves in

00:55:42

the where they have connecting

00:55:43

person. Right to the last

00:55:45

angle from which you can

00:55:47

observe potential human rights violation

00:55:49

investment treaty cases is by

00:55:51

looking at the conduct of

00:55:53

the person is themselves and

00:55:54

as to whether those proceedings

00:55:57

have been conducted in the

00:55:58

fair and even mother, this

00:56:00

is not just a theoretical

00:56:02

question, but again given the

00:56:06

safe yes, or no criticism

00:56:09

of investment arbitration as a

00:56:12

system and whether it's truly

00:56:14

impartial whether it is a

00:56:16

year to work for the

00:56:18

king investors who do the

00:56:19

country I eat. He's partial

00:56:21

to States more and more

00:56:23

questions of whether arbitration as

00:56:26

a system to shopping list,

00:56:27

and he's cute really is

00:56:29

fair and to the core

00:56:30

whether it's respect the rights

00:56:33

to a fair trial into

00:56:34

an impartial adjudicator. So thank

00:56:37

you. I think that's enough

00:56:38

for now in terms of

00:56:39

over during the questions. Thanks.

00:56:45

Thank you, Google. You're a

00:56:49

host of questions for you.

00:56:52

But I'll I'll bite my

00:56:53

tongue till we left Mr.

00:56:56

Houston. Go Robert Houston is

00:56:59

an associate working in the

00:57:01

international arbitration team of kennel

00:57:03

Gates. He focuses almost exclusively

00:57:07

on invests in public in

00:57:10

special romantis. He has experience

00:57:14
conducting operations under i t

00:57:17
c h c s e

00:57:18
c s i c a

00:57:20
l a r a speedy

00:57:23
pro bono coordinators for the

00:57:25
sink and the leader in

00:57:27
the anti-human trafficking initiative in

00:57:30
which he has coordinated the

00:57:32
number of money on a

00:57:34
project involving 30-40 sometimes upwards

00:57:39
of fifty different countries in

00:57:41
the World Cup. He's a

00:57:44
monster organization. That's why I

00:57:46

will say prior to joining

00:57:47

the firm and this is

00:57:49

certainly more interesting than what

00:57:50

he does today represent in

00:57:53

the US and Singapore through

00:57:54

the development of a scholarship

00:57:55

related to the use of

00:57:57

international arbitration process to resolve

00:57:59

disputes and even more importantly

00:58:01

than that he served as

00:58:05

a captain in the 171st

00:58:07

infantry battalion of the Maryland

00:58:09

Army National Guard and and

00:58:11

the US Army's meritorious service

00:58:13

medal for his work at

00:58:15

the Us McAllen communication box

00:58:17

the deployment in Egyptian by

00:58:19

night with the most net

00:58:20

force and observers peacekeeping Mission

00:58:23

between 2011 and 2020. Play

00:58:31

everyone could see my slides

00:58:32

here. We're going to have

00:58:33

to shift gears a little

00:58:34

bit and not look at

00:58:35

substantive law as much as

00:58:37

we have been so far

00:58:38

as interesting as that is

00:58:39

and talk about something different.

00:58:40

Mostly the development of other

00:58:43

legal strategies how to approach

00:58:45

matters that involve human rights

00:58:46

in the international context. I'm

00:58:51

talking to her about holistic

00:58:53

loitering ballistic learning in international

00:58:55

disputes will begin with talking

00:58:57

about what is this thing

00:58:58

holistic loitering and then over

00:59:00

to what does it mean

00:59:00

in the international context? Then

00:59:02

we'll move on to talk

00:59:03

just a little bit about

00:59:04

what Rodger discussed in the

00:59:05

beginning about Regina traction. And

00:59:08

finally, we'll talk about how

00:59:10

it looks in practice a

00:59:11

little bit. Cooper's Hawk what

00:59:13

is ballistic boring? According to

00:59:16

traditional standards of Public Defense.

00:59:18

I did a good job

00:59:18

Indeed Lisa receive the high-quality

00:59:21

legal defense in a criminal

00:59:22

case. I raised all the

00:59:24

appropriate challenges to the police

00:59:25

Honda challenge the prosecution to

00:59:27

prove its case Beyond A

00:59:29

Reasonable Doubt and litigated her

00:59:31

case effectively zealously and without

00:59:33

compromised. I appealed her case

00:59:35

and eventually won her Freedom.

00:59:37

So why does Lisa still

00:59:39

want me almost two decades

00:59:40

later? Because while I address

00:59:44

the needs of her criminal

00:59:44

case effectively, I did nothing

00:59:47

to change her life to

00:59:48

address. In other words for

00:59:49

human needs those need left

00:59:52

on a dress would eventually

00:59:53

drive her back into the

00:59:54

criminal justice system and into

00:59:56

that same prison cell from

00:59:57

which he narrowly escaped the

00:59:59

first time looking back at

01:00:00

least I needed was an

01:00:01

advocate who could look Beyond

01:00:03

her criminal case to her

01:00:04

drug addiction to her homelessness

01:00:06

into our psychological needs which

01:00:08

stem from years of trauma

01:00:09

and abuse Lisa needed an

01:00:10

advocate who regarded her as

01:00:12

a whole client rather than

01:00:14

as a case. So this

01:00:16

came from an article written

01:00:17

by Robin Steinberg how holistic

01:00:20

representation makes for good policy

01:00:22

better lawyers and more satisfied

01:00:23

clients there in the New

01:00:24

York University review of Law

01:00:26

and social change. Robin had

01:00:30

spent twenty years and more

01:00:32

it with the Bronx Defenders

01:00:34

a nonprofit that effectively represents

01:00:35

folks who are living over

01:00:36
in the Bronx in context

01:00:38
just like what she just

01:00:39
arrived and it's interesting. If

01:00:41
you look at the article

01:00:41
that you see a a

01:00:43
dichotomy that she resents two

01:00:44
different views two different kinds

01:00:47
of approaches. The lawyer in

01:00:48
one is what she puts

01:00:49
forward and is arguing for

01:00:51
effectively full list exploring and

01:00:53
the other one is more

01:00:54
what we will be used

01:00:55
to only think of a

01:00:56
lawyer sent in traditional ordering.

01:00:59
Traditional ordering from the article.

01:01:01
It's characterized as follows its

01:01:02
challenges police conduct were talking.

01:01:04
Of course you about the

01:01:05
criminal context with caught talking

01:01:07
about Public Defense. It challenges

01:01:09
prosecution to prove the case

01:01:11
Beyond a reasonable doubt it

01:01:13
litigate zealously effectively uncompromisingly. That's

01:01:17
what we think of when

01:01:18
we think of traditional lawyer

01:01:19

a client in that particular

01:01:21

context clearing on the other

01:01:23

side is a little differently

01:01:26

not just of course, obviously

01:01:29

that the aspects of traditional

01:01:31

ordering or included there as

01:01:32

well representation in court is

01:01:34

the same thing but still

01:01:35

yet holistic loitering in the

01:01:38

style that Robin is before

01:01:39

words includes also a consideration

01:01:41

of Social Services Health treatments,

01:01:43

maybe counseling maybe employment counseling

01:01:46

the things that are behind

01:01:46
the issues that have driven

01:01:48
clients to be where they

01:01:50
are in that context. Also,

01:01:52
it's it's characterized by collaborative

01:01:54
long-term intensive and maybe most

01:01:57
importantly compassionate lawyer. The difference

01:02:03
is mine set a person's

01:02:04
way of thinking and their

01:02:05
opinions is one definition changing

01:02:08
a person's way of thinking

01:02:09
and their opinion when a

01:02:10
person is a lawyer has

01:02:11
it a test has had

01:02:13
a great deal to do

01:02:14
with the results in the

01:02:15
case and the way that

01:02:16
the client feels the way

01:02:17
the client is engaged within

01:02:19
the process. Compassion strong feeling

01:02:23
of sympathy for four people

01:02:24
or animals were suffering in

01:02:26
a desire to help them

01:02:27
and it's a funny thing

01:02:28
right that we are here

01:02:29
talking about international law were

01:02:31
talking about public international law

01:02:33

talking about the macro issues

01:02:35

right now and yet where

01:02:38

is compassion do we have

01:02:39

a discussion about compassion? Where

01:02:42

does it fit the idea

01:02:44

of holistic loitering in international

01:02:46

practice? Let's have a look

01:02:50

at that. What would it

01:02:50

look like if we were

01:02:51

to talk about traditional lawyer

01:02:52

in the current context what

01:02:54

we're thinking of international disputes

01:02:56

were talking about International commercial

01:02:57

arbitration investor-state arbitration and maybe

01:03:00
some of the public international

01:03:00
law dispute that we see

01:03:02
out there we might think

01:03:03
of it is a competitive

01:03:05
practice. You may have a

01:03:06
number of firms that want

01:03:07
to get the particular client

01:03:09
in the door. A lot

01:03:10
of times it has to

01:03:11
do with numbers doesn't it

01:03:12
announced in dispute Law Firm

01:03:14
ranking number of cases are

01:03:16
hearings number of arbitrator appointments.

01:03:19

These are the sorts of

01:03:20

things that many folks will

01:03:21

look you to say my

01:03:22

firm not that far. There's

01:03:24

a race to arbitration a

01:03:26

lot of times. Why is

01:03:27

that probably has something to

01:03:29

do with maximizing billable hours

01:03:30

lot of times. We may

01:03:31

think of traditional loitering in

01:03:33

the investor-state dispute in the

01:03:34

in the international disputes world

01:03:36

as effectively preparing for the

01:03:39

arbitration rather than for example,

01:03:41

trying to find a workable

01:03:42

solution if it's possible before

01:03:44

the arbitration to reduce costs

01:03:46

with particular plant. In the

01:03:49

end. It's about quantity over

01:03:50

quality in a lot of

01:03:51

ways. What would holistic Lori

01:03:53

ring look like not in

01:03:55

the Public Defense contest or

01:03:57

the public defender of international

01:04:01

disputes. Well for one thing

01:04:03

it would be client-focused. That's

01:04:04

for sure. It would start

01:04:05

with a client's needs and

01:04:06

concerns. It would involve a

01:04:08

great deal of counseling and

01:04:10

advice before a tribunal it

01:04:14

might involve some practicality still

01:04:15

yet. Just like the public

01:04:17

defender's encounter with the issues

01:04:18

for funding third-party funding may

01:04:21

be necessary for a particular

01:04:22

client may be an individual

01:04:23

may be an entity that

01:04:25

needs the funding to move

01:04:26

forward. Sometimes we work for

01:04:28

least of all countries money

01:04:30

and funding can be an

01:04:32

issue. It's do collaborative. It's

01:04:35

still long-term still intensive and

01:04:38

ultimately and importantly it's about

01:04:40

quality over quantity. Another way

01:04:43

to look at it is

01:04:44

the old dichotomy about lobbying

01:04:46

both the business and a

01:04:47

collar with a lot of

01:04:49

time to spend more time.

01:04:50

Maybe talk to me about

01:04:51

the business part about going

01:04:52

to do about the calling.

01:04:54

Traditional lawyer. You might think

01:04:56

about law as a business

01:04:58

be more of a traditional

01:04:59

idea in-laws are falling be

01:05:01

more in line with the

01:05:02

listing for you. Again, it's

01:05:04

a change of mindset. Let

01:05:08

me go over and talk

01:05:09

about Regina interaction. This once

01:05:11

again is the idea that

01:05:12

there are different style in

01:05:14

public international law that we

01:05:17

see some developments in international

01:05:20

human rights law and national

01:05:22

Odyssey. We can say different

01:05:27

things about the same legal

01:05:29

issues. How does holistically really

01:05:32

look at that International in

01:05:33

an international context it focuses

01:05:35

on the whole client? Free

01:05:37

requires insight into the underlying

01:05:39

needs of the client not

01:05:40

just a limited scope of

01:05:41

Engagement. Its compassion for human

01:05:43

needs still yet and especially

01:05:45

here where were talking about

01:05:46

human rights related cases. It

01:05:48

requires a perspective to span.

01:05:50

The public-private is that divided

01:05:51

especially what's implicit inherent within

01:05:54

investor-state dispute settlement? Some potentially

01:05:58

relevant considerations from the private

01:05:59

sector standpoint, you might think

01:06:01

of jurisdiction might think for

01:06:02

example that the government will

01:06:04

listen to you. If you

01:06:05

don't have some proceeding that

01:06:06

allows for jurisdiction like him,

01:06:08

but you might think about

01:06:10

publicity reputation you might certainly

01:06:12

think about commercial relationships in

01:06:14

the event that there's a

01:06:15

long-term commercial dispute. That's Arisen

01:06:17

access to foreign market share

01:06:19

over politics and cost with

01:06:21

all of these things could

01:06:22

be driving concerns for the

01:06:24

private sector that are outside

01:06:25

the immediate legal discussion the

01:06:28

immediately preceding you might think

01:06:32

about this again publicity reputation

01:06:35

diplomatic relations inbound foreign investment

01:06:38

and domestic politics including especially

01:06:41
for governments. A lot of

01:06:43
times not being the one

01:06:44
holding the bag if they

01:06:45
were settlements be made you

01:06:46
may not want to be

01:06:47
the one challenge with some

01:06:48
potential corruption in the event

01:06:50
that the next regime to

01:06:52
take over the country has

01:06:53
is not happy with the

01:06:54
settlement that was made before

01:06:55
an investor ultimately. She's also

01:06:57
concerned. One example that I

01:07:04

would forward is the work

01:07:05

that we've done recently for

01:07:06

the governor of The Gambia

01:07:08

in 2021. We developed a

01:07:10

model for The Gambia or

01:07:12

a bilateral investment treaty the

01:07:13

sustainable investment facilitation of cooperation

01:07:16

agreement Pacifica. It's an Innovative

01:07:18

model B. It was still

01:07:19

receive cabinet approval just this

01:07:21

year very excited that document

01:07:23

is finally going to become

01:07:24

public very soon. It's driven

01:07:27

by client concerns much more

01:07:28

in a holistic way than

01:07:29

in a traditional loitering way.

01:07:31

We look at good governance.

01:07:33

The client was concerned obviously

01:07:35

about human rights about Environmental

01:07:36

Protection. And also of course

01:07:38

about him down in Destiny

01:07:39

doesn't motion. It's about more

01:07:42

equal sharing of risks and

01:07:43

benefits and reducing the receipt

01:07:45

power and balances in his

01:07:46

DS that we first talked

01:07:47

about I buy others here

01:07:49

today and finally some of

01:07:51

the Innovative features that we

01:07:52

include many of these for

01:07:54

the first time in three

01:07:55

factors that all investor declaration

01:07:57

of compliance with the UN

01:07:58

guiding principles and inadmissibility of

01:08:01

claims against the state if

01:08:02

that declaration turns out to

01:08:04

be false. And coming back

01:08:06

to Maria that she has

01:08:07

Point that's generally speaking. There's

01:08:09

no right of action or

01:08:11

individuals in the investor-state context

01:08:12

weather is Under The Cisco.

01:08:14

There are third party claims

01:08:15

available on the basis of

01:08:17

internationally recognized human rights violations

01:08:20

for individuals to bring up

01:08:21

against the investor in the

01:08:22

investor has to agree to

01:08:23

that when entering into investor-state

01:08:25

dispute settlement much as the

01:08:27

model that has been discussed

01:08:28

on the extra. conversations based

01:08:32

on that human rights record

01:08:33

or the the investor as

01:08:35

well and finally jurisdiction over

01:08:37

both human rights and environmental

01:08:38

issues are included specifically by

01:08:41

agreement with the investor before

01:08:44

they ever enter into investor-state

01:08:46

dispute settlement if they're going

01:08:47

to answer all they must

01:08:48

have this is a new

01:08:50

conception of how we might

01:08:52

use trees to bring together.

01:08:53

Just as would also said

01:08:55

you need to bring together

01:08:56

human rights in an end

01:08:58

environmental considerations also and where

01:09:01

they belong together where they

01:09:02

are related issues to spend

01:09:04

the public-private device. You have

01:09:05

to address them together. It's

01:09:07

just that most investment treaties

01:09:09

are not interested in doing

01:09:11

that the bilateral investment treaty

01:09:17

other International Investment agreement and

01:09:19

they're saying where do you

01:09:20

see this language many of

01:09:21

those treaties were written a

01:09:22

long time ago the issues

01:09:24

that were seems that they

01:09:24

are very different people have

01:09:26

called for a re-examination of

01:09:29

the system because they see

01:09:30

that there's a crisis of

01:09:31

legitimacy. That's that's that's what's

01:09:33

been called. A lot of

01:09:36

it has to do with

01:09:37

these very respected climate change

01:09:39

and with respect to the

01:09:40

exactly what she was speaking

01:09:43

about earlier today the fragmentation

01:09:44

of a public international law.

01:09:45

We were talking about some

01:09:47

new developments for Norms in

01:09:49

the environment. Some that have

01:09:50

been around for longer over

01:09:52

the investment loss. I only

01:09:53

bring them together. That's what

01:09:55

we did is brought a

01:09:56

holistic Lori mindset. And that's

01:09:57

what we would recommend books

01:09:58

to do. These are largely

01:10:05

but not only is the

01:10:06

work that we've done in

01:10:07

developing legal strategies advising clients.

01:10:11

And once again, not offer

01:10:13

dispute involves International humanitarian law

01:10:15

human rights claims. I'm in

01:10:17

Africa and middle east Europe

01:10:18

investment law commercial arbitration sovereign

01:10:21

immunity availability of mass killings

01:10:23

in Universal jurisdiction, all of

01:10:25

these ideas that can be

01:10:26

Silo in public international law

01:10:28

or in private international law

01:10:30

and bringing them together in

01:10:31

a particular matter is important.

01:10:34

You have to recognize that

01:10:36

there's an interplay between the

01:10:37

public and private. You have

01:10:38

to recognize the role of

01:10:39

roisin Attraction public international law

01:10:41

and you have to recognize

01:10:42

their needs to be a

01:10:43

strategic analysis and balancing a

01:10:45

cost-benefit analysis of coordinated courses

01:10:48

of action that may come

01:10:49

together to provide a particular

01:10:51

client, whether that's a government

01:10:52

or whether that's an investor

01:10:54

or someone outside of the

01:10:56

investor-state dispute settlement system with

01:10:59

a remedy. It's always unique

01:11:03

to each client and needs

01:11:04

the circumstances their particular client

01:11:06

has and you can't come

01:11:07

in with any preconceived notions

01:11:09

the way you can come

01:11:11

in with each time. Is

01:11:12

that mindset French national Holistic,

01:11:14

Gloria. Thank you very much.

01:11:19

I just had to post

01:11:21

it to what he said

01:11:22

we found that this holistic

01:11:25

broader strategic approach with Loring.

01:11:29

If I was born in

01:11:30

Grady autoglitz SE because we

01:11:32

were in counting a number

01:11:33

of cases where we face

01:11:35

brick wall in terms of

01:11:38

the north being an obvious

01:11:39

cause of action as I

01:11:40

mentioned before there is no

01:11:41

treaty between the country. It

01:11:44

would be contracted to be

01:11:45

terminated for whatever reason you

01:11:48

couldn't push your contract with

01:11:50

payment. So we was supposed

01:11:51

to stop thinking what else

01:11:53

can can be done other

01:11:55

than to do what always

01:11:57

had pulled this kind before

01:11:58

sorry. We can't help you,

01:12:00

and that's what we said

01:12:02

will become that cannot be

01:12:03

the case is unfair we

01:12:05

have to be able to

01:12:06

do something and I'll give

01:12:07

you nothing cuz I'm poor

01:12:08

so interesting when used as

01:12:14

a tool to for a

01:12:16

nation that has Damaged as

01:12:19

a result of the foreign

01:12:21

aggression by another country was

01:12:26

meant to do yet you

01:12:27

find that for a private

01:12:29

entity or even Steve has

01:12:31

suffered a loss and damage

01:12:34

as a result of unlawful

01:12:38

entry action by another country

01:12:41

the auctions and remedies for

01:12:47

compensation are very difficult to

01:12:50

pursue. We're doing one at

01:12:52

the moment where we put

01:12:55

the actions of climb could

01:12:56

take into three buckets one

01:12:58

is actions. You can take

01:12:59

yourself for example, possibly pursuing

01:13:03

litigation before the court for

01:13:06

the aggressive country unlikely to

01:13:08

succeed but theoretically possible maybe

01:13:10

pursuing a claim but bearing

01:13:13

in mind what I said

01:13:14

that that's not the purpose

01:13:15

of an investment. Images of

01:13:19

compensation for damages in 1531

01:13:26

bucket was what they can

01:13:27

do for themselves. Another bucket

01:13:29

is what they might be

01:13:30
able to others to do

01:13:31
for them or do in

01:13:33
conjunction with other Mass claims

01:13:35
and the light and finally

01:13:37
was what they might possibly

01:13:38
be able to procure this

01:13:39
thing to do on their

01:13:41
behalf before the icj example

01:13:47
about how insensitive you opposed

01:13:50
to start looking at non-traditional

01:13:52
mean to try and get

01:13:54
them to the redress. What

01:13:59
we do only have about

01:14:00

12 minutes to go up

01:14:02

questions can continue there after

01:14:05

but I have one question

01:14:06

of to any of the

01:14:08

pandas. We talked about human

01:14:13

rights, which are primarily is

01:14:15

not exclusively the responsibility of

01:14:17

the stick. It seems to

01:14:20

me the treaty by increasingly

01:14:21

being used by estate to

01:14:24

delegate Hive off of pass

01:14:29

the buck. Is it worth

01:14:30

to an investor? Was it

01:14:45

me? An Infinity that can

01:14:52
only go so far as

01:14:53
the operation of the investment.

01:14:59
Impacts you don't have the

01:15:01
device in question, but not

01:15:02
in it is no brought

01:15:03
a standalone application. So for

01:15:05
example, if there's some indigenous

01:15:07
people on the other side

01:15:08
of the country not impacted

01:15:10
by the power station that

01:15:12
investors is building that is

01:15:18
not something that they can

01:15:19
pass on to 2 to

01:15:22
send a line has to

01:15:24
be drawn between what is

01:15:27
how much is a Tennessee

01:15:28
to delegate State can pass

01:15:36
on this publication 20s, and

01:15:45
also two ropes presentation Africa

01:15:51
and stay investment treaty don't

01:15:53
make it seems to be

01:15:54
at the Forefront of putting

01:15:56
these kind of obligation. Call

01:15:59
them directly or vacations because

01:16:01
they are directly addressed to

01:16:03
the investor and not just

01:16:05

staying the state promotes. The

01:16:09

human rights respect amongst their

01:16:11

companies and so on so

01:16:12

forth. So we're shifting from

01:16:14

a promotional language to a

01:16:19

petrol station now against this

01:16:23

Derek applications be an investment

01:16:25

treaty in the business and

01:16:28

human rights negotiations led by

01:16:30

Ecuador. That isn't a different

01:16:32

waxing for guys working on

01:16:34

that. Right? And even you

01:16:36

diligence regulations coming from the

01:16:37

European Union hadwin's hedwig's hedwig's

01:16:40

I think and none of

01:16:41

these African treaties and the

01:16:43

day before that I downloaded

01:16:45

but I think

01:16:47

it is theoretically possible, but

01:16:49

I think the political and

01:16:51

maybe Headwinds that are that

01:16:55

these laws and treaties are

01:16:57

receiving currently is something for

01:17:00

which I am I said,

01:17:01

I don't know. What would

01:17:03

be the solution right? How

01:17:04

could be overcome as to

01:17:06

answer your question? Maybe one

01:17:08

2nd gen has invested, you

01:17:20

know, you will need to

01:17:21

carry explain why men to

01:17:22

studies you will need to

01:17:23

jensi relocate indigenous people and

01:17:27

compensate them and send in

01:17:29

for counseling and you will

01:17:31

what it is, maybe so

01:17:32

I can see it and

01:17:33

I don't think investors will

01:17:35

be all that thrilled and

01:17:36

their host countries that are

01:17:37

supposed to sign these new

01:17:38

models good in theory. It's

01:17:42

expiration is the right thing

01:17:44

to do but investors are

01:17:46

pragmatic and hard-nosed and if

01:17:49

Capital outflows are going one

01:17:51

way, I think I had

01:17:58

a quick question for you.

01:17:59

We've talked a lot about

01:18:01

the impact of Human Rights

01:18:04

and treaties of impact a

01:18:08

private international law contract is

01:18:11

the underlined for example investing

01:18:13

contract in what way have

01:18:21
you had any experience with

01:18:23
you have to deal with

01:18:25
the human right law and

01:18:29
a normal contract. Yes, so

01:18:34
yes and a lot of

01:18:37
my investment arbitrations are truly

01:18:40
bathing contract. So I think

01:18:43
there's not that much difference

01:18:44
between human rights violations by

01:18:47
States or by investors in

01:18:49
the context of contract based,

01:18:52
you know, investor-state arbitration Centre

01:18:55
debating situation because at the

01:18:57
end of the day the

01:18:58
behavior of the investors that

01:18:59
have your investor and Behavior

01:19:05
of the state. So one

01:19:10
of my current cases against

01:19:11
an African state to state

01:19:14
in the context of the

01:19:15
contract disputes before commercial arbitration

01:19:19
destitution has initiated a source

01:19:23
of criminal investigation and then

01:19:25
criminal proceedings against the client.

01:19:29
Who is Dean Wester. In

01:19:32
Franke, but I've been going

01:19:33

to treat you right so

01:19:35

we decided that we have

01:19:36

a contract and do all

01:19:38

the treaty as basis for

01:19:39

the arbitration doesn't need for

01:19:41

that much and I guess

01:19:42

what I would like to

01:19:43

add to this is that

01:19:44

when you deal with treaty

01:19:46

claims license for dealing with

01:19:48

publicans national claims when you

01:19:51

did with a contract is

01:19:52

very interesting because those contracts

01:19:54

usually are you know governed

01:19:57
by the dumbest Explorer of

01:19:58
the estate, but whether it

01:20:00
is expressed when they also

01:20:02
govern at least to an

01:20:04
extent by the international law

01:20:05
be just by virtue of

01:20:08
the fact that the contract

01:20:09
is between the private entity

01:20:11
and The Sovereign right to

01:20:13
at the end of the

01:20:13
day my take on it.

01:20:14
Is that are some differences

01:20:16
in in the Lucky Cab

01:20:18
or maybe but not that

01:20:20
much. Let the trash if

01:20:23
I can expend very quickly

01:20:25
on that question trying to

01:20:26
type back to the comment

01:20:27
that I had on what

01:20:29
was discussed right before and

01:20:31
I would like to say

01:20:32
simply in the contract you

01:20:35
put two parties on an

01:20:36
equal footing the concept of

01:20:39
the contract between the state

01:20:40
and the company's to say

01:20:41

in in the concept of

01:20:44

the contractors to talk to

01:20:45

use on an equal footing

01:20:46

the Bill of Rights and

01:20:48

obligations that go both ways

01:20:49

to use that don't they

01:20:51

don't do that at all

01:20:52

inside the country investment treaties

01:20:55

that are one-sided by nature

01:20:58

and the little music that's

01:21:01

what year ago. How is

01:21:04

Jessica doing this to buy

01:21:10

us? Because they exist in

01:21:12

the first place. The concept

01:21:13

is used in the first

01:21:16

place to try to read

01:21:18

rest a little bit unnatural

01:21:19

imbalance the Rays. Between a

01:21:22

private party beat a personal

01:21:23

company. And the almighty state

01:21:28

in which that person is

01:21:29

operating. And when were they

01:21:43

dropped it? So but you

01:21:46

are entitled to to your

01:21:48

group you mentioned something called

01:21:56

the Bangladesh code of I'm

01:21:59

not familiar with that instrument

01:22:01

myself. Could you tell us

01:22:02

a bit more? Sure, I

01:22:05

got those. Thank you so

01:22:06

much for the question. So

01:22:08

this is a legal binding

01:22:10

instrument agreement that was enter

01:22:14

between government grants and trade

01:22:17

unions in Bangladesh. And the

01:22:19

objective of this agreement was

01:22:21

to ensure workers health and

01:22:24

safety in Bangladesh text you

01:22:26

and garment industry. So the

01:22:29

the most like a remarkable

01:22:33

thing about the disagreement that

01:22:35

they agreed to include an

01:22:38

arbitration Clause as I mentioned

01:22:41

during my presentation old do

01:22:44

the trade unions were able

01:22:45

to file to arbitration claims

01:22:48

before the PCA. We were

01:22:51

not able to see the

01:22:52

casing the married. So there

01:22:54

is a steal a lot

01:22:55

to learn from this experience

01:22:56

and I'm from arbitration as

01:22:59

a suitable mechanism to 2

01:23:01

South human rights to use

01:23:04

Also because some of the

01:23:05

challenges that but I might

01:23:07

see one but I think

01:23:08

that the lawyers in most

01:23:10

cases had to assume are

01:23:14

related to how to view

01:23:15

this article in its environment

01:23:19

around 2,000 factories that were

01:23:22

involved in the case. And

01:23:24

also I might say that

01:23:26

they might have a procedural

01:23:27

challenge to the signup process

01:23:30

word. The workers will actually

01:23:32

receive compensation. So although these

01:23:35

these binding agreement. It's a

01:23:38

great Advance. I'm really looking

01:23:40

forward to see a case

01:23:43

under this agreement on the

01:23:44

Marines to see how arbitrators

01:23:46

actually sold this kind of

01:23:49

disputes and and solve these

01:23:50

challenges that I meet them

01:23:53

Define. Thank you. Good afternoon

01:23:59

to give you money to

01:24:11

anybody online and as well

01:24:13

as in the room if

01:24:14

you because once me and

01:24:17

hotel get going, you know,

01:24:19

we'll be here for the

01:24:20

next two hours. But yeah,

01:24:25

please do we have any

01:24:26

video online. Did you have

01:24:32

a list acquiring what Sia

01:24:45

really think is amazing. If

01:24:48

I tip my hat on

01:24:51

it sounds like how much

01:24:56

I know there's a little

01:24:57

bit especially by this BS

01:25:00

and mediation and conciliation was

01:25:05

really something that never went

01:25:07
through or are you staying

01:25:09
on in some of these

01:25:10
new treaties or trying to

01:25:12
bring in along with his

01:25:14
collect acquiring some other people

01:25:16
than the arbitrators try to

01:25:19
help those and Tristram be

01:25:20
for those? Who who? What

01:25:31
is effectively Please add on

01:25:33
to it if I get

01:25:33
it wrong, but it's actively

01:25:34
it's are we seeing a

01:25:35
new tree models or in

01:25:36

practice? Are we seeing a

01:25:38

new focus on mediation and

01:25:40

on other methods of a

01:25:41

Dr. Then might go along

01:25:43

with the ideas of Appaloosa

01:25:45

clearing. And I think the

01:25:46

the answer that I would

01:25:47

provide is is gosh a

01:25:49

lot of things. I wish

01:25:49

everyone were at work here

01:25:50

in the room so we

01:25:51

can have the drinks after

01:25:53

we discussed it at length.

01:25:54

There's so much to say

01:25:55
but the idea I think

01:25:56
it is in the first

01:25:57
instance this in my own

01:25:58
personal experience. I've seen A

01:26:00
Renewed focus a new interest

01:26:02
in the the required negotiation

01:26:05
that comes before by treaty

01:26:07
most of the time there's

01:26:09
going to be a required

01:26:10
negotiation process. Just if nothing

01:26:13
else to check the box

01:26:14
before you can move to

01:26:14
arbitration many people think of

01:26:16

it that way I've seen

01:26:17

A Renewed focus on an

01:26:18

interest in engaging with the

01:26:21

investors who are about to

01:26:23

bring claim so they can

01:26:24

maybe actually find a solution

01:26:25

and not spend four and

01:26:26

a half years in an

01:26:28

arbitration process. And so yes,

01:26:31

I think There has been

01:26:32

a renewed interest at least

01:26:34

it from an aunt to

01:26:34

go to level and coming

01:26:35

back to the idea. Gloria.

01:26:37

And one other thing. I'd

01:26:38

like to point out though

01:26:39

is that is it's not

01:26:40

just about a t r

01:26:41

that's an important part of

01:26:42

it and it's absolutely true.

01:26:43

What the question was referring

01:26:45

to was the focus on

01:26:47

interest in a kind of

01:26:49

more of an integrative bargaining

01:26:50

and approach for folks who

01:26:51

are familiar with that terminology

01:26:52

as opposed to a Distributive

01:26:54

bargaining approached. It's not just

01:26:56

about that focus on interest

01:26:58

versus position that's interesting and

01:26:59

important but it's also interesting

01:27:02

across the board when you

01:27:03

don't even have a treaty

01:27:04

there are a few cases

01:27:06

at we've had cases in

01:27:07

which investors have an encounter

01:27:10

human rights violations and those

01:27:12

human rights violations of having

01:27:14

cluded violations of what you

01:27:16

know, in some parts of

01:27:17
the world would be a

01:27:17
violation of the right to

01:27:18
property and those cases. I

01:27:21
eat a lot of times

01:27:22
at you. No walking in

01:27:24
and in speaking with the

01:27:25
lawyer with a traditional ordering

01:27:26
mindset the results of that

01:27:28
evaluation will simply be well

01:27:30
there's a contract There's an

01:27:32
arbitration agreement. There's no treaty.

01:27:33
It doesn't look like there's

01:27:35
much to do it to

01:27:35

do other than go forward

01:27:37

with a contract dispute. But

01:27:39

the fact is that those

01:27:40

human rights claims a lot

01:27:41

of times. I can move

01:27:42

forward and a ballistic luring

01:27:44

Vantage Point claims bring them

01:27:50

together and not to browbeat

01:27:52

post States, but to help

01:27:55

folks you have been abused

01:27:57

with their human rights have

01:27:59

been violated in one way

01:28:00

or another to try to

01:28:01

get some sort of measure

01:28:02

of Justice in the context

01:28:04

of investor-state dispute settlement or

01:28:05

other international disputes. And so

01:28:07

I think that's amore amore.

01:28:09

Answer the question that yes,

01:28:10

it's about positioning. Yes. It's

01:28:12

about, you know, careful and

01:28:15

creative approaches to resolving disputes

01:28:17

in negotiation or otherwise, it's

01:28:20

also about the legal strategy.

01:28:25

a very much We have

01:28:28

three minutes beyond our should

01:28:32

you close and I don't

01:28:34
want to keep you and

01:28:37
me any longer than we

01:28:38
need to I'd like to

01:28:40
thank each of our speakers

01:28:42
for the engaging comment a

01:28:45
insightful observation. There's a lot

01:28:49
more that we could say

01:28:51
and doing the space. So,

01:28:53
I hope we can continue

01:28:54
working together. I hope the

01:28:56
topics of interest to those

01:28:58
of you who had the

01:29:00
patience to sit through an

01:29:01
hour and a half of

01:29:03
us going back and forth.

01:29:04
For those of you who

01:29:07
are here in person. We

01:29:09
can ease your pain by

01:29:12
offering to join us for

01:29:14
some cocktails and snacks. I'm

01:29:15
sorry. I cannot be more

01:29:16
fun to do something online,

01:29:18
but you have a standing

01:29:19
offer to come visit us

01:29:20
anytime and we'll buy you

01:29:22
drinks, and we can thank

01:29:25

you very much everybody Jose

01:29:26

back to you. Thank you

01:29:28

very much Rodger. This is

01:29:31

this was a fantastic panel

01:29:33

and we are thrilled to

01:29:36

have had issues that have

01:29:39

nothing to discuss the from

01:29:41

the holistic at lowering and

01:29:44

integrating the human rights to

01:29:47

aspect in a practical manner

01:29:49

through all these proposals including

01:29:53

the loser of integrating investors

01:29:57

obligations on human rights in

01:30:00

treaties that the last thing

01:30:03

I would like to say

01:30:04

that the thank you and

01:30:06

thank you for all the

01:30:07

attendees and I'm the questions

01:30:09

that we see that the

01:30:10

the attendance in housing has

01:30:15

been growing and then we

01:30:16

also have of course I

01:30:18

need to be connected at

01:30:21

watching you and I and

01:30:23

this this this session luckily

01:30:26

were Putting everything so that

01:30:28

people will be able to

01:30:30

see it at whenever they

01:30:31

want later at different times.

01:30:34

So thank you very much

01:30:35

that wonderful panel and be

01:30:40

seeing you in the next

01:30:41

panel of drinks and enjoy.

01:30:44

Bye. Bye. Thank you. Shall

00:00:00

we start? Welcome to World

00:00:04

arbitration update. This is at

00:00:07

World arbitration update from Singapore.

00:00:09

This is the third year

00:00:10

that we do it in

00:00:11

Singapore and the dis very

00:00:15

much. Thanks to K&L Gates

00:00:17

and special thanks to Robert

00:00:21

and who is going to

00:00:26

be a moderator on a

00:00:29

panel that will discuss mainly

00:00:34

be strategic lowering involving. Contract

00:00:39

or pretty beaches and human

00:00:41

right violations and I apologize

00:00:44

because I did not introduce

00:00:45

myself and my name is

00:00:47

I am a partner at

00:00:51

the extra glp here in

00:00:54

Washington d.c. Which is a

00:00:55

boutique Law Firm on investor-state

00:00:57

arbitration and also public international

00:01:00

law as well as International

00:01:02

commercial arbitration. I'm also a

00:01:04

professor at Georgetown law teaching

00:01:07

investment arbitration and together with

00:01:11

Ian Laird four years ago.

00:01:13

We co-founded World application update

00:01:16

which is a forum that

00:01:18

provides where has two main

00:01:22

objectives one is to update

00:01:25

on issues of investment re

00:01:27

arbitration International commercial arbitration as

00:01:31

well as public international law

00:01:32
and to we are at

00:01:36
the wall of Jason update.

00:01:38
We're trying to the centralized

00:01:41
International arbitration and noting that

00:01:45
has as incredible venues as

00:01:48
they may be Paris and

00:01:51
London and Even Washington DC

00:01:55
as well as New York,

00:01:57
they are not the only

00:01:59
centers of arbitration in the

00:02:00
world. So we really want

00:02:02
to reach out to every

00:02:04
other Center because we know

00:02:05

that there are fantastic at

00:02:07

Council arbitrators in Asia and

00:02:09

Latin America and Africa and

00:02:12

I in Western Europe etcetera.

00:02:13

So with that I will

00:02:17

now pass to introduce our

00:02:19

moderator Rush a posse in

00:02:30

Lisa the can kennel gates

00:02:33

at straight to practice in

00:02:35

Singapore in Asia. Has he

00:02:42

has 20 years of experience

00:02:43

in international dispute resolution and

00:02:47

has worked in both London

00:02:49

and Singapore. He's qualified both

00:02:51

an advocate and solicitor of

00:02:54

the Supreme Court of Singapore

00:02:56

as well as admitted as

00:02:57

a solicitor of England and

00:02:59

Wales. He's also a qualified

00:03:01

arbitrator and is a fellow

00:03:03

of both the chartered Institute

00:03:05

of arbitrators of the UK

00:03:07

as well as the Singapore

00:03:09

Institute of arbitrators. Russia is

00:03:12

on the panel of arbitrators

00:03:13

of a number of arbitration

00:03:15

station in play klrc a

00:03:19

pika and the hki is

00:03:22

a c is also a

00:03:24

board member and director of

00:03:26

the UK Charter in Hoover

00:03:27

RV Traders in Singapore Branch

00:03:29

by the has experience in

00:03:31

international arbitration with seats in

00:03:34

Singapore, Indonesia and Vietnam China

00:03:38

got Dubai and menu. Countries

00:03:41

with that I would leave

00:03:44

you too. I will yield

00:03:47

the floor to Rodger and

00:03:49

welcome everyone World application update.

00:03:53

Thank you very much was

00:03:55

the only correction I would

00:03:59

offer to the Bayou is

00:04:01

that unfortunate now have 30

00:04:03

years of experience and I

00:04:05

was not particularly thrilled to

00:04:07

learn that three decades of

00:04:09

behalf of studying and learning

00:04:13

Robert. Welcome everybody. My name

00:04:20

is Rodger both as Jose

00:04:22

said that I'm based in

00:04:22

Singapore together with my colleague

00:04:24

proper Houston. We are active

00:04:27

members of our firms invest

00:04:29

State practice and we're very

00:04:31

thrilled to to hosting this

00:04:34

event on April 30th that

00:04:38

we are doing this and

00:04:40

we hope to present to

00:04:43

you a very interesting topic

00:04:47

that has numerous Dimensions is

00:04:49

that we have had to

00:04:51

contend with during the call.

00:04:53

I kissed the last 12

00:04:56

to 18 months. The contacts

00:05:02

too many of our comments

00:05:03

come from our work done

00:05:07

across the globe five continents

00:05:10

with 14 of the attractions

00:05:13

we have with our colleagues

00:05:14

from all these officers provide

00:05:17

a useful and necessary insight

00:05:20

into the practice of internet

00:05:22

slow. Today. We're going to

00:05:23

focus on strategic luring involving

00:05:27

contract or 3T beaches and

00:05:30

human rights violations. I'm going

00:05:32

to spend a few minutes

00:05:33

to put be a discussion

00:05:38

that will follow in in

00:05:39

some contexts so you can

00:05:41

understand where you're coming from.

00:05:44

It is a well-known Paradox

00:05:48

that long-standing what's globalization has

00:05:53

resulted in increasing uniform teeth

00:05:57

in the lights or societies

00:05:59

across the world. It has

00:06:01

a dog's pee also lead

00:06:03

to increasing fragmentation. Asthma specialist

00:06:08

legal regimes Andrews conventions of

00:06:12

principles of international and domestic

00:06:17

legislation to deal with specific

00:06:20

issues that impact Society trade

00:06:22

culture and life in general.

00:06:26

This fragmentation has been accompanied

00:06:30

by the development of almost

00:06:33

in parallel, but separately autonomous

00:06:38

legal institutions International conventions domestic

00:06:44

legislation and principles of practice

00:06:50

among space what used to

00:06:53

be referred to as international

00:06:55

law today breaks down to

00:06:57

my last check at least

00:06:59

11 specialist areas, which nurse

00:07:02

such as international human rights

00:07:05

law investment law trade law

00:07:08

concerning armed conflict business and

00:07:14

human rights the law of

00:07:15

the sea migration and Refugee

00:07:18

law environmental law and climate

00:07:21

change international criminal law of

00:07:24

public international law and private.

00:07:26

The emergence of these new

00:07:29

and specialist areas of row

00:07:31

containing self-contained remedies often in

00:07:35

Your Graffiti functionally limited treaties

00:07:40

create problems of coherent in

00:07:43

international law. aside from the

00:07:51

potential for large-scale conflicts between

00:07:53

human rights law on the

00:07:55

one hand and investment Law

00:07:56

& Order for example of

00:07:58

price to challenges Adam or

00:08:02

macro and micro-level issues such

00:08:08

as Global concern for final

00:08:10

change Fisheries depletion on human

00:08:12

rights do not fall neatly

00:08:14

into any particular packet and

00:08:17

there's the constant need to

00:08:18

mediate and I'm sending interaction

00:08:21

between these regimes this also

00:08:24

comes up, you know dated

00:08:26

a practice where we find

00:08:27

traditional causes of action of

00:08:29

a breach of contract a

00:08:32

breach of the treaty because

00:08:35

there is an obstacle because

00:08:39

there's no because the time

00:08:42

but in that is supposed

00:08:43

to look beyond the straight

00:08:46

and narrow is when two

00:08:47

things off of the bus

00:08:49

When it comes to what

00:08:51

can we do to bring

00:08:54

Justice for the train to

00:08:56

Avenues that would not normally

00:08:58

occur to black and white

00:09:01

lawyers that we were training

00:09:03

to be receiving fraction between

00:09:09

these different things is a

00:09:10

very broad area. We are

00:09:11

committed to rain today more

00:09:14

bike tires and manageable. We

00:09:16

are going to focus on

00:09:17

a subset of regime in

00:09:18

traction and that is the

00:09:19

focus of international human rights

00:09:21

and contractual obligations at the

00:09:25

risk of over statement of

00:09:27

how do how do international

00:09:29

human rights impact and impossibly

00:09:33

conflict or is he coming

00:09:35

to tension with I'm trying

00:09:37

to write an investor State

00:09:39

bikes take for example, the

00:09:43

underlying investment contract usually related

00:09:46

to the exportation of a

00:09:48

natural real. For the development

00:09:50

of Greenfield Public infrastructure, the

00:09:54

the rights and lives of

00:10:00

indigenous people living in the

00:10:03

affected area. It is not

00:10:06

it is not uncommon that

00:10:08

in the execution of the

00:10:10

project environmental concerns in pollution

00:10:13

any fluid from factories and

00:10:16

and other infrastructure that builds

00:10:18

the the info does the

00:10:22

laser treatment of the outbreak

00:10:26

of disease because of unsanitary

00:10:28

conditions of the project become

00:10:31

unpopular it is used as

00:10:33

political football between rival political

00:10:36

parties and create civil unrest

00:10:39

using to military action and

00:10:41

ultimately the relationship breaks down

00:10:43

the station and is accused

00:10:45
of heavy-handed action in criminal

00:10:47
prosecution of the individual. Incarceration

00:10:50
of the principles and with

00:10:55
allegations of a Eastside having

00:10:59
reached obligations to of people

00:11:03
in we could have been

00:11:04
understand how you never get

00:11:08
them. I'm honored to have

00:11:11
three three distinguished speakers with

00:11:15
us today. Stephanie is an

00:11:18
assistant professor of law at

00:11:20
SMU in the Jungfrau School

00:11:22
of Law. She will be

00:11:25

speaking quest for the framework

00:11:26

of international human rights and

00:11:29

be in the context of

00:11:33

international disputes. I hope I

00:11:38

pronounce your name correctly will

00:11:41

be speaking to us on

00:11:44

contract breaches involving human rights

00:11:47

violations. What do story is

00:11:52

a council that took a

00:11:54

chance and he will be

00:11:56

speaking to us about Titi

00:11:57

preachers involving internet for human

00:12:02

rights law in finding. My

00:12:03

colleague. Robert was a senior

00:12:05

associate here based in Singapore

00:12:06

when approach the topic of

00:12:10

a holistic development of a

00:12:12

legal strategy in human rights

00:12:14

cases. I have a more

00:12:17

detailed buyers for each of

00:12:19

my speakers which will circulate

00:12:21

in the handouts at the

00:12:22

end of trees and thank

00:12:25

you very much and I'd

00:12:26

like to hand over now.

00:12:43

All right. Anything I need

00:12:48

to do. Bolingbrook Okay, can

00:13:26

you hear me? Okay, great.

00:13:29

Thank you very much. Right.

00:13:31

School at the introduction many

00:13:33

things to you. Both Rodger

00:13:34

and Robert for inviting me

00:13:36

as an academic. I am

00:13:38

looking forward to learn something

00:13:40

if it's always good to

00:13:42

have this kind of conversation.

00:13:43

So I was invited to

00:13:45

speak at the frame, I

00:13:47

guess for the discussion that

00:13:49

we have today and remind

00:13:51

everybody of a general overview

00:13:53

and framework of international human

00:13:56

rights essay developed right after

00:13:59

the second world war. So

00:14:01

what I would do if

00:14:03

I can I'm so I

00:14:06

didn't do a video back

00:14:07

to the foundation quickly speak

00:14:09

about the typology of State

00:14:11

on vacations and briefly restrictions

00:14:14

and delegations. And then also

00:14:16

the mechanisms of protection vagina

00:14:18

streaming rights 16 to get

00:14:20

show and non-traditional mechanism as

00:14:22

well as the particular issue

00:14:24

of the exhaustion of local

00:14:26

remedies. Do I need to

00:14:28

go back to the foundations

00:14:30

of when it all started

00:14:31

human rights as part of

00:14:33

public international law really started

00:14:35

after the second World War

00:14:37

2 National labor organization already

00:14:41

before the second it already

00:14:44

started with the universal Declaration

00:14:45

of Human Rights complaint in

00:14:48

1948. It is the historical

00:14:52

Maisto document that sets the

00:14:55

basis for a number of

00:14:57

treaties. And as of today

00:15:01

over 70 human rights treaties

00:15:03

has been concluded most important

00:15:06

among these 3D bass instruments

00:15:09

in the human rights and

00:15:12

international human rights are the

00:15:13

two continents and the international

00:15:15

Covenant on civil and political

00:15:17

rights and the international, economic

00:15:20

social and cultural rights and

00:15:22

both adopted in 1966. Types

00:15:27

of conventions that are part

00:15:31

of the nine most important

00:15:33

human rights treaties as they

00:15:35

are these Universal Human Rights

00:15:38

Convention dealings with specific Bronx.

00:15:42

So very famous of causes

00:15:45

the convention on genocide and

00:15:48

probation of torture is related

00:15:51

to the protection of specific

00:15:53

categories of people here Eastwood

00:15:56

related to Refugee children a

00:15:58

woman's right and you see

00:16:02

here and gray the universal

00:16:04

system that is generally divided

00:16:06

into those that a treaty

00:16:07

based. So the list Yonder

00:16:11

in the middle and then

00:16:12

also the charter based out

00:16:15

of the UN Charter and

00:16:16

refers to Human Rights and

00:16:19

an article 76 as well

00:16:21

as in the Preamble and

00:16:23

is it is of course

00:16:24

the Cornerstone of the UN

00:16:26

system. Human rights around the

00:16:28

world in the charter base

00:16:30

system. We have to do

00:16:31

you enter my Rights Council

00:16:33

and under the treaty base.

00:16:34

We have a number of

00:16:35

treaty bodies that's related to

00:16:38

each of these do I

00:16:40

have on the slide 22

00:16:41

that relate to the two

00:16:43

most important components of human

00:16:45

rights committee and the committee

00:16:47

on economic social and cultural

00:16:49

rights. Now the human rights

00:16:53

a system is very much

00:16:55

related also to Regional systems

00:16:58

and two European convention on

00:16:59

human rights adopted in 1950

00:17:03

was the first one that

00:17:05

sets the intimidation and for

00:17:08

the elevation of a supranational

00:17:11

system on human rights in

00:17:13

the region of Europe It

00:17:15

Was Then followed by the

00:17:16

American convention on human rights

00:17:18

and later African Charter on

00:17:21

human and peoples rights Saudi

00:17:24

African have this addition on

00:17:25

the people's right to Shamokin.

00:17:27

Unity rides and the latest

00:17:29

one that are about to

00:17:31

ensure the rights of the

00:17:32

2004 now the European the

00:17:35

American Auntie African they have

00:17:37

Regional codes as well as

00:17:40

well as commissions which are

00:17:42

the non-traditional bodies. I will

00:17:44

come to that at what's

00:17:46

the end of my presentation

00:17:47

again, when we move on

00:17:52

to the the types of

00:17:55

state of legation. I did

00:17:57

not want to make the

00:17:58

flight to fool with a

00:18:00

long list of the substantive

00:18:02

rights that eating the list

00:18:05

of international human rights, and

00:18:07

I'm just reminding you of

00:18:09

a few the right to

00:18:11

self-determination equality and non-discrimination right-to-life

00:18:16

freedom from torture Freedom From

00:18:18

Slavery freedom of assembly and

00:18:20

Association freedom of expression to

00:18:23

process. Right to work right

00:18:25

to education cultural rights rights

00:18:28

to health and also the

00:18:29

international human rights as they

00:18:32

evolve and change and new

00:18:35

rides are edit. Some of

00:18:37

you might have heard of

00:18:38

the Recently Added right to

00:18:40

a healthy environment confirmed by

00:18:42

the general assembly in July

00:18:44

2022 Silverado reason, I'm safe

00:18:48

application under international human rights

00:18:51

law respect protect for sale

00:18:53

73 Bus words that many

00:18:56

of you have heard. It

00:18:57

dates actually back from a

00:19:00

a reported was written by

00:19:02

mr. Ida's Norwegian diplomatic. I'm

00:19:06

not wrong who started with

00:19:08

this type ology and it

00:19:10

is very useful because it

00:19:11

gives them operational content to

00:19:13

these types of off of

00:19:15

Rights and the state Centric

00:19:18

responsibilities that they find in

00:19:20

the system respect as an

00:19:23

obligation for the means to

00:19:25

abstain from interfering with the

00:19:27

existing enjoyment of Human Rights.

00:19:30

Protect means the obligation to

00:19:33

protect individuals and groups against

00:19:36

human rights abuses so states

00:19:39

must intervene in private relationship.

00:19:42

This is a majority to

00:19:45

actively interfering but it is

00:19:47

an obligation of means then

00:19:49

for fill. This is the

00:19:50

dutiful states to make to

00:19:52

take measures that he's the

00:19:55

Fulfillment of the realization of

00:19:58

Human Rights. So this might

00:20:00

require states to provide certain

00:20:03

goods or services for individuals

00:20:05

that are able to cure

00:20:07

them by themselves. For example

00:20:09

Healthcare at job and or

00:20:15

to sustain a living Now

00:20:19

I have on this night

00:20:20

the question of the international

00:20:22

human rights in the private

00:20:23

domain just as the potential

00:20:25

Segway Of course what we're

00:20:27

going to discuss in in

00:20:29

this in the seminar is

00:20:31

this question about is there

00:20:34

a horizontal effect meaning that

00:20:36

also private sector? Of course

00:20:38

the first entity that we

00:20:40

might think of a powerful

00:20:41

multinational corporations should they also

00:20:44

have the beer the responsibility

00:20:46

to act of human rights

00:20:50

as states to steal the

00:20:55

states of Moana Polly of

00:20:57

Human Rights. I'm and what

00:20:59

other seeded given their power

00:21:02

and influence. They should be

00:21:03

horizontal effect. Now we know

00:21:06

from the druggie a report

00:21:08

on corporate responsibility to respect

00:21:10

human rights is that from

00:21:12

these three respect protect and

00:21:14

for sale and the respect

00:21:18

to human rights? I'm in

00:21:20

a white enlarged to corporate

00:21:22

responsibility as well. And here

00:21:24

it means that the corporation

00:21:26

should act with you diligence

00:21:28

to avoid infringing on the

00:21:30

rights of others so mean

00:21:32

that at least you didn't

00:21:33

make sense human rights are

00:21:35

being respected and where there

00:21:36

is a risk of potential

00:21:38

human rights violation that these

00:21:41

risks are mitigated and you

00:21:43

will and you see this

00:21:44

in many of the recently

00:21:46

a doctor's to diligence legislations

00:21:48

that come from such jurisdictions.

00:21:50

However, that said does the

00:21:53

system as it stands until

00:21:55

today is say State eccentric

00:21:57

and puts the burden of

00:22:00

responsibility on States Berkeley Flea

00:22:04

on restrictions and deprivations of

00:22:09

a human rights, which also

00:22:10
introduces some of the hurricane

00:22:13
between the different write s

00:22:17
in any constitutional A system

00:22:19
that freedom can be restricted

00:22:23
by the conditions here to

00:22:24
our bylaws in the proportionality

00:22:28
assessment. You would need a

00:22:30
legitimate objective. He needs to

00:22:32
be transparent non-discriminatory an arbitrary

00:22:35
and a measure needs to

00:22:37
be proportional to call personality

00:22:39
took the sensor that the

00:22:41
medication is actually necessary in

00:22:44

order to achieve a legitimate

00:22:46

objective. This is for Restriction

00:22:51

now derogations in treaties are

00:22:55

allowed in real cases of

00:22:58

absolute emergency. This is public

00:23:01

emergency under the iccpr. And

00:23:05

in times of National Emergency

00:23:07

under the European convention on

00:23:09

human rights and interests into

00:23:12

the African convention on human

00:23:14

rights does not contain a

00:23:16

similar derogation provision. Now we

00:23:20

find in the iccpr take

00:23:23

the sample also that there

00:23:26

are certain rights that can

00:23:28

never be there. Okay, and

00:23:31

this is so they have

00:23:32

an absolute character. The list

00:23:36

includes the right to life

00:23:38

the provision of torture provision

00:23:40

of slavery provision of punishment

00:23:42

without love and provision of

00:23:44

arbitrary and detention. But I

00:23:51

come back now to the

00:23:52

mechanisms of protection and TOD

00:23:54

the landscape is opposed to

00:23:56

depending on what kind of

00:23:57

instrument we are we're talking

00:24:00

about again, if we talked

00:24:01

about the child and I

00:24:04

see you and Human Rights

00:24:05

Council. This is not A

00:24:09

traditional body at all. It

00:24:11

is a political body. We

00:24:12

have from the UN system

00:24:13

and resolutions that can and

00:24:16

be adopted on issues of

00:24:17

Human Rights and also mentioned

00:24:20

earlier put some put on

00:24:21

a new recognition of human

00:24:23

rights such as the right

00:24:24

to a healthy environment we

00:24:30

have is, teas and which

00:24:32

judicial bodies however that is

00:24:36

a possibility for individual complaints

00:24:39

and the iccpr but only

00:24:42

if the optional protocol has

00:24:44

been ratified Interesting when it

00:24:49

comes to the mechanism of

00:24:50

protection and that is why

00:24:51

the regional systems are in

00:24:53

that respect. So powerful is

00:24:56

that they come with a

00:24:57

extradition proceeding allowing for individual

00:25:01

complaints. So very well known

00:25:04

as the inter-american commission and

00:25:08

a court. So commission would

00:25:10

be the non-traditional body to

00:25:11

call the guy that you

00:25:12

just your body African court

00:25:15

that is fairly recent from

00:25:17

2004 in the Arab countries.

00:25:20

We only have it, tea

00:25:22

so far. So again don't

00:25:23

know what is a specific

00:25:28

or nonspecific but what is

00:25:30

certainly something to that is

00:25:33

different from investor-state dispute settlement.

00:25:35

You said in the human

00:25:37

rights system before an individual

00:25:40

can go to any of

00:25:41

these courts. That is the

00:25:43

exhaustion of a local remedies.

00:25:46

And the rest of those

00:25:48

behind a bush or studies

00:25:52

course, we're not seen as

00:25:55

a apple that market mechanism

00:25:58

edoardo as a subsidiary function

00:26:01

or a complimentary function to

00:26:03

National court system important Point

00:26:08

National Judicial Systems and National

00:26:13

votes for the iccpr. If

00:26:18

the protocol is ratified off

00:26:22

aloka remedies and also the

00:26:27

exceptions of when the exertion

00:26:30

of local remedies applies or

00:26:34

is actually excluded has very

00:26:36

much being developed in the

00:26:37

case law of these different

00:26:39

a Judicial bodies. And I

00:26:44

think with this I don't

00:26:46

want to enter into more

00:26:47

of these details, but I

00:26:48

think that Marie sets the

00:26:49

scene for discussion today. Okay?

00:26:53

Thank you very much. Thank

00:26:56

you very much Stephanie. It

00:26:58

was remiss of me to

00:27:01

have not properly introduced you

00:27:04

I was going to do

00:27:05

that before each speaker made

00:27:06

the presentation School obese after

00:27:10

the fact in addition to

00:27:12

Stephanie being an assistant professor

00:27:14

of law at SMU for

00:27:16

the last three or four

00:27:17

years is concurrently are a

00:27:19

number of appointment being a

00:27:21

member of the economic Forum

00:27:23

on investor-state dispute settlement with

00:27:26

an straw visor to the

00:27:30

asia-pacific research and training Network

00:27:32

on foreign direct investment. And

00:27:35

for those of you who

00:27:37

don't get out much that

00:27:38

is the UN economic and

00:27:40

social commission for Asian Pacific.

00:27:42

I'm in finding she's also

00:27:44

being an associate with the

00:27:45

is DD International Institute for

00:27:49
sustainable development. She is currently

00:27:51
working on an exciting paper

00:27:54
on one of the areas

00:27:56
of specialization which are sustainable

00:27:58
development in international business ethics

00:28:02
and corporate social responsibility international

00:28:04
trade and investment application International

00:28:08
Energy transition roll and European

00:28:11
external relations blow. Thank you

00:28:13
Stephanie. I feel but with

00:28:21
that. I'd like to introduce

00:28:23
everybody to Maria Lucia. She

00:28:27
joins us going to be

00:28:29

from Bogota in Columbia. She's

00:28:32

a specialist in the regulation

00:28:34

of renewable energy and Energy

00:28:35

Efficiency. She's a senior associate

00:28:38

in strategy in the arbitration

00:28:42

and in Hello practice, as

00:28:44

I said, she's based in

00:28:45

Bogota Colombia. Unfortunately, one of

00:28:47

the few countries I haven't

00:28:49

had the pleasure of being

00:28:50

yet. She's also containing Adjunct

00:28:52

professor of international arbitration procedure

00:28:55

and an assistant professor of

00:28:57

law at University. Del Rosario.

00:29:01

She also served as a

00:29:03

coach for the Jesup food

00:29:08

court competition team welcome, Maria

00:29:12

Maria is going to speak

00:29:15

to us today about the

00:29:17

impact of human rights violations

00:29:21

on contractual rights. Thank you

00:29:27

brother name for organizing is

00:29:29

been a lot. Of course.

00:29:30

You're welcome to to come

00:29:31

to Columbia and visit. It

00:29:34

is a pleasure to be

00:29:34

here and to share of

00:29:35

course. This is faced with

00:29:37

Rob with the Stephanie on

00:29:39

withdrawals. And of course with

00:29:40

Drew, it's great to see

00:29:43

The Incredibles work that you

00:29:44

guys with your firm are

00:29:46

doing every year in putting

00:29:48

together the chapter of Singapore

00:29:50

of world arbitration update. So

00:29:52

thank you so much for

00:29:53

that. So as mentioned by

00:29:56

Raj out today, it would

00:29:57

like to focus my presentation

00:29:59

in discussing whether arbitration could

00:30:01

be suitable mechanism to address

00:30:04

business and human rights related

00:30:06

disputes and I would like

00:30:08

to fuck with these presentation

00:30:09

into perspective from the perspective

00:30:12

of investment arbitration without going

00:30:14

to substance because of course

00:30:16

the possible potential breaches might

00:30:19

be addressed by brothers and

00:30:20

by Rob and from the

00:30:22

perspective of contractile disputes. So

00:30:25

first from the perspective of

00:30:27

investment treaty arbitration, it is

00:30:29

not only known that there

00:30:31

is a tension between the

00:30:33

protection of Human Rights and

00:30:35

States obligations that work for

00:30:37

investors nowadays, the majority of

00:30:41

International Investment agreements starting Force

00:30:44

are typically a symmetrical this

00:30:46

means that what happened is

00:30:48

that investment arbitration agreements imposed

00:30:51

obligation on house the states

00:30:53

but not of the country

00:30:55

and not an Investor's however

00:30:57

in the past years we

00:30:59

we have been able to

00:31:01

do scene achieved in his

00:31:03

approach and this has allowed

00:31:05

us to see how human

00:31:07

rights issues can actually play

00:31:09

a role in investment arbitration

00:31:11

disputes. I didn't contract old

00:31:13

Pizza as I will address

00:31:14

at the end of of

00:31:16

this presentation. However, something that

00:31:20

I want to clarify before

00:31:22

getting to the discussion about

00:31:25

These mechanisms that have been

00:31:27

implemented in the past years

00:31:29

in investment treaties. I would

00:31:31

like to clarify that although

00:31:33

human rights concerns can nowadays

00:31:36

be reflected in some way

00:31:38

in investment treaty arbitration through

00:31:41

a few mechanisms such classes

00:31:44

that have been included in

00:31:46

investment treaties do not give

00:31:48

affirmative rice to individuals affected

00:31:50

by business-related human rights violations

00:31:53

rather at the end what

00:31:56

what they aim to protect

00:31:57

is the host of state

00:31:59

regulatory space in a human

00:32:01

rights Motors on 2nd. The

00:32:04

other things that I would

00:32:05

like to clarify is that

00:32:06

they do not convert any

00:32:09

direct access to remedy for

00:32:11

alleged victims of such kind

00:32:13

of violations. This is why

00:32:15

it's so important in his

00:32:17

presentation to also see the

00:32:19

perspective from contractual disputes and

00:32:22

to a food forward. Examples

00:32:26

such as the Bangladesh records

00:32:27

which might be irrelevant example

00:32:30

here to see how human

00:32:33

rights issues can actually be

00:32:35

sold in a mother to

00:32:38

arbitration. So in principle, or

00:32:41

if we would like to

00:32:42

talk about investment arbitration against

00:32:45

foreign investment a investors for

00:32:48

alleged breach of human rights

00:32:49

on their International Investment agreements

00:32:52

these my principles to conditions.

00:32:55

The first one is that

00:32:57

we need to have human

00:32:59

rights obligations on investors and

00:33:01

investment treaties and second there.

00:33:05

We need a provision unconcerned

00:33:07

by investors to International patricians

00:33:10

or such violations without these

00:33:13

two conditions these one word.

00:33:17

So this can be possible,

00:33:18

of course by the development

00:33:21

of investment treaty practiced and

00:33:23

as you know, the fact

00:33:25

that investment treaties are part

00:33:26

of public international law and

00:33:28

this includes human rights obligations

00:33:30

as has been explained by

00:33:32

the Stephanie. This has led

00:33:34

us to the recognition that

00:33:35

for investors have duties in

00:33:37

the context of boring Investments.

00:33:40

And of course. They might

00:33:41

have human rights responsibilities. So

00:33:44

thanks to be like new

00:33:46

approach. We can say that

00:33:48

currently we can identify three

00:33:51

regional or International mechanism dubno

00:33:54

days exists to promote Investments

00:33:58

using a easy approach and

00:34:00

a human rights approach. So

00:34:02

the first of these approaches

00:34:04

is those treaties that reflect

00:34:07

the need to promote and

00:34:08

protect sustainable Investments and they

00:34:11

include human rights and corporate

00:34:13

social responsibility references in the

00:34:16

Preamble and Non biting obligations.

00:34:19

However, the problem is here.

00:34:22

Of course is that this

00:34:24

is not that useful as

00:34:25

Preamble General like enforceability. So

00:34:29

Adam disease this is an

00:34:32

advance but this is not

00:34:33

like the best approach that

00:34:35

we need in order to

00:34:37

to to balance. It seems

00:34:40

them on to have an

00:34:41

arbitration as I'm making me

00:34:44

some 222 these calls her

00:34:46

to enforce human rights violation

00:34:49

example of this kind of

00:34:51

Pretties. We have big happy

00:34:52

birthday hungry bitno Sade Adu

00:34:55

Vietnam FDA. That's just two

00:34:58

of the of the examples

00:34:59

by we have several and

00:35:01

investment treaties with these kind

00:35:03

of probation seen in their

00:35:04

prayers as a mechanism. I

00:35:07

will mention those kind of

00:35:10

treaties that have pluses that

00:35:12

aim to preserve and guaranteed

00:35:15

the right to regulate in

00:35:16

this case. We have the

00:35:17

Apollonia FDA which has a

00:35:20

general exception clause in article

00:35:22

22013 and according to that

00:35:26

flaws or States. May adopt

00:35:29

measures to protect human animal

00:35:32

or plant life or health.

00:35:35

And I have like a

00:35:37

position here and needs that

00:35:39

even if this place might

00:35:42

be clear and I might

00:35:45

be a very well drafted

00:35:47

exception Clause even in those

00:35:50

cases and even if we

00:35:51

have such a strong classes

00:35:53

as these ones these clothes

00:35:55

as my also be rejected

00:35:57

by trouble tribunals depending on

00:36:00

their interpretation. This is the

00:36:01

case of the Agora versus

00:36:03

Colombia case in which although

00:36:05

Colombia argued that they

00:36:11

were not obliged to pay

00:36:14

compensation and they were under

00:36:17

these claims exclude and liability

00:36:20

to play compensation at the

00:36:22

end the tribunal in its

00:36:25

interpretation of this class. Put

00:36:29

forward a different position on

00:36:32

this. So if we if

00:36:34

we are dealing with this

00:36:35

kind of interpretation of the

00:36:37

end exception Closet in treaties

00:36:40

are not that useful because

00:36:41

they are allowing State just

00:36:43

a certain measures to act

00:36:45

entertainment but without incurring in

00:36:48

international responsibility, so as a

00:36:52

third approach, we have those

00:36:53

kind of treaties with Provisions

00:36:56

that try to balance write

00:36:58

an applications for States and

00:37:00

investors and and we'd be

00:37:02

signing those kind of treaties

00:37:04

that provide a card low

00:37:06

investment treaty obligations to respect

00:37:09

human rights on investors. So

00:37:12

as an example of these

00:37:13

we have the Nigerian World

00:37:14

Cup 2016 be a team.

00:37:17

We also have they dropped

00:37:19

but not be getting Desmond

00:37:20

quote on the echo was

00:37:22

the protocol on investment of

00:37:25

the African continent of free

00:37:27

trade area, which is still

00:37:28

not Boards, but Adam is

00:37:30

an advanced that that Africa

00:37:33

is doing chores including obligations

00:37:38

on investors. So what are

00:37:45

the plans that we need

00:37:47

to fix here? Because these

00:37:49

have been like really good

00:37:51

a ways to try to

00:37:53

solve the problems and of

00:37:55

course are an advancing itself,

00:37:58

but they're not like a

00:38:01

complete solution. So what we

00:38:04

need to fix here is

00:38:05

first we need of course

00:38:07

to include allegations on investors

00:38:09

and investment treaties, but that's

00:38:12

not enough and this is

00:38:13

something that I think that

00:38:14

Brock will address later in

00:38:16

his presentation about the other

00:38:18

problem. It's a jurisdictional problem

00:38:19

because investment treaties are negotiated

00:38:25

are not answering to buy

00:38:27

States another investor. So of

00:38:29

course only missed their treaties

00:38:32

my my luck concerned by

00:38:34

investors to be bound to

00:38:36

this kind of obligation to

00:38:37

respect minimum International standards. So

00:38:41

what we propose and what

00:38:42

we have been actually discussing

00:38:45

from from my working strategy

00:38:47

with different stakeholders is a

00:38:50

particular 3D architecture that incorporates

00:38:54

treaty obligations boredom Busters, but

00:38:57

not only Treaty obligations for

00:39:00

investors but also a possibility

00:39:03

to include an Annex in

00:39:05

which the investor has confirmed

00:39:07

its consent to be bound

00:39:09

by obligations regarding human rights.

00:39:11

This is what I have

00:39:13

a spectrum Batman arbitration. And

00:39:15

now moving to the contractual

00:39:16

disputes. The first thing that

00:39:19

I would like to measure

00:39:20

needs, of course. The jurisdiction

00:39:22

in contractual disputes Sun Ultra

00:39:25

Moon trade disputes comes, of

00:39:27

course from a compromise Zurich

00:39:29

to us an example of

00:39:32

this and and how to

00:39:34

deal human rights or how

00:39:36

to use arbitration to to

00:39:38

solve human rights issues is

00:39:41

the mechanism has been established

00:39:42

in the Bible that records.

00:39:44

So the Bangladesh Accords is

00:39:47

a legal binding agreement that

00:39:50

was signed between Garmin Brands.

00:39:52

I I believe that it

00:39:56

was approximately to 200 the

00:39:59

government bonds on trade unions

00:40:01

on the objective of this

00:40:02

agreement was to ensure worker

00:40:05

health and safety in Bangladesh

00:40:06

text you and garment industry.

00:40:09

This is a by itself

00:40:12

icing the groundbreaking because of

00:40:15

the end what we achieve

00:40:17

with this Bangladesh records is

00:40:19

that labor unions agreed to

00:40:22

arbitrate disputes and agree to

00:40:25

arbitrate disputes that are related

00:40:27

to Human Rights. So they

00:40:29

agree that arbitration could be

00:40:31

actually a mechanism to enforce

00:40:33

business and human rights disputes.

00:40:36

What happened in 2016, is

00:40:39

that the labor unions that

00:40:42

were part of disagreement brought

00:40:44

to claims against to fashion

00:40:46

brands, we wouldn't know which

00:40:48

for a special Browns because

00:40:49

this this is confidential and

00:40:52

they broke to arbitration clean

00:40:54

before the PCA. A DMV

00:40:58

the ended up settling the

00:41:01

dispute that the resolution was

00:41:03

not on the merits but

00:41:06

they have been here is

00:41:08

that the tribunal decides that

00:41:10

it had jurisdiction to resolve

00:41:12

this kind of disputes. Of

00:41:14

course, there is still a

00:41:15

lot to to learn from

00:41:17

these because we were not

00:41:18

able to see a resolution

00:41:20
on some discussion on the

00:41:21
merits which which is also

00:41:23
key here to see how

00:41:25
I drive, you know my

00:41:26
deal with this kind of

00:41:27
issues or none on the

00:41:29
merits bad, but I think

00:41:31
that this is a very

00:41:32
good example on how I

00:41:35
retrieve Shane can you use

00:41:36
can be used to to

00:41:38
resolve this this kind of

00:41:39
disputes? I would like to

00:41:41

finalize these these bad. a

00:41:45

measuring. The case of the

00:41:48

blonde girl Bangladesh records of

00:41:50

course was super specific and

00:41:53

also it was a successful

00:41:57

because of the pressure that

00:41:59

the industry had back then

00:42:01

in Bangladesh. This is not

00:42:03

the case of every industry

00:42:05

in the world. So we

00:42:07

might want to think or

00:42:09

ask ourselves whether the most

00:42:11

of the Bangladesh records can

00:42:13

actually be replicated in other

00:42:15

Industries, but this is something

00:42:18

that we we might discuss

00:42:20

later in the store. Thank

00:42:25

you very much. I do

00:42:28

not like to introduce you

00:42:30

to order easy council with

00:42:33

a Chance in Perth. He

00:42:35

specializes in international commercial arbitration

00:42:37

investor-state dispute settlement in public

00:42:41

international law is practiced covers

00:42:44

Europe Asia Africa and North

00:42:48

America in addition to energy

00:42:50

mining infrastructure and telecoms. He

00:42:54

has a specific focus on

00:42:56

Space Esports and cannabis. Put

00:43:02

up has acted under most

00:43:03

major arbitration rules in various

00:43:06

capacities. And he also has

00:43:08

experience with WTO dispute and

00:43:11

enforcement of the wards against

00:43:14

Southern States. He will speak

00:43:18

to us today about investment

00:43:21

treaty obligation and the interface

00:43:25

in potential conflict with international

00:43:29

human rights that the outer

00:43:38

space Kennedy Center East Portland

00:43:40

rooster way to make you

00:43:41

believe that I'm respectable guy

00:43:43

when in fact what I

00:43:44

do a lot is energy

00:43:46

and Mining so it's very

00:43:47

sad thing for today's discussion

00:43:49

site was just a very

00:43:50

attentive and making you saying

00:43:52

that you're actually talking to

00:43:54

someone that you can you

00:43:56

no respect and listen to

00:43:57

peacefully I'm looking forward to

00:44:01

The opportunity to discuss with

00:44:02

Michael Connelly is because I've

00:44:04

listened attentively to what they

00:44:06

have to say. It's extremely

00:44:08

interesting and I believe that

00:44:09

the idea of building into

00:44:11

treaties some causes really Target

00:44:14

human rights is a very

00:44:15

interesting one in and making

00:44:17

investor carry the weight of

00:44:20

obligations when they spend 30

00:44:22

so very interesting idea until

00:44:24

I look forward to discussing

00:44:25

it in Altoona later. I

00:44:28

appreciate you running a little

00:44:29

bit behind time. So I

00:44:31

do not propose to read

00:44:33

your list of various violations

00:44:35

because believe you me when

00:44:37

I say violation of Human

00:44:40

Rights take many shapes colors

00:44:41

in swarms in his ass

00:44:43

and treaty disputes. They happen

00:44:46

in dire circumstances in respect

00:44:48

of virus active for the

00:44:49

parties themselves their weaknesses exit

00:44:53

right to try sometimes even

00:44:54

the arbitrator's but but what

00:44:57

I propose to do now

00:44:58

really is to give you

00:45:00

a sense. From where the

00:45:03

human rights violations can call

00:45:05

in any respect of whom

00:45:08

in what circumstances broadly so

00:45:11

interesting Lee we're talking about

00:45:13

three keys right in as

00:45:14

read write stand at the

00:45:15

very beginning, you know investment

00:45:18

treaties that part of the

00:45:19

deep public international law sanity

00:45:21

just like human rights one

00:45:23

would possibly believe that somehow

00:45:25

they're cousins and their things

00:45:26

to say to each other

00:45:27

this certainly do but the

00:45:29

reality is investment treaty arbitration

00:45:33

is pretty much a self-contained

00:45:35

a domain really and is

00:45:38

there is one thing already

00:45:39

I can say is that

00:45:40

no matter the time of

00:45:41

human rights violation were talking

00:45:43

about traditionally. There is a

00:45:45

reluctance on the part of

00:45:46

arbitrators in Investments arbitrations to

00:45:50

nexgen rosendin refactoring the Human

00:45:55

Rights Commission and into be

00:45:57

perfectly clear this Cuts both

00:45:58

ways. It is not worth

00:46:00

all this. There's two exams

00:46:01

investors from human rights violations.

00:46:05

It's also simply a way

00:46:07

to make sure that address

00:46:09

the same states are not

00:46:11

embroiled in boiled. Sorry in

00:46:14

human rights disputes under the

00:46:16

veil of an investment treaty

00:46:17

disputes. So that the first

00:46:19

the first consideration really is

00:46:21

yes in International Investment law

00:46:24

and human rights law or

00:46:25

cousins are part of the

00:46:26

public international law family, but

00:46:28

this world somehow interconnected with

00:46:32

each other that much at

00:46:33

least again arbitrators or not

00:46:35

that Keen on on mixing

00:46:36

them up in their districts

00:46:38

does the very first element

00:46:40

the second element is and

00:46:42

I think it's an important

00:46:42

consideration. Investment treaties as the

00:46:47

name suggests dog year to

00:46:48

word Investments Del gear to

00:46:51

wear the business activities first

00:46:53

and foremost, right? They'll get

00:46:55

to work economic relations in

00:46:57

Sutton e. Human rights covering

00:46:59

the property elements of a

00:47:01

Venus flytrap ins, but then

00:47:03

again, this is not the

00:47:04

main focus of investment treaties

00:47:06

at least on the surface.

00:47:07

Why do I say on

00:47:11

the surface? Because what is

00:47:12

extremely interesting is that when

00:47:15

you read investment treaties you

00:47:16

often come across as you

00:47:18

know, the same Clauses you've

00:47:20

got guarantees expropriated against expropriations.

00:47:23

You've got a guarantees of

00:47:25

fair and Equitable treatment, you

00:47:28

could guarantees a free Roberta

00:47:30

Giffin of friends. You got

00:47:31

guarantees against discrimination and just

00:47:34

by seeing discrimination fair treatment

00:47:36

already. These are not sure

00:47:38

Notions that are not entirely

00:47:40

foreign to the world of

00:47:41

Human Rights or interests in

00:47:43

Glee. So as I said,

00:47:46

these are two separate worlds,

00:47:47

but not so much because

00:47:48

when you look at the

00:47:49

contents of investment treaties, you

00:47:51

can see some commonalities with

00:47:53

fundamental human rights as I

00:47:56

have already said when we

00:47:57

consider the notion of an

00:47:58

expropriation, we're talking about the

00:48:00

deprivation of a private individual

00:48:04

or private company's assets property.

00:48:07

There is a fundamental right

00:48:09

to enjoy being on your

00:48:12

ship in property, right interesting

00:48:14

Lee. However, when you are

00:48:15

dealing with appropriation claims in

00:48:17

investment with your betray friends

00:48:18

that you can write aspect

00:48:20

of you know, private property

00:48:22

doesn't arise so much and

00:48:23

there is a focus really

00:48:24

on how its preparation is

00:48:28

defined in the Attic about

00:48:29

investment treaty and more broadly

00:48:31
under international law with without

00:48:34
three references to Human Rights.

00:48:35
Okay. So if we're taking

00:48:38
first the investor as the

00:48:41
object of potential human By

00:48:44
your license right as the

00:48:46
target of potential human right

00:48:48
violation by August 8th. I

00:48:49
guess one of them that

00:48:50
is never a friend that

00:48:51
way though. He's a expropriation

00:48:54
really because the state is

00:48:56
unlawfully taking away private property

00:48:59

of an individual beat a

00:49:01

foreign citizen right where the

00:49:05

core of human rights violation.

00:49:07

I suppose can really be

00:49:09

observed. He's under the big

00:49:11

umbrella of fair and Equitable

00:49:13

treatment, as you know, any

00:49:15

investment treaties most of them.

00:49:18

I daresay contain some form

00:49:20

of big a front of

00:49:22

a fair and Equitable treatment

00:49:24

of foreign investors, and I

00:49:26

just did the Beauty and

00:49:28

the nightmare behind the f

00:49:29

e t standard is that

00:49:33

it is not so well-defined

00:49:36

an indoor mini creatures that

00:49:38

can hide behind the notion

00:49:40

act in classification. Parts of

00:49:44

the state that don't know

00:49:46

just a matter of treating

00:49:47

an investment properly. It goes

00:49:50

way beyond that it goes

00:49:51

about providing some security some

00:49:55

safety to the investors into

00:49:56

their Investments not committing denial

00:50:00

of Justice or 14 due

00:50:02

process. So all of those

00:50:04

Notions are also contained in

00:50:06

the ACT standard and certainly

00:50:08

the right to a fair

00:50:09

trial the right to due

00:50:11

process is is an ocean

00:50:12

fun Demento to Human Rights

00:50:14

a lot of investment arbitration

00:50:18

revolve around the breach of

00:50:19

any possible treatment through the

00:50:22

violation of due process through

00:50:24

a denial of justice and

00:50:27

in some cases even through

00:50:29

the violations of real personal

00:50:32

rights of Freedom something that

00:50:35

is very common. Unfortunately in

00:50:39

investment arbitrations all allegations of

00:50:42

denial. Due process are in

00:50:45

denial of justice, but not

00:50:47

just in civil proceedings of

00:50:48

proceedings concerning the investment of

00:50:51

the foreign investor, but they

00:50:54

also concerned the treatment of

00:50:56

the people running the investment

00:50:59

of being the target of

00:51:00

a criminal investigation to Target

00:51:03

of criminal proceedings open in

00:51:05

the wake of those investors

00:51:07

making a claim against the

00:51:08

state, right? So if we're

00:51:11

looking at potential human rights

00:51:13

violations committed against investors, denial

00:51:16

of Justice through a nice

00:51:18

appropriation of judicial proceedings in

00:51:21

the whole state by the

00:51:22

whole state is certainly one

00:51:24

of them write quite a

00:51:27

bit about violations of human

00:51:30

rights of investors, but one

00:51:32

should not think that investors

00:51:35

themselves potentially cannot be accused

00:51:37

of committing criminal rights violation

00:51:39

in here than the object

00:51:42

of the human rights violations.

00:51:43

Investor it is the state.

00:51:46

The question is what do

00:51:49

we mean released by the

00:51:50

state? Do we just mean

00:51:51

the organs of the state

00:51:53

government doing mean yet in

00:51:54

Croatian wolf in time when

00:51:57

state alleges that investors have

00:52:00

committed violations of human rights.

00:52:02

They don't really talk so

00:52:04

much about the investors violating

00:52:05

the human rights of the

00:52:07

status of the government. That's

00:52:09

more violation of the human

00:52:11

rights of its people right?

00:52:12

And that is where do

00:52:14

I get the mining and

00:52:16

an element of it comes

00:52:19

into the discussion because in

00:52:20

my experience certainly in Nice

00:52:23

France revolves a lot around

00:52:25

mining disputes frankly the claims

00:52:29

that you often hear the

00:52:30

counterclaims or the difference is

00:52:32

right by States against investors

00:52:35

in relation to human rights

00:52:38

violations. A lot of the

00:52:39

time they have to do

00:52:40

with the protection of human

00:52:42

health and the production The

00:52:44

environment what is interesting when

00:52:46

you raise the notion of

00:52:48

environment and human health is

00:52:51

that I think it is

00:52:53

arguable that their inclusion in

00:52:56

human rights has been growing

00:52:58

overtime. Right and the notion

00:53:01

that an investor would violate

00:53:04

regulations pertaining to the environment

00:53:06

or with conduct it say

00:53:08

for instance Mania operations in

00:53:10

the weather address to Humana

00:53:11

health friend as a human

00:53:14

rights violation. It is rather

00:53:16

a relatively New Concept in

00:53:19

the distance between a patrician

00:53:21

traditionally, what would be alleged

00:53:24

is that the investor has

00:53:26

violated domestic regulations pertaining to

00:53:28

the environment and that would

00:53:31

be raised as a defense

00:53:32

to invalidate the validity of

00:53:35

the investment for instance. But

00:53:36

what is interesting now, is

00:53:38

that more and more you

00:53:39

see governments defending themselves investment

00:53:42

treaty arbitration say no. That

00:53:44

the investor has violated Domestic

00:53:45

Relations, but that the investor

00:53:48

has violated human rights of

00:53:50

the local Depot near the

00:53:52

mining sites for instance. Right?

00:53:53

So the way you could

00:53:56

say that state Elevate the

00:53:58

rights of their own people

00:53:59

into the sphere of the

00:54:01

dispute now whether it is

00:54:03

a restaurant to do this

00:54:05

again, I think I'll be

00:54:06

traitors based on what you

00:54:07

know from provisional decisions are

00:54:09

quite hostile to entertain those

00:54:10

claims, but they are your

00:54:12

case is definitely what this

00:54:14

mean the consideration of the

00:54:16

behavior of the investor in

00:54:18
respect of Princeton station to

00:54:22
have access to clean water

00:54:23
the right of the local

00:54:24
populations to have access to

00:54:26
a penal enlargement. And certainly

00:54:28
there is a trend in

00:54:30
the is D&S community of

00:54:33
factoring in much more than

00:54:35
before the protection of the

00:54:38
environment and the right to

00:54:39
human Nails, right? This is

00:54:41
why to tie back to

00:54:42
what Maria Lucia? Earlier, you

00:54:45

seemed more and more and

00:54:46

sweeties Express carve out in

00:54:48

references to language would only

00:54:51

find before in WTO agreements

00:54:54

in relation to the protection

00:54:55

of Human Rights and the

00:54:57

environment and finally the last

00:55:00

month. I would like to

00:55:01

touch your pain before passing

00:55:03

the back tone to to

00:55:04

Rob and who is going

00:55:05

to provide more details as

00:55:06

to differences between human rights

00:55:08

violation in respect of investors

00:55:10

as opposed to States and

00:55:11

vice versa is the notion.

00:55:14

We should not forget that

00:55:15

the arbitral proceedings themselves potentially

00:55:20

can be the theater of

00:55:22

human rights violations because again

00:55:24

going back to the notion

00:55:25

of right to due process

00:55:27

right to a fair trial

00:55:29

right to Simply dressed is

00:55:31

there have been president of

00:55:33

cases where they have been

00:55:35

allegations of human rights violations

00:55:38

not by the state that

00:55:39

by Dingus for Good by

00:55:40

the arbitrator's themselves in the

00:55:42

where they have connecting person.

00:55:43

Right to the last angle

00:55:46

from which you can observe

00:55:48

potential human rights violation investment

00:55:50

treaty cases is by looking

00:55:51

at the conduct of the

00:55:53

person is themselves and as

00:55:55

to whether those proceedings have

00:55:57

been conducted in the fair

00:55:58

and even mother, this is

00:56:01

not just a theoretical question,

00:56:03

but again given the safe

00:56:08

yes, or no criticism of

00:56:10

investment arbitration as a system

00:56:13

and whether it's truly impartial

00:56:15

whether it is a year

00:56:17

to work for the king

00:56:18

investors who do the country

00:56:20

I eat. He's partial to

00:56:21

States more and more questions

00:56:24

of whether arbitration as a

00:56:26

system to shopping list, and

00:56:27

he's cute really is fair

00:56:29

and to the core whether

00:56:30

it's respect the rights to

00:56:33

a fair trial into an

00:56:34

impartial adjudicator. So thank you.

00:56:37

I think that's enough for

00:56:38

now in terms of over

00:56:39

during the questions. Thanks. Thank

00:56:46

you, Google. You're a host

00:56:51

of questions for you. But

00:56:52

I'll I'll bite my tongue

00:56:53

till we left Mr. Houston.

00:56:56

Go Robert Houston is an

00:56:59

associate working in the international

00:57:02

arbitration team of kennel Gates.

00:57:03

He focuses almost exclusively on

00:57:08

invests in public in special

00:57:10

romantis. He has experience conducting

00:57:15

operations under i t c

00:57:17

h c s e c

00:57:19

s i c a l

00:57:20

a r a speedy pro

00:57:23

bono coordinators for the sink

00:57:25

and the leader in the

00:57:27

anti-human trafficking initiative in which

00:57:31

he has coordinated the number

00:57:32

of money on a project

00:57:34

involving 30-40 sometimes upwards of

00:57:39

fifty different countries in the

00:57:41

World Cup. He's a monster

00:57:44

organization. That's why I will

00:57:46

say prior to joining the

00:57:48

firm and this is certainly

00:57:49

more interesting than what he

00:57:50

does today represent in the

00:57:53

US and Singapore through the

00:57:54

development of a scholarship related

00:57:56

to the use of international

00:57:58

arbitration process to resolve disputes

00:57:59

and even more importantly than

00:58:02

that he served as a

00:58:05

captain in the 171st infantry

00:58:07

battalion of the Maryland Army

00:58:10

National Guard and and the

00:58:12

US Army's meritorious service medal

00:58:13

for his work at the

00:58:15

Us McAllen communication box the

00:58:17

deployment in Egyptian by night

00:58:19

with the most net force

00:58:21

and observers peacekeeping Mission between

00:58:23

2011 and 2020. Play everyone

00:58:31

could see my slides here.

00:58:32

We're going to have to

00:58:33

shift gears a little bit

00:58:34

and not look at substantive

00:58:36

law as much as we

00:58:37

have been so far as

00:58:38

interesting as that is and

00:58:39

talk about something different. Mostly

00:58:41

the development of other legal

00:58:43

strategies how to approach matters

00:58:45

that involve human rights in

00:58:47

the international context. I'm talking

00:58:51

to her about holistic loitering

00:58:53

ballistic learning in international disputes

00:58:56

will begin with talking about

00:58:57

what is this thing holistic

00:58:58

loitering and then over to

00:59:00

what does it mean in

00:59:01

the international context? Then we'll

00:59:03

move on to talk just

00:59:03

a little bit about what

00:59:04

Rodger discussed in the beginning

00:59:06

about Regina traction. And finally,

00:59:09

we'll talk about how it

00:59:10

looks in practice a little

00:59:11

bit. Cooper's Hawk what is

00:59:13

ballistic boring? According to traditional

00:59:16

standards of Public Defense. I

00:59:18

did a good job Indeed

00:59:19

Lisa receive the high-quality legal

00:59:22

defense in a criminal case.

00:59:23

I raised all the appropriate

00:59:24

challenges to the police Honda

00:59:26

challenge the prosecution to prove

00:59:28

its case Beyond A Reasonable

00:59:29

Doubt and litigated her case

00:59:31

effectively zealously and without compromised.

00:59:34

I appealed her case and

00:59:36

eventually won her Freedom. So

00:59:38

why does Lisa still want

00:59:39

me almost two decades later?

00:59:42

Because while I address the

00:59:44

needs of her criminal case

00:59:45

effectively, I did nothing to

00:59:47

change her life to address.

00:59:48

In other words for human

00:59:50

needs those need left on

00:59:52

a dress would eventually drive

00:59:53

her back into the criminal

00:59:54

justice system and into that

00:59:56

same prison cell from which

00:59:58

he narrowly escaped the first

00:59:59

time looking back at least

01:00:01

I needed was an advocate

01:00:02

who could look Beyond her

01:00:03

criminal case to her drug

01:00:04

addiction to her homelessness into

01:00:06

our psychological needs which stem

01:00:08

from years of trauma and

01:00:09

abuse Lisa needed an advocate

01:00:11

who regarded her as a

01:00:12

whole client rather than as

01:00:14

a case. So this came

01:00:16

from an article written by

01:00:17

Robin Steinberg how holistic representation

01:00:21

makes for good policy better

01:00:22

lawyers and more satisfied clients

01:00:24

there in the New York

01:00:25

University review of Law and

01:00:26

social change. Robin had spent

01:00:30

twenty years and more it

01:00:32

with the Bronx Defenders a

01:00:34

nonprofit that effectively represents folks

01:00:36

who are living over in

01:00:36

the Bronx in context just

01:00:38

like what she just arrived

01:00:39

and it's interesting. If you

01:00:41

look at the article that

01:00:42

you see a a dichotomy

01:00:43

that she resents two different

01:00:45

views two different kinds of

01:00:47

approaches. The lawyer in one

01:00:49

is what she puts forward

01:00:50

and is arguing for effectively

01:00:52

full list exploring and the

01:00:53

other one is more what

01:00:54

we will be used to

01:00:55

only think of a lawyer

01:00:56

sent in traditional ordering. Traditional

01:00:59

ordering from the article. It's

01:01:01

characterized as follows its challenges

01:01:02

police conduct were talking. Of

01:01:04

course you about the criminal

01:01:05

context with caught talking about

01:01:07

Public Defense. It challenges prosecution

01:01:10

to prove the case Beyond

01:01:12

a reasonable doubt it litigate

01:01:14
zealously effectively uncompromisingly. That's what

01:01:17
we think of when we

01:01:18
think of traditional lawyer a

01:01:20
client in that particular context

01:01:21
clearing on the other side

01:01:24
is a little differently not

01:01:28
just of course, obviously that

01:01:29
the aspects of traditional ordering

01:01:31
or included there as well

01:01:32
representation in court is the

01:01:34
same thing but still yet

01:01:35
holistic loitering in the style

01:01:38
that Robin is before words

01:01:40

includes also a consideration of

01:01:42

Social Services Health treatments, maybe

01:01:44

counseling maybe employment counseling the

01:01:46

things that are behind the

01:01:47

issues that have driven clients

01:01:49

to be where they are

01:01:50

in that context. Also, it's

01:01:52

it's characterized by collaborative long-term

01:01:55

intensive and maybe most importantly

01:01:57

compassionate lawyer. The difference is

01:02:03

mine set a person's way

01:02:04

of thinking and their opinions

01:02:06

is one definition changing a

01:02:08

person's way of thinking and

01:02:09

their opinion when a person

01:02:11

is a lawyer has it

01:02:12

a test has had a

01:02:13

great deal to do with

01:02:14

the results in the case

01:02:15

and the way that the

01:02:16

client feels the way the

01:02:17

client is engaged within the

01:02:19

process. Compassion strong feeling of

01:02:23

sympathy for four people or

01:02:25

animals were suffering in a

01:02:26

desire to help them and

01:02:27

it's a funny thing right

01:02:29

that we are here talking

01:02:30

about international law were talking

01:02:31

about public international law talking

01:02:34

about the macro issues right

01:02:36

now and yet where is

01:02:38

compassion do we have a

01:02:39

discussion about compassion? Where does

01:02:42

it fit the idea of

01:02:45

holistic loitering in international practice?

01:02:48

Let's have a look at

01:02:50

that. What would it look

01:02:50

like if we were to

01:02:51

talk about traditional lawyer in

01:02:52

the current context what we're

01:02:54

thinking of international disputes were

01:02:56

talking about International commercial arbitration

01:02:57

investor-state arbitration and maybe some

01:03:00

of the public international law

01:03:01

dispute that we see out

01:03:02

there we might think of

01:03:03

it is a competitive practice.

01:03:05

You may have a number

01:03:06

of firms that want to

01:03:07

get the particular client in

01:03:09

the door. A lot of

01:03:10

times it has to do

01:03:11

with numbers doesn't it announced

01:03:13

in dispute Law Firm ranking

01:03:15

number of cases are hearings

01:03:17

number of arbitrator appointments. These

01:03:19

are the sorts of things

01:03:20

that many folks will look

01:03:21

you to say my firm

01:03:23

not that far. There's a

01:03:25

race to arbitration a lot

01:03:26

of times. Why is that

01:03:27

probably has something to do

01:03:29

with maximizing billable hours lot

01:03:31

of times. We may think

01:03:32

of traditional loitering in the

01:03:33

investor-state dispute in the in

01:03:34

the international disputes world as

01:03:37

effectively preparing for the arbitration

01:03:39

rather than for example, trying

01:03:41

to find a workable solution

01:03:42

if it's possible before the

01:03:44

arbitration to reduce costs with

01:03:46

particular plant. In the end.

01:03:49

It's about quantity over quality

01:03:50

in a lot of ways.

01:03:51

What would holistic Lori ring

01:03:54

look like not in the

01:03:55

Public Defense contest or the

01:03:57

public defender of international disputes.

01:04:01

Well for one thing it

01:04:03

would be client-focused. That's for

01:04:04

sure. It would start with

01:04:05

a client's needs and concerns.

01:04:07

It would involve a great

01:04:09

deal of counseling and advice

01:04:10

before a tribunal it might

01:04:14

involve some practicality still yet.

01:04:16

Just like the public defender's

01:04:18

encounter with the issues for

01:04:19

funding third-party funding may be

01:04:21

necessary for a particular client

01:04:22

may be an individual may

01:04:24

be an entity that needs

01:04:25

the funding to move forward.

01:04:26

Sometimes we work for least

01:04:28

of all countries money and

01:04:31

funding can be an issue.

01:04:33

It's do collaborative. It's still

01:04:36

long-term still intensive and ultimately

01:04:39

and importantly it's about quality

01:04:40

over quantity. Another way to

01:04:43

look at it is the

01:04:45

old dichotomy about lobbying both

01:04:47

the business and a collar

01:04:48

with a lot of time

01:04:49

to spend more time. Maybe

01:04:50

talk to me about the

01:04:51

business part about going to

01:04:52

do about the calling. Traditional

01:04:54

lawyer. You might think about

01:04:56

law as a business be

01:04:59

more of a traditional idea

01:05:00

in-laws are falling be more

01:05:01

in line with the listing

01:05:02

for you. Again, it's a

01:05:05

change of mindset. Let me

01:05:08

go over and talk about

01:05:09

Regina interaction. This once again

01:05:11

is the idea that there

01:05:12

are different style in public

01:05:14

international law that we see

01:05:17

some developments in international human

01:05:20

rights law and national Odyssey.

01:05:23

We can say different things

01:05:27

about the same legal issues.

01:05:30

How does holistically really look

01:05:32

at that International in an

01:05:33

international context it focuses on

01:05:35

the whole client? Free requires

01:05:38

insight into the underlying needs

01:05:40

of the client not just

01:05:41

a limited scope of Engagement.

01:05:42

Its compassion for human needs

01:05:43

still yet and especially here

01:05:45

where were talking about human

01:05:46

rights related cases. It requires

01:05:48

a perspective to span. The

01:05:50

public-private is that divided especially

01:05:52

what's implicit inherent within investor-state

01:05:54

dispute settlement? Some potentially relevant

01:05:58

considerations from the private sector

01:06:00

standpoint, you might think of

01:06:01

jurisdiction might think for example

01:06:02

that the government will listen

01:06:04

to you. If you don't

01:06:05

have some proceeding that allows

01:06:07

for jurisdiction like him, but

01:06:08

you might think about publicity

01:06:10

reputation you might certainly think

01:06:13

about commercial relationships in the

01:06:14

event that there's a long-term

01:06:16

commercial dispute. That's Arisen access

01:06:18

to foreign market share over

01:06:19

politics and cost with all

01:06:22

of these things could be

01:06:22

driving concerns for the private

01:06:24

sector that are outside the

01:06:25

immediate legal discussion the immediately

01:06:28

preceding you might think about

01:06:32

this again publicity reputation diplomatic

01:06:36

relations inbound foreign investment and

01:06:38

domestic politics including especially for

01:06:42

governments. A lot of times

01:06:43

not being the one holding

01:06:44

the bag if they were

01:06:45

settlements be made you may

01:06:46

not want to be the

01:06:47

one challenge with some potential

01:06:49

corruption in the event that

01:06:50

the next regime to take

01:06:52

over the country has is

01:06:53

not happy with the settlement

01:06:54

that was made before an

01:06:55

investor ultimately. She's also concerned.

01:07:03

One example that I would

01:07:04

forward is the work that

01:07:05

we've done recently for the

01:07:07

governor of The Gambia in

01:07:08

2021. We developed a model

01:07:10

for The Gambia or a

01:07:12

bilateral investment treaty the sustainable

01:07:14

investment facilitation of cooperation agreement

01:07:16

Pacifica. It's an Innovative model

01:07:18

B. It was still receive

01:07:20

cabinet approval just this year

01:07:21

very excited that document is

01:07:23

finally going to become public

01:07:24

very soon. It's driven by

01:07:27

client concerns much more in

01:07:28

a holistic way than in

01:07:30

a traditional loitering way. We

01:07:32

look at good governance. The

01:07:34

client was concerned obviously about

01:07:35

human rights about Environmental Protection.

01:07:37

And also of course about

01:07:38

him down in Destiny doesn't

01:07:39

motion. It's about more equal

01:07:42

sharing of risks and benefits

01:07:43

and reducing the receipt power

01:07:45

and balances in his DS

01:07:47

that we first talked about

01:07:47

I buy others here today

01:07:49

and finally some of the

01:07:51

Innovative features that we include

01:07:53

many of these for the

01:07:54

first time in three factors

01:07:55

that all investor declaration of

01:07:57

compliance with the UN guiding

01:07:58

principles and inadmissibility of claims

01:08:01

against the state if that

01:08:03

declaration turns out to be

01:08:04

false. And coming back to

01:08:06

Maria that she has Point

01:08:07

that's generally speaking. There's no

01:08:09

right of action or individuals

01:08:11

in the investor-state context whether

01:08:13

is Under The Cisco. There

01:08:14

are third party claims available

01:08:16

on the basis of internationally

01:08:17

recognized human rights violations for

01:08:20

individuals to bring up against

01:08:21

the investor in the investor

01:08:23

has to agree to that

01:08:24

when entering into investor-state dispute

01:08:26

settlement much as the model

01:08:28

that has been discussed on

01:08:29

the extra. conversations based on

01:08:32

that human rights record or

01:08:34

the the investor as well

01:08:35

and finally jurisdiction over both

01:08:37

human rights and environmental issues

01:08:39

are included specifically by agreement

01:08:42

with the investor before they

01:08:44

ever enter into investor-state dispute

01:08:46

settlement if they're going to

01:08:47

answer all they must have

01:08:49

this is a new conception

01:08:51

of how we might use

01:08:52

trees to bring together. Just

01:08:54

as would also said you

01:08:56

need to bring together human

01:08:57

rights in an end environmental

01:08:59

considerations also and where they

01:09:01

belong together where they are

01:09:03

related issues to spend the

01:09:04

public-private device. You have to

01:09:06

address them together. It's just

01:09:07

that most investment treaties are

01:09:10

not interested in doing that

01:09:12

the bilateral investment treaty other

01:09:17

International Investment agreement and they're

01:09:19

saying where do you see

01:09:20
this language many of those

01:09:21
trees were written a long

01:09:22
time ago the issues that

01:09:24
were seems that they are

01:09:24
very different people have called

01:09:27
for a re-examination of the

01:09:29
system because they see that

01:09:30
there's a crisis of legitimacy.

01:09:31
That's that's that's what's been

01:09:33
called. A lot of it

01:09:36
has to do with these

01:09:37
very respected climate change and

01:09:39
with respect to the exactly

01:09:42

what she was speaking about

01:09:43

earlier today the fragmentation of

01:09:44

a public international law. We

01:09:46

were talking about some new

01:09:47

developments for Norms in the

01:09:49

environment. Some that have been

01:09:51

around for longer over the

01:09:52

investment loss. I only bring

01:09:53

them together. That's what we

01:09:55

did is brought a holistic

01:09:56

Lori mindset. And that's what

01:09:57

we would recommend books to

01:09:58

do. These are largely but

01:10:05

not only is the work

01:10:06

that we've done in developing

01:10:08

legal strategies advising clients. And

01:10:12

once again, not offer dispute

01:10:13

involves International humanitarian law human

01:10:16

rights claims. I'm in Africa

01:10:17

and middle east Europe investment

01:10:20

law commercial arbitration sovereign immunity

01:10:22

availability of mass killings in

01:10:24

Universal jurisdiction, all of these

01:10:25

ideas that can be Silo

01:10:27

in public international law or

01:10:29

in private international law and

01:10:30

bringing them together in a

01:10:31
particular matter is important. You

01:10:34
have to recognize that there's

01:10:36
an interplay between the public

01:10:37
and private. You have to

01:10:38
recognize the role of roisin

01:10:39
Attraction public international law and

01:10:41
you have to recognize their

01:10:43
needs to be a strategic

01:10:43
analysis and balancing a cost-benefit

01:10:46
analysis of coordinated courses of

01:10:48
action that may come together

01:10:49
to provide a particular client,

01:10:51
whether that's a government or

01:10:53

whether that's an investor or

01:10:55

someone outside of the investor-state

01:10:58

dispute settlement system with a

01:11:00

remedy. It's always unique to

01:11:03

each client and needs the

01:11:04

circumstances their particular client has

01:11:06

and you can't come in

01:11:07

with any preconceived notions the

01:11:10

way you can come in

01:11:11

with each time. Is that

01:11:13

mindset French national Holistic, Gloria.

01:11:18

Thank you very much. I

01:11:20

just had to post it

01:11:21

to what he said we

01:11:23

found that this holistic broader

01:11:26

strategic approach with Loring. If

01:11:29

I was born in Grady

01:11:30

autoglitz SE because we were

01:11:33

in counting a number of

01:11:34

cases where we face brick

01:11:36

wall in terms of the

01:11:38

north being an obvious cause

01:11:39

of action as I mentioned

01:11:41

before there is no treaty

01:11:42

between the country. It would

01:11:44

be contracted to be terminated

01:11:46

for whatever reason you couldn't

01:11:49

push your contract with payment.

01:11:50

So we was supposed to

01:11:51

stop thinking what else can

01:11:53

can be done other than

01:11:55

to do what always had

01:11:57

pulled this kind before sorry.

01:11:59

We can't help you, and

01:12:00

that's what we said will

01:12:02

become that cannot be the

01:12:03

case is unfair we have

01:12:05

to be able to do

01:12:06

something and I'll give you

01:12:07

nothing cuz I'm poor so

01:12:08

interesting when used as a

01:12:14

tool to for a nation

01:12:17

that has Damaged as a

01:12:19

result of the foreign aggression

01:12:22

by another country was meant

01:12:26

to do yet you find

01:12:28

that for a private entity

01:12:29

or even Steve has suffered

01:12:32

a loss and damage as

01:12:35

a result of unlawful entry

01:12:39

action by another country the

01:12:42

auctions and remedies for compensation

01:12:47

are very difficult to pursue.

01:12:50

We're doing one at the

01:12:53

moment where we put the

01:12:55

actions of climb could take

01:12:57

into three buckets one is

01:12:58

actions. You can take yourself

01:13:00

for example, possibly pursuing litigation

01:13:04

before the court for the

01:13:06

aggressive country unlikely to succeed

01:13:08

but theoretically possible maybe pursuing

01:13:11

a claim but bearing in

01:13:13

mind what I said that

01:13:15

that's not the purpose of

01:13:16

an investment. Images of compensation

01:13:20

for damages in 1531 bucket

01:13:26

was what they can do

01:13:27

for themselves. Another bucket is

01:13:29

what they might be able

01:13:30

to others to do for

01:13:31

them or do in conjunction

01:13:33

with other Mass claims and

01:13:35

the light and finally was

01:13:37

what they might possibly be

01:13:38

able to procure this thing

01:13:40

to do on their behalf

01:13:41

before the icj example about

01:13:47

how insensitive you opposed to

01:13:50

start looking at non-traditional mean

01:13:53
to try and get them

01:13:54
to the redress. What we

01:13:59
do only have about 12

01:14:01
minutes to go up questions

01:14:03
can continue there after but

01:14:05
I have one question of

01:14:07
to any of the pandas.

01:14:11
We talked about human rights,

01:14:13
which are primarily is not

01:14:15
exclusively the responsibility of the

01:14:18
stick. It seems to me

01:14:20
the treaty by increasingly being

01:14:22
used by estate to delegate

01:14:26

Hive off of pass the

01:14:29
buck. Is it worth to

01:14:31
an investor? Was it me?

01:14:48
An Infinity that can only

01:14:52
go so far as the

01:14:54
operation of the investment. Impacts

01:15:00
you don't have the device

01:15:01
in question, but not in

01:15:02
it is no brought a

01:15:04
standalone application. So for example,

01:15:05
if there's some indigenous people

01:15:08
on the other side of

01:15:08
the country not impacted by

01:15:10
the power station that investors

01:15:12
is building that is not

01:15:18
something that they can pass

01:15:20
on to 2 to send

01:15:22
a line has to be

01:15:24
drawn between what is how

01:15:27
much is a Tennessee to

01:15:29
delegate State can pass on

01:15:36
this publication 20s, and also

01:15:47
two ropes presentation Africa and

01:15:52
stay investment treaty don't make

01:15:53
it seems to be at

01:15:54
the Forefront of putting these

01:15:56
kind of obligation. Call them

01:15:59

directly or vacations because they

01:16:01

are directly addressed to the

01:16:04

investor and not just staying

01:16:05

the state promotes. The human

01:16:09

rights respect amongst their companies

01:16:12

and so on so forth.

01:16:12

So we're shifting from a

01:16:14

promotional language to a petrol

01:16:20

station now against this Derek

01:16:24

applications be an investment treaty

01:16:26

in the business and human

01:16:28

rights negotiations led by Ecuador.

01:16:30

That isn't a different waxing

01:16:33

for guys working on that.

01:16:34

Right? And even you diligence

01:16:36

regulations coming from the European

01:16:38

Union hadwin's hedwig's hedwig's I

01:16:40

think and none of these

01:16:41

African treaties and the day

01:16:44

before that I downloaded b

01:16:45

i t I think it

01:16:47

is theoretically possible, but I

01:16:49

think the political and maybe

01:16:53

Headwinds that are that these

01:16:56

laws and treaties are receiving

01:16:57

currently is something for which

01:17:00

I am I said, I

01:17:01

don't know. What would be

01:17:03

the solution right? How could

01:17:04

be overcome as to answer

01:17:06

your question? Maybe one 2nd

01:17:08

gen has invested, you know,

01:17:20

you will need to carry

01:17:21

explain why men to studies

01:17:23

you will need to jensi

01:17:25

relocate indigenous people and compensate

01:17:27

them and send in for

01:17:29

counseling and you will what

01:17:31

it is, maybe so I

01:17:32

can see it and I

01:17:33

don't think investors will be

01:17:35

all that thrilled and their

01:17:36

host countries that are supposed

01:17:37

to sign these new models

01:17:38

good in theory. It's expiration

01:17:43

is the right thing to

01:17:44

do but investors are pragmatic

01:17:47

and hard-nosed and if Capital

01:17:50

outflows are going one way,

01:17:51

I think I had a

01:17:58

quick question for you. We've

01:18:01

talked a lot about the

01:18:02

impact of Human Rights and

01:18:04

treaties of impact a private

01:18:10

international law contract is the

01:18:11

underlined for example investing contract

01:18:14

in what way have you

01:18:21

had any experience with you

01:18:24

have to deal with the

01:18:25

human right law and a

01:18:29

normal contract. Yes, so yes

01:18:36

and a lot of my

01:18:37

investment arbitrations are truly bathing

01:18:40

contract. So I think there's

01:18:43

not that much difference between

01:18:44

human rights violations by States

01:18:47

or by investors in the

01:18:49

context of contract based, you

01:18:52

know, investor-state arbitration Centre debating

01:18:55

situation because at the end

01:18:57

of the day the behavior

01:18:58

of the investors that have

01:18:59

your investor and Behavior of

01:19:05

the state. So one of

01:19:10

my current cases against an

01:19:12

African state to state in

01:19:14

the context of the contract

01:19:15

disputes before commercial arbitration destitution

01:19:20

has initiated a source of

01:19:23

criminal investigation and then criminal

01:19:25
proceedings against the client. Who

01:19:29
is Dean Wester. In Franke,

01:19:32
but I've been going to

01:19:33
treat you right so we

01:19:35
decided that we have a

01:19:36
contract and do all the

01:19:38
treaty as basis for the

01:19:39
arbitration doesn't need for that

01:19:41
much and I guess what

01:19:43
I would like to add

01:19:44
to this is that when

01:19:45
you deal with treaty claims

01:19:47
license for dealing with publicans

01:19:49

national claims when you did

01:19:51

with a contract is very

01:19:53

interesting because those contracts usually

01:19:55

are you know governed by

01:19:57

the dumbest Explorer of the

01:19:58

estate, but whether it is

01:20:00

expressed when they also govern

01:20:03

at least to an extent

01:20:04

by the international law be

01:20:06

just by virtue of the

01:20:08

fact that the contract is

01:20:09

between the private entity and

01:20:11

The Sovereign right to at

01:20:13

the end of the day

01:20:13
my take on it. Is

01:20:15
that are some differences in

01:20:17
in the Lucky Cab or

01:20:18
maybe but not that much.

01:20:21
Let the trash if I

01:20:24
can expend very quickly on

01:20:25
that question trying to type

01:20:26
back to the comment that

01:20:27
I had on what was

01:20:29
discussed right before and I

01:20:31
would like to say simply

01:20:33
in the contract you put

01:20:36
two parties on an equal

01:20:37

footing the concept of the

01:20:39

contract between the state and

01:20:40

the company's to say in

01:20:42

in the concept of the

01:20:44

contractors to talk to use

01:20:45

on an equal footing the

01:20:46

Bill of Rights and obligations

01:20:48

that go both ways to

01:20:50

use that don't they don't

01:20:51

do that at all inside

01:20:52

the country investment treaties that

01:20:55

are one-sided by nature and

01:21:00

the little music that's what

01:21:01

year ago. How is Jessica

01:21:05
doing this to buy us?

01:21:10
Because they exist in the

01:21:12
first place. The concept is

01:21:13
used in the first place

01:21:17
to try to read rest

01:21:18
a little bit unnatural imbalance

01:21:20
the Rays. Between a private

01:21:22
party beat a personal company.

01:21:25
And the almighty state in

01:21:28
which that person is operating.

01:21:30
And when were they dropped

01:21:44
it? So but you are

01:21:46
entitled to to your group

01:21:48

you mentioned something called the

01:21:56

Bangladesh code of I'm not

01:21:59

familiar with that instrument myself.

01:22:01

Could you tell us a

01:22:02

bit more? Sure, I got

01:22:06

those. Thank you so much

01:22:06

for the question. So this

01:22:09

is a legal binding instrument

01:22:12

agreement that was enter between

01:22:15

government grants and trade unions

01:22:17

in Bangladesh. And the objective

01:22:19

of this agreement was to

01:22:22

ensure workers health and safety

01:22:24

in Bangladesh text you and

01:22:26

garment industry. So the the

01:22:29

most like a remarkable thing

01:22:34

about the disagreement that they

01:22:36

agreed to include an arbitration

01:22:39

Clause as I mentioned during

01:22:41

my presentation old do the

01:22:44

trade unions were able to

01:22:46

file to arbitration claims before

01:22:49

the PCA. We were not

01:22:51

able to see the casing

01:22:53

the married. So there is

01:22:54

a steal a lot to

01:22:55

learn from this experience and

01:22:57

I'm from arbitration as a

01:22:59

suitable mechanism to 2 South

01:23:02

human rights to use Also

01:23:04

because some of the challenges

01:23:05

that but I might see

01:23:07

one but I think that

01:23:08

the lawyers in most cases

01:23:10

had to assume are related

01:23:14

to how to view this

01:23:16

article in its environment around

01:23:20

2,000 factories that were involved

01:23:23

in the case. And also

01:23:24

I might say that they

01:23:26

might have a procedural challenge

01:23:28

to the signup process word.

01:23:30

The workers will actually receive

01:23:32

compensation. So although these these

01:23:36

binding agreement. It's a great

01:23:38

Advance. I'm really looking forward

01:23:41

to see a case under

01:23:43

this agreement on the Marines

01:23:45

to see how arbitrators actually

01:23:47

sold this kind of disputes

01:23:49

and and solve these challenges

01:23:52

that I meet them Define.

01:23:56

Thank you. Good afternoon to

01:23:59

give you money to anybody

01:24:12

online and as well as

01:24:14

in the room if you

01:24:15

because once me and hotel

01:24:17

get going, you know, we'll

01:24:19

be here for the next

01:24:20

two hours. But yeah, please

01:24:25

do we have any video

01:24:27

online. Did you have a

01:24:32

list acquiring what Sia really

01:24:45

think is amazing. If I

01:24:48

tip my hat on it

01:24:52

sounds like how much I

01:24:56

know there's a little bit

01:24:57

especially by this BS and

01:25:02

mediation and conciliation was really

01:25:05

something that never went through

01:25:07

or are you staying on

01:25:09

in some of these new

01:25:10

treaties or trying to bring

01:25:12

in along with his collect

01:25:14

acquiring some other people than

01:25:17

the arbitrators try to help

01:25:19

those and Tristram be for

01:25:25

those? Who who? What is

01:25:31

effectively Please add on to

01:25:33

it if I get it

01:25:34

wrong, but it's actively it's

01:25:35

are we seeing a new

01:25:35

tree models or in practice?

01:25:37

Are we seeing a new

01:25:38

focus on mediation and on

01:25:40

other methods of a Dr.

01:25:42

Then might go along with

01:25:43

the ideas of Appaloosa clearing.

01:25:45

And I think the the

01:25:46

answer that I would provide

01:25:48

is is gosh a lot

01:25:49

of things. I wish everyone

01:25:50

were at work here in

01:25:51
the room so we can

01:25:51
have the drinks after we

01:25:53
discussed it at length. There's

01:25:54
so much to say but

01:25:55
the idea I think it

01:25:56
is in the first instance

01:25:57
this in my own personal

01:25:59
experience. I've seen A Renewed

01:26:01
focus a new interest in

01:26:03
the the required negotiation that

01:26:06
comes before by treaty most

01:26:08
of the time there's going

01:26:09
to be a required negotiation

01:26:10

process. Just if nothing else

01:26:13

to check the box before

01:26:14

you can move to arbitration

01:26:15

many people think of it

01:26:16

that way I've seen A

01:26:17

Renewed focus on an interest

01:26:19

in engaging with the investors

01:26:22

who are about to bring

01:26:23

claim so they can maybe

01:26:24

actually find a solution and

01:26:25

not spend four and a

01:26:26

half years in an arbitration

01:26:28

process. And so yes, I

01:26:31

think There has been a

01:26:32
renewed interest at least it

01:26:34
from an aunt to go

01:26:34
to level and coming back

01:26:35
to the idea. Gloria. And

01:26:37
one other thing. I'd like

01:26:38
to point out though is

01:26:39
that is it's not just

01:26:40
about a t r that's

01:26:41
an important part of it

01:26:42
and it's absolutely true. What

01:26:44
the question was referring to

01:26:46
was the focus on interest

01:26:48
in a kind of more

01:26:49

of an integrative bargaining and

01:26:50

approach for folks who are

01:26:51

familiar with that terminology as

01:26:53

opposed to a Distributive bargaining

01:26:55

approached. It's not just about

01:26:56

that focus on interest versus

01:26:58

position that's interesting and important

01:27:00

but it's also interesting across

01:27:02

the board when you don't

01:27:03

even have a treaty there

01:27:05

are a few cases at

01:27:06

we've had cases in which

01:27:07

investors have an encounter human

01:27:10

rights violations and those human

01:27:12

rights violations of having cluded

01:27:14

violations of what you know,

01:27:16

in some parts of the

01:27:17

world would be a violation

01:27:18

of the right to property

01:27:19

and those cases. I eat

01:27:22

a lot of times at

01:27:23

you. No walking in and

01:27:24

in speaking with the lawyer

01:27:25

with a traditional ordering mindset

01:27:27

the results of that evaluation

01:27:29

will simply be well there's

01:27:30

a contract There's an arbitration

01:27:32
agreement. There's no treaty. It

01:27:34
doesn't look like there's much

01:27:35
to do it to do

01:27:36
other than go forward with

01:27:37
a contract dispute. But the

01:27:39
fact is that those human

01:27:40
rights claims a lot of

01:27:41
times. I can move forward

01:27:43
and a ballistic luring Vantage

01:27:47
Point claims bring them together

01:27:50
and not to browbeat post

01:27:53
States, but to help folks

01:27:55
you have been abused with

01:27:57

their human rights have been

01:27:59

violated in one way or

01:28:00

another to try to get

01:28:01

some sort of measure of

01:28:02

Justice in the context of

01:28:04

investor-state dispute settlement or other

01:28:05

international disputes. And so I

01:28:07

think that's amore amore. Answer

01:28:09

the question that yes, it's

01:28:10

about positioning. Yes. It's about,

01:28:12

you know, careful and creative

01:28:16

approaches to resolving disputes in

01:28:18

negotiation or otherwise, it's also

01:28:20

about the legal strategy. a

01:28:26

very much We have three

01:28:28

minutes beyond our should you

01:28:32

close and I don't want

01:28:34

to keep you and me

01:28:37

any longer than we need

01:28:39

to I'd like to thank

01:28:41

each of our speakers for

01:28:43

the engaging comment a insightful

01:28:46

observation. There's a lot more

01:28:50

that we could say and

01:28:51

doing the space. So, I

01:28:53

hope we can continue working

01:28:54

together. I hope the topics

01:28:57
of interest to those of

01:28:59
you who had the patience

01:29:00
to sit through an hour

01:29:01
and a half of us

01:29:03
going back and forth. For

01:29:07
those of you who are

01:29:07
here in person. We can

01:29:09
ease your pain by offering

01:29:12
to join us for some

01:29:14
cocktails and snacks. I'm sorry.

01:29:15
I cannot be more fun

01:29:16
to do something online, but

01:29:18
you have a standing offer

01:29:20

to come visit us anytime

01:29:21

and we'll buy you drinks,

01:29:23

and we can thank you

01:29:25

very much everybody Jose back

01:29:26

to you. Thank you very

01:29:28

much Rodger. This is this

01:29:32

was a fantastic panel and

01:29:34

we are thrilled to have

01:29:36

had issues that have nothing

01:29:40

to discuss the from the

01:29:42

holistic at lowering and integrating

01:29:45

the human rights to aspect

01:29:48

in a practical manner through

01:29:51

all these proposals including the

01:29:53

loser of integrating investors obligations

01:29:58

on human rights in treaties

01:30:00

that the last thing I

01:30:03

would like to say that

01:30:04

the thank you and thank

01:30:07

you for all the attendees

01:30:08

and I'm the questions that

01:30:09

we see that the the

01:30:11

attendance in housing has been

01:30:15

growing and then we also

01:30:16

have of course I need

01:30:19

to be connected at watching

01:30:22

you and I and this

01:30:23

this this session luckily were

01:30:27

Putting everything so that people

01:30:29

will be able to see

01:30:30

it at whenever they want

01:30:31

later at different times. So

01:30:35

thank you very much that

01:30:36

wonderful panel and be seeing

01:30:40

you in the next panel

01:30:42

of drinks and enjoy. Bye.

01:30:45

Bye. Thank you.