Book Review of International Investment Law: National, Regional and Global Perspectives, Collins C Ajibo, (Wolf Legal Publishers 2020)

By:

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In recent years, the field of international investment law has gained considerably in practical importance, especially considering the greatly increased volume of capital transfers of foreign direct investment. The emergence of a great number of investment treaties and the growing body of legal doctrines in international arbitral decisions have attracted a significant amount of legal publications. One contribution which stands out from the crowd is the book entitled "International Investment Law: National, Regional and Global Perspectives", written by a leading scholar in the field, Collins C Ajibo. As the author explains in the foreword, this book intends to explore the principles, policies and practice in international investment law across the world and to foster greater study interests of students in the field. Unlike other textbooks that focus solely on investment protection in international law, this book brings

an under-explored perspective from developing countries, in particular from Nigeria.

The unique angle is clearly seen starting from Chapter 1, which traces the evolution of international investment law by exploring the development of international law on the protection of foreign aliens and their properties. While the author provides a detailed review of the international minimum standard of protection developed in the Neer case and its doctrinal premise, an emphasis is also given to the challenges faced by the global south as a result of such a standard. It reminds the readers of the most significant assaults from the three different geographic quarters: the Latin America through Calvo doctrine, the rejection of the socialist countries of Eastern Europe, and the decolonisation in Asian and African countries through the urge to establish a New International Economic Order.

In a similar vein, the author stresses that international investment agreements are not only for the protection of foreign investors and investment. Instead, the sovereign power of the host State to regulate investment should be equally respected. In contrast to most textbooks on international investment law devoting many pages on the content of fair and equitable treatment (FET) standards, this book only shortly introduces the concept in Chapter 7 without discussing the large body of arbitral decisions. In the next Chapter, after reviewing the non-discrimination and arbitrary treatment, the author explores in detail the concept of State of Necessity and the cases triggered by Argentina's economic crisis. Chapter 15 contains a thoroughly well written introduction to the performance requirements, which are crucial to the economic development in host countries. The entire Chapter 16 and Chapter 18 both investigate mechanisms to make foreign investors and multinational corporations responsible for their behaviour in host countries. These aspects all signify the key role and power of the host countries and the need to balance the protection received by foreign investment, which are seldom placed in the central place of the mainstream textbooks.

Besides the developing country angle, the depth and the breath of the regulatory framework in individual sectors is yet another profound contribution of this book. An outline of the Nigerian law on foreign investment entry and establishment is provided in Chapter 5, while Chapter 6 gives an overview of

the regulatory framework of investment in sectors such as financial services, banking services, insurance services, food and pharmaceuticals, information and communication technology, oil and gas as well as solid minerals.

Considering the importance of oil and gas industry in the Nigerian economy, several sections in other chapters further explore how investment in the industry is performed. Chapter 9, for instance, details the regulatory regime of investment contracts for oil exploration, and Chapter 17 on gas flaring. Chapter 16 brings in the case studies of corporate social responsibility by multinational oil companies in the Niger-Delta region. By consolidating these sectoral regulation and practices, this book offers a valuable one-stop source of information for students and practitioners.

Chapter 19 and Chapter 20 cover multilateral investment agreements. Chapter 19 examines the historical trajectory of the negotiations and failure of the Multilateral Investment Agreement. The limited approach to the regulation of international investment by Agreement on Trade-Related Investment Measures (TRIMs) under the World Trade Organisation (WTO) is discussed in Chapter 20. It is surprising though that the author does not address the WTO GATS agreement, as the GATS is not just a trade agreement, but is also widely regarded as an investment agreement, given that its scope of application extends to foreign direct investment (through “commercial presence”). Considering the wide scope of this book and the increasing engagement of developing countries in digital services, the General Agreement on Trade in Services (GATS) also ought not to be omitted in a book on international investment. However, the section on ‘Trade and Investment under the WTO’ under chapter 20 somewhat examines GATS briefly.

Chapter 22, the final section of the book, contains an introduction into the settling of investment disputes, which gives considerable weight to the practice of International Centre for Settlement of Investment Disputes (ICSID). While many issues related to the investor-state arbitration are dealt with in other chapters, for example the umbrellas clause in Chapter 7, the application of most-favored-nation (MFN) to procedural issues in Chapter 8 and applicable law in Chapter 12, Chapter 22 guides the readers through the dispute settlement procedure step-by-step and provides a neat overview of the whole process.

There is much to be praised in this book. Its extensive coverage, supported by ample and accurate research, are compelling and its approach is quite innovative, as it goes beyond an investigation of the principles in international investment law and brings in alternative perspectives from developing countries and country-specific law and practices of Nigeria. If some minor criticism may be offered, it would perhaps be addressed towards the discussion of similar issues in different chapters, which may appear repetitive and thus dilute the coherence of the whole book. Also, it might have been helpful to include an introductory chapter providing a roadmap for the readers. The logical links among chapters are not clearly seen for a student new to the field. Without the guidance of an instructor, a student can easily get lost in the rich and complex materials presented in the book.

In conclusion, this is a timely and valuable book, which will appeal to both practitioners and students alike. It makes an excellent contribution to our understanding of the evolving system of international investment law and provokes our thoughts on how the system can better accommodate the interests of both the investors and the host countries.

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