

**Workshop on Rethinking International Investment Law: Civic Advocacy, Representation
and Participation in the International Investment Regime**

(An International Economic Law in Context Workshop)

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University of Warwick**

**Organised jointly by the Centre for the Law, Governance and Regulation of the Global
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Concept Note

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Rationale and Background:

The objective of this workshop is to consider the rapidly evolving landscape of international investment law in the context of civic advocacy, representation and advocacy in the international legal regime governing transnational investment flows.

Over 3,000 international investment treaties (IITs) have been concluded worldwide, with more being negotiated, including large multilateral and regional agreements. Recently, the final agreement on the Trans-Pacific Partnership Agreement (TPPA) was announced by the United States (US), Japan and ten other Pacific Rim countries, including Australia, Canada, Chile, Malaysia, Peru, and Vietnam after ten years of negotiations. Meanwhile, negotiations are ongoing between the European Union (EU) and the US on the bilateral Transatlantic Trade and Investment Partnership (TTIP). Entry into these treaties can have important implications for wide-ranging policy areas including public health and environmental protection, which can have significant effects on sustainable development.

At the same time, the IIT landscape is changing rapidly, and treaty making is now going through a critical juncture. Faced with growing numbers of arbitrations and large compensation claims for public measures as diverse as environmental regulation, anti-smoking legislation and tax collection, some states have been rethinking their approaches to IIT. Civil society scrutiny is on the rise and there is more critical discussion in the media and greater awareness among citizens of the impact of IITs on their lives. Global discussions on ways to reform the investment treaty regime are also picking up, including through dialogues convened by the United Nations (UN), notably through the UN Conference on Trade and Development (UNCTAD) and other international organisations such as the Organisation for Economic Cooperation and Development (OECD) and the South Centre and non-governmental organisations (NGOs) and research institutes, such as the Columbia Centre on Sustainable Investment.

An important development in the international investment regime in recent years has been the corollary rise in civic activism around investment law issues and the engagement of citizens through civil society groups and other institutions in the investment regime. Not only has there been greater civic advocacy during IIT negotiations, including demands for consultation and participation in what has been traditionally state-dominated negotiating forums, civil society is also increasingly active in investment arbitrations, notably through the filing of *amicus curiae* briefs, and in using domestic legal processes, such as administrative law and judicial review, to challenge state entry into IITs.

This workshop aims to bring together academics, policymakers, lawyers, trade unions, NGOs and other civil society groups to discuss the emergence of this new sphere of advocacy and citizenship in relation to the international investment regime and the implications for the contemporary legal architecture governing international investment flows and on sustainable development. It will aim to consider, among other things, the scope and space available to citizens to influence and challenge what remains state-dominated negotiating investment forums, the impact of such engagement on international investment negotiations, and the role of civil society in investment arbitration cases. In doing so, the workshop aims to distil global and local best practice in relation to civil engagement in the international investment law-related issues as well as to develop synergies between academics and practitioners on how academic research can support the emergence of this civic space and correspondingly, how case studies from policy and practice can feed into academic scholarship on international investment law.

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