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ROLE OF KNOWLEDGE PRODUCERS IN INVESTMENT ARBITRATION: A
DISCOURSE ANALYSIS

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In international investment arbitration both the disciplinary understanding as well as the normative framework is the result of the discourse built through a process of knowledge production. The discourse determines the normative and disciplinary parameters of international investment arbitration. As a result the knowledge production and the resulting discourse it constructs yields power to its knowledge producers. Based on this understanding this paper will undertake a discourse analysis of the recent phenomenon of norm advocacy by knowledge producers (more specifically academics) at the UNCITRAL for ISDS reform. Here there are two prominent groups one hosted by an independent research group the CIDS and managed by Pluri-courts¹ and another open letter hosted on the website of Erasmus Institute for Public Knowledge.² And through this discourse analysis try to answer the following questions or address the following issues:

Identity of the knowledge producers: Who are these knowledge producers, are they only academics or also part of the epistemic community (practitioner/arbitrator) or contesting to be included in it? Or all of it?

¹ See for detailed information: <https://www.cids.ch/academic-forum>

² <https://www.eur.nl/en/news/erasmus-institute-public-knowledge>

Motivations of the knowledge producers: Whether these knowledge producers/norm advocates are interested ensuring a multivalent discourse or just being strategic by suggesting incremental changes to ensure self-perpetuation as power wielders?

Finally, identifying the character of the investment arbitration discourse: Specifically the perpetuation of the current monologic nature of the discourse and its imposition on the larger and diverse multivalent reality of the context of foreign investment.³

³ M. Bakhtin, the dialogic imagination