National Research University Higher School of Economics

As a manuscript

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THE IMPACT OF HUMAN RIGHTS ON INTERNATIONAL INVESTMENT LAW

Summary of a dissertation
for the purpose of obtaining an academic degree of
Doctor of Philosophy in Law

Academic Supervisor:
Professor Vera Rusinova
Doctor of Sciences in Law

Moscow – 2025

The thesis was completed at the School of International Law of the Faculty of Law of the National Research University “Higher School of Economics”

The text of the thesis is deposited and available on the website of the Higher School of Economics: https://www.hse.ru/sci/diss

5.1.5 – International Legal Sciences

I. GENERAL DESCRIPTION OF THE STUDY

Relevance of the research topic. The interaction between international investment law and human rights represents a pressing issue in contemporary international legal scholarship[1], highlighting the need to identify existing contradictions and analyse both current and potential mechanisms for harmonisation and balance. These mechanisms aim to ensure that public interests, particularly human rights protection, are considered in applying international investment law.

Modern international investment law is built on a "patchwork"[2] of model bilateral investment treaties, several multilateral investment agreements, and provisions within trade and other international treaties. Currently, there are 2,221 bilateral investment treaties in force worldwide[3]. These treaties protect investments made by investors from one State, known as the home State, in another State, referred to as the host State. The first bilateral investment treaty, concluded between Germany and Pakistan in 1959, set a precedent for subsequent agreements. Drawing on earlier Friendship, Commerce, and Navigation treaties, it established principles such as national treatment, most-favoured-nation treatment, and prohibitions on expropriation except for public necessity with fair compensation. These standards, replicated over decades, remain the core of international investment law. The model established in the first bilateral investment treaty has influenced the content of later

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[1] De Schutter O. Report of the Special Rapporteur on the right to food. Guiding principles on human rights impact assessments of trade and investment agreement // A/HRC/19/59/Add.5. 2011; Berner K. Reconciling Investment Protection and Sustainable Development – A Plea for an Interpretive U-Turn in Hindelang S., Krajewski M. (eds.). Shifting Paradigms in International Investment Law – More Balanced, Less Isolated, Increasingly Diversified. Oxford : Oxford University Press. 2016. P. 177-203; Cordonier Segger M.-C. Sustainability, Global Justice and the Law // McGill Law Journal. 2010. Vol. 54. No. 5; Cordonier Segger M.-C., Gehring M. Sustainable Development in World Investment Law // Journal of World Investment & Trade. 2011. Vol. 12. No. 3. P. 72.

[2] Born G. BITs, BATs and Buts: Reflections on International Dispute Resolution. P. 4. // URL: https://www.bch.pt/Extract_YAR%20-%20Young%20Arbitration%20Review%20-%20Edition%2013.pdf (accessed on: 23.03.2025).

[3] UNCTAD. International Investment Agreement Navigator // URL: https://investmentpolicy.unctad.org/international-investment-agreements/ (accessed on: 14.04.2025).

treaties, remaining largely unchanged over time and existing independently of developments in other related fields of law[4].

Over time, imbalances and undue privileges for investors—embedded in both substantive norms and the investor-State dispute settlement mechanism—have drawn increasing criticism. This critique comes not only from radical activists but also from platforms within the United Nations. For instance, Alfred-Maurice de Zayas, the United Nations Independent Expert on the Promotion of a Democratic and Equitable International Order[5] urged States to abolish the investor-State dispute settlement system, modify or terminate existing international investment treaties, and refrain from concluding new ones containing investor-State dispute settlement clauses[6]. He also proposed that the United Nations General Assembly request an advisory opinion from the International Court of Justice on the primacy of human rights law over trade and investment law. Criticising investor-State dispute settlement, de Zayas emphasised its one-sided nature, where investors can sue States while counterclaims are rare, and its evolution from a tool to protect corporations against alleged State misconduct into a tactical instrument to delay, weaken, or derail regulatory measures[7].

Recent years have seen a surge in investor-State dispute settlement cases: at least 60 new claims were filed in 2023 alone[8], any addressing intersections between investment law and human rights. In 2024, human rights and social policy issues in

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[4] Joshi. R.D., Gurpur S. The Silent Spring of Human Rights in Investment Arbitration: Jurisprudence Constante through Case-Law Trajectory // Arbitration International. 2020. Vol. 36. No. 4. P. 557.

[5] Office of the High Commissioner on Human Rights. Biography of Mr. Alfred-Maurice de Zayas // URL: https://www.ohchr.org/en/issues/intorder/pages/alfreddezayas.aspx (accessed on: 23.03.2025).

[6] Report of the Independent Expert on the Promotion of a Democratic and Equitable International Order // A/70/285. 2015. § 60.

[7] *Ibid*, § 44.

[8] UNCTAD. Total number of known investment treaty cases rises to 1,332. 2024 // URL: https://investmentpolicy.unctad.org/news/hub/1743/20240327-total-number-of-known-investment-treaty-cases-rises-to-1-332 (accessed on: 23.03.2025).

investment arbitration were listed among the top twelve arbitration trends for 2025[9]. Human rights concerns are increasingly central to investment disputes, and newer treaties explicitly reference human rights norms[10], leading some scholars to identify the emergence of second-generation international investment agreements[11].

The United Nations Conference on Trade and Development and the United Nations Commission on International Trade Law Working Group III are actively reforming investment treaties to improve the international investment regime. The United Nations Conference on Trade and Development focuses on substantive reforms, including safeguarding States' regulatory rights, promoting responsible investment, and ensuring systemic coherence[12]. The United Nations Commission on International Trade Law Working Group III addresses procedural reforms to enhance the legitimacy of investor-State dispute settlement, emphasising transparency, which ultimately impacts human rights protection in host States[13]. Additionally, the gradual evolution of international investment law, including its convergence with human rights law, forms part of the broader business and human rights framework and related legal-economic fields exploring corporate accountability for human rights compliance in their operations and supply chains.

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[9] Freshfields. Shifting grounds: the trends reshaping international arbitration. P. 2 // URL: https://www.freshfields.com/491e43/globalassets/our-thinking/campaigns/arbitration-top-trends-2025/arbitration-trends-2025-v2.pdf (accessed on: 23.03.2025).

[10] See Japan—Georgia Bilateral Investment Treaty. 7 January 2021. Art. 20 // URL: https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/6078/download (accessed on: 23.03.2025).

[11] Kurek P. New Generation of Investment Treaties // URL: http://arbitrationblog.practicallaw.com/next-generation-of-investment-treaties/ (дата обращения: 23.03.2025).

[12] UNCTAD. International Investment Agreements // https://unctad.org/topic/investment/international-investment-agreements (accessed on: 23.03.2025).

[13] UNCITRAL. Working Group III: Investor-State Dispute Settlement Reform // URL: https://uncitral.un.org/en/working_groups/3/investor-state (accessed on: 23.03.2025).

These developments underscore the importance of systematising and conducting scholarly legal analysis of the interplay between human rights and international investment law.

Level of development of the topic. In the doctrine of international law, three key stages of research into the relationship between human rights and international investment law can be identified.

The first stage, spanning approximately mid-2000s to 2012, was marked by initial attempts to analyse the interaction between international investment law and human rights. Early efforts were made to integrate human rights systematically into international investment law. One of the pioneering works in this field was the collective monograph Human Rights in International Investment Law and Arbitration[14], edited by P.-M. Dupuy, F. Francioni, and E.-U. Petersmann. The authors raised questions about sustainable development and stakeholder participation while expressing scepticism about the application of human rights norms by investment tribunals. Subsequently, the relationship between international human rights law and international investment law came to be described in scholarly works as a relationship of resistance, evident in the actions of both investors and States[15]. Although the monograph's title references human rights, it also includes chapters on environmental rights and sustainable development in international investment law. This broadens the terminological debate, as the authors did not aim to focus exclusively on human rights in detail. Under the umbrella term "human rights," they addressed diverse challenges arising in the context of foreign investments, analysed by specialists in international investment law.

[14] Human Rights in International Investment Law and Arbitration / ed by. Dupuy P.-M., Francioni F., Petersmann E.-U. Oxford : Oxford University Press. 2009.

[15] Schlemmer-Schulte S. Fragmentation of International Law: The Case of International Finance & Investment Law versus Human Rights Law // Pacific McGeorge Global Business & Development Law Journal. 2012. Vol. 25. No. 1. P. 409.

The ideas of the 2009 book were later elaborated in an article by E.-U. Petersmann and V. Kube[16]. The authors noted "a lack of systematic methodology in the judicial interpretation"[17] and, more significantly, argued that neither foreign investors nor host State governments are interested in invoking human rights law as constitutional constraints, laying the groundwork for political-legal discourse[18]. This position faced criticism. For example, J. Fry claims that a "close study of actual arbitral decisions contained within this Article indicates that investment arbitration seems consistent with human rights, instead of undermining them"[19]. Moreover, there is a doctoral dissertation written by E. Guntrip, titled "The "De-Fragmentation" of International Investment Law and International Human Rights Law: a Procedural Basis for a Host State Human Rights Defence in ICSID Arbitration"[20], which concentrates on procedural possibilities to include human rights in investment arbitration.

The second stage, from 2012 to 2018, saw the publication of pivotal works building on earlier findings. The study "The Human Rights Defence in International Investment Arbitration: Exploring the Limits of Systemic Integration" by J. H. Fahner and M. Happold examined the potential of systemic integration to overcome fragmentation, concluding that "the utility of the principle of systemic integration, often hailed as a solution to apparent norm conflicts in international law, seems limited in practice"[21]. In 2017 A. Ferreira noticed a gradual trend to include human

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[16] Kube V., Petersmann E.-U. Human Rights Law in International Investment Arbitration // Asian Journal of WTO and International Health Law and Policy. 2016. Vol. 11. No. 1.

[17] *Ibid.* P. 104.

[18] *Ibid.* P. 105.

[19] Fry J. International Human Rights Law in Investment Arbitration: Evidence of International Law's Unity // Duke Journal of Comparative & International Law. 2007. Vol. 18. P. 149.

[20] Guntrip E. The "De-Fragmentation" of International Investment Law and International Human Rights Law: A Procedural Basis for a Host State Human Rights Defence in ICSID Arbitration. PhD Thesis // URL: https://bura.brunel.ac.uk/bitstream/2438/13855/1/FulltextThesis.pdf (accessed on: 11.03.2025).

[21] Fahner J.-H. Happold M. The Human Rights Defence in International Investment Arbitration: Exploring the Limits of Systemic Integration // International and Comparative Law Quarterly. 2019. Vol. 68. No. 3. P. 759.

rights provisions into international investment agreements, but investment tribunals' practice was inconsistent[22]. Other relevant literature includes E. De Brabandere's "Human Rights and International Investment Law" in the Research Handbook on Foreign Direct Investment edited by M. Krajewski and R. Hoffman[23]. There, De Brabandere concludes that "nothing stands in the way, in theory, for tribunals to take account of human rights arguments", lending another positive voice to the possibility of intertwining human rights and investment law. The literature described above shows no uniformity among writers regarding the potential of human rights considerations to become part of the comprehensive investment law regime.

The third stage, which has been ongoing since 2018, has seen the emergence of quantitative studies and a growing recognition that the influence of human rights on international investment law forms part of the broader "business and human rights" agenda. In 2019, K. Miles edited the Research Handbook on Environment and Investment Law"[24] which includes comprehensive chapters on investment law and climate change, water management, and regional dimensions, alongside a dedicated chapter on "socially responsible investment standards".[25] A holistic approach to human rights and international investment law is presented in A. Kulick's "Global Public Interest in International Investment Law"[26]. The author outlined "three exemplary Global Public Interest issue areas": the environment, human rights, and corruption.[27] However, distinguishing human rights and

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[22] Ferreira A. How and why does Sustainable Development influence International Investment Law in the current Globalization Era. Compatibility or Irreconcilability? PhD Thesis. P. 444 // URL: https://www.tdx.cat/bitstream/handle/10803/456675/Tesi_Agata_Ferreira.pdf?isAllowed=y&sequence=2 (accessed on: 15.05.2025).

[23] De Brabandere E. Human Rights and International Investment Law in Research Handbook on Foreign Direct Investment / ed. by Krajewski M., Hoffman R. Cheltenham : Edward Elgar. 2019.

[24] Research Handbook on Environment and Investment Law / ed. by Miles K. Cheltenham : Edward Elgar. 2019.

[25] *Ibid.*, pp. 510, 512, 515-516.

[26] Kulick A. Global Public Interest in International Investment Law. Cambridge : Cambridge University Press. 2012.

[27] *Ibid*., 225.

environment as two separate categories is less characteristic of this and prior research development stages.

Some scholars have explored the intersection of sustainable development, including human rights, and international investment law from regional perspectives. For example, R. Radilofe's article "African Perspectives on Human Rights in International Investment Law" concludes that "arbitral practice demonstrates a progressive approach to international investment law by including public interest considerations in arbitral awards[28].

Another significant strand of academic literature examines the interaction between the mining industry and human rights[29]. The absence of local community participation and the duality of legitimate expectations—where host States create conflicting expectations for populations and investors—are characteristic of "extractivism"[30]. Similarly, N. Perrone's "Investment Treaties and the Legal Imagination"[31] explores the dynamics between local communities and foreign investors. The author contends that the legal imagination of the 1950s—the intellectual process of conceptualising and constructing the legal regime underpinning investment law—continues to shape contemporary international lawmaking.

In 2020, C. Costaggiu in her PhD thesis "Effectively Bridging Human Rights and Investment Law" concluded that human rights references in international investment agreements ultimately result in increased FDI inflows[32].

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[28] Radilofe R. Perspectives africaines des droits de l'homme en droit international des investissements // Annuaire africain des droits de l'homme. 2020. Vol. 4. P. 255.

[29] Perrone N. The International Investment Regime and Local Populations: are the Weakest Voices Unheard? // Transnational Legal Theory. 2016. Vol. 7. No. 3. P. 402.

[30] Cotula L. (Dis)integration in Global Resource Governance: Extractivism, Human Rights, and Investment Treaties // Journal of International Economic Law. 2020. Vol. 23. P. 431.

[31] Perrone N. Investment Treaties and the Legal Imagination. Oxford : Oxford University Press. 2021.

[32] Costaggiu C. Effectively Bridging Human Rights and Investment Law. PhD Thesis. P. 360 // URL: https://iris.unibocconi.it/retrieve/4b4bea10-c3ca-4fdd-9713-e99db11edf48/Thesis.pdf (accessed on: 15.05.2025).

From a methodological standpoint, S. Steininger's article "What's Human Rights Got to Do with It? An Empirical Analysis of Human Rights References in Investment Arbitration"[33] is a well-designed empirical and statistical analysis of arbitral awards. The study concludes that "not even the State parties feel compelled to voice non-investment concerns". Conversely, in her 2019 analysis of potential arbitral strategies, F. Baetens argued that human rights could be invoked to challenge tribunal jurisdiction, reassess investor expectations, or reduce compensation amounts[34].

In their 2021 article, K. Baltag and Y. Dautaj challenged earlier scepticism, concluding that the investor-State dispute settlement mechanism "should be treated as the proper venue for addressing and redressing investment disputes that have human rights components"[35]. Less optimistically, C. Schaefer observed that international investment law "cannot ensure contributions to sustainable development until States decide to dedicate themselves to holistically contributing to sustainability", emphasising policy dimensions. The present research seeks to contribute to this debate by acknowledging that States may have diverse motives, intentions, and negotiating positions when incorporating human rights provisions into treaties[36].

Russian academic literature contains numerous scholarly works and dissertations examining various aspects of how human rights influence international investment law. Early domestic studies tended to adopt broad, general approaches.

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[33] Steininger S. What's Human Rights Got to Do with It? An Empirical Analysis of Human Rights References in Investment Arbitration // Leiden Journal of International Law. 2018. Vol. 31. No. 1. P. 33.

[34] Baetens F. Invoking Human Rights: A Useful Line of Attack or a Defence Tool for States in Investor-State Dispute Settlement? in Scheinin M. and others (eds.), Human Rights Norms in 'Other' International Courts and Tribunals. Cambridge : Cambridge University Press. 2019.

[35] Baltag C., Dautaj Y. Promoting, Regulating, and Enforcing Human Rights Through International Investment Law and ISDS // Fordham International Law Journal. 2021. Vol. 45. No. 1. P. 49.

[36] Schefer K. Sustainability in International Investment Law: Building on What Exists by Enhancing the Right to Regulate // Swiss Review of International and European Law. 2021. Vol. 31. No. 2. P. 210.

For example, S.I. Krupko's 2002 dissertation "Investment Disputes Between States and Foreign Investors"[37] focused on procedural aspects of accessing international arbitration. Later contributions included A.S. Kotov's 2009 study 'International Legal Regulation of Investment Disputes"[38] and A.P. Garmoza's 2011 work "Determining the Jurisdiction of Arbitral Tribunals Formed Under International Investment Agreements".[39] In 2011, A.Y. Shomurodov defended his thesis on "International legal cooperation between States in the sphere of investment disputes"[40]. In 2013, A.S. Smbatyan's research "Decisions of International Judicial Bodies and Their Role in Strengthening the International Legal Order" explored systemic interrelationships between different branches of international law[41]. K.E. Ksenofontov's 2014 dissertation "Expropriation of Foreign Investor Property in International Investment Law"[42] addressed matters relevant to this research, including direct and indirect expropriation and compensation calculation methods. A.A. Danelyan's 2016 doctoral thesis "The International Legal Regime of Foreign Investments" advocated Russia's withdrawal from bilateral investment treaties[43].

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[37] Крупко С.И. Инвестиционные споры между государством и иностранным инвестором. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2002. С. 215.

[38] Котов А.С. Международно-правовое регулирование инвестиционных споров. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2009. С. 176.

[39] Гармоза А.П. Определение компетенции состава арбитража, сформированного на основании международного инвестиционного соглашения. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2011. С. 267.

[40] Шомуродов И.Ю. Международно-правовое сотрудничество государств в сфере разрешения инвестиционных споров. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2011. С. 190.

[41] Смбатян А.С. Решения органов международного правосудия и их роль в укреплении международного правопорядка. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2013. С. 520.

[42] Ксенофонтов К.Е. Экспроприация собственности иностранного инвестора в международном инвестиционном праве. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2014. С. 256.

[43] Данельян А.А. Международно-правовой режим иностранных инвестиций. Диссертация на соискание ученой степени доктора юридических наук. Москва, 2016. С. 367.

A.I. Bessonova's 2017 study scrutinised the recognition and enforcement processes for international arbitral awards[44]. In 2018, A.S. Borgoyakov focused on specific standards of investment protection in his work 'The Standards of 'Fair and Equitable Treatment' and 'Full Protection and Security' of Foreign Investments in International Law"[45]. Other studies were dedicated to the issues of determining the amount of damages in international investment law[46] and the application of the most-favoured-nation (MFN) treatment[47]. More recent scholarship includes S.D. Pimenova's 2022 dissertation, "Interim Measures in International Adjudication", and S.R. Oganezova's analysis of jurisdictional determinations and applicable law in the International Centre for Settlement of Investment Disputes practice[48].

Russian legal scholarship has also produced significant thematic articles. O. Magomedova's "Different to investment measures? The nature of performance requirements"[49] examines the potential expanded application of performance requirements in bilateral investment treaties. D.K. Labin and A.V. Solovyova's "On the Place of International Investment Law in

[44] Бессонова А.И. Особенности признания и исполнения решений международных инвестиционных арбитражей. Диссертация на соискание ученой степени кандидата юридических наук. Екатеринбург, 2017. С. 242.

[45] Боргояков А.С. Стандарты «справедливого режима» и «безопасности» иностранных инвестиций в международном праве. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2018. С. 151.

[46] Юхно А.С. Международно-правовые аспекты выплаты компенсации при разрешении инвестиционных споров государств. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2015. С. 151.

[47] Рогозина А.А. Действие и применение оговорки о наибольшем благоприятствовании в международном инвестиционном праве. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2017. С. 212.

[48] Оганезова С.Р. Особенности определения юрисдикции и применимого права в практике Международного центра по урегулированию инвестиционных споров (МЦУИС). Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2022. С. 237.

[49] Магомедова О. Инвестиционным мерам рознь? Суть концепции «performance requirements» // Международное правосудие. 2019. № 31(3). С. 114–129.

the System of International Law"[50] was subsequently developed into A.V. Solovyova's dissertation on "International Legal Doctrines of Investment Law"[51]. Other notable contributions include M. Usynin's 2020 dissertation 'The Beauty of the Beast: How International Investment Law Can Promote Responsible Business Conduct"[52] and M. Ryazantsev's 2024 article "Non-compensable Regulation and Regulatory Expropriation: Where is the Line?"[53].

Several significant works address topics indirectly related to the subject of this study: international environmental law and corporate human rights protection regimes. In 2008, A.M. Solntsev completed his dissertation "The Role of International Judicial Institutions in Resolving International Environmental Disputes"[54]. In 2010, N.A. Sokolova defended her doctoral thesis "International Legal Aspects of Environmental Protection Management", which covers broader yet closely related human rights issues[55]. In 2016, E.S. Teimurov devoted a special section of his dissertation "International Legal Regulation of Freshwater Resource Management" to water resource management in international investment arbitration practice[56]. In 2002, L.I. Zakharova defended her work 'International Human Rights Standards and the Ombudsman's Role in Their

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[50] Лабин Д.К., Соловьева А.В. О месте международного инвестиционного права в системе международного права // Московский журнал международного права. 2017. № 3. С. 40–51.

[51] Соловьева А.В. Международно-правовые доктрины инвестиционного права. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2021. С. 526.

[52] Usynin M. The Beauty of the Beast: How International Investment Law Can Contribute to the Promotion of Responsible Business Conduct. PhD Thesis. Copenhagen, 2020.

[53] Riazantsev M. Non-compensable Regulation and Regulatory Expropriation: Where Is the Line? // Arbitration International. 2024. Vol. 40. No. 2. P. 205–232.

[54] Солнцев А.М. Роль международных судебных учреждений в разрешении международных экологических споров. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2008. С. 225.

[55] Соколова Н.А. Международно-правовые аспекты управления в сфере охраны окружающей среды. Диссертация на соискание ученой степени доктора юридических наук. Москва, 2010. С. 468.

[56] Теймуров Э.С. Международно-правовое регулирование рационального использования пресной воды. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2016. С. 209.

Enforcement"[57]. Another study focusing on human rights and environmental protection was A.S. Gulasaryan's dissertation "International Legal Implementation of Norms on the Responsibility of International Organisations"[58].

Fundamental works that have contributed to the development of international economic and investment law as an academic discipline include V.M. Shumilov's monograph "International Economic Law in the Context of Economic Globalization: Theoretical and Practical Issues"[59] and D.S. Boklan's dissertation "The Interaction of International Environmental and International Economic Law"[60].

Thus, for decades, academic circles have actively debated the consideration of various aspects of human rights protection and environmental interests within the framework of international investment law, with this field currently undergoing a period of transformation. Particularly noteworthy is the growing interest of businesses in human rights issues, which may lead to the formation of a new legal paradigm. Russian scholarship in international law has also demonstrated interest in studying international investment law, though previous research has primarily focused on general concepts in this area. By contrast, the present dissertation concentrates on the latest trends in the evolving relationship between human rights and international investment law. The present study builds on previous research but, for the first time in Russian scholarship, comprehensively examines the relationship

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[57] Захарова Л.И. Международные стандарты в области прав человека и роль омбудсмена в их обеспечении. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2002. С. 258.

[58] Гуласарян А.С. Международно-правовая имплементация норм об ответственности международных организаций. Диссертация на соискание ученой степени кандидата юридических наук. Москва, 2014. С. 202.

[59] Шумилов В.М. Международное экономическое право в контексте глобализации мировой экономики: Проблемы теории и практики. Диссертация на соискание ученой степени доктора юридических наук. Москва, 2001. С. 400.

[60] Боклан Д.С. Взаимодействие международного экологического и международного экономического права. Диссертация на соискание ученой степени доктора юридических наук. Москва, 2016. С. 414.

between human rights and international investment law, including through the use of statistical methods.

The goal of the dissertation research is to develop scientifically substantiated propositions that elucidate the forms, content and limits of the influence of human rights on international investment law.

The objectives of this study are conditioned by the set goal:

- Define the concepts of human rights, international human rights law, and international investment law to establish a foundation for analyzing their interplay;
- Determine the modalities of interaction between human rights and international investment law;
- Identify approaches to explicitly referencing human rights in international investment law;
- Conduct a statistical study of the most recent bilateral investment treaties to identify trends using explicit human rights references;
- Use statistical analysis to pinpoint States that act as "rule-makers" in promoting progressive approaches to incorporating human rights into bilateral investment treaties;
- Justify the applicability of human rights law as substantive law in investment disputes;
- Investigate the significance of systemic integration between international human rights law and international investment law;
- Classify modalities for protecting human rights, including referencing them as circumstances precluding State wrongdoing and directly imposing human rights obligations on investors;
- Explore the potential of legal doctrines developed in investment arbitration practice, such as police powers and legitimate expectations, to balance foreign investors' rights and host States' obligations.

The object of the dissertation research is the public relations among foreign investors, host States, and their populations in the context of international investment

cooperation, regulated by norms of international investment law and international human rights law.

The subject matter of the study is the interaction between norms of international investment law and those dedicated to human rights protection, along with related issues of treaty interpretation, State responsibility, and international justice.

The research methodology employs both general scientific and specialized legal methods. Among the general scientific methods, analysis was used to examine individual legal norms and arbitral awards, while synthesis helped identify common approaches characteristic of international investment agreements during specific periods. The study also utilised methods of formal logic. Specifically, the inductive method was applied to categorise «progressive» approaches to incorporating human rights references in bilateral investment treaties. Deduction was used to classify States that serve as «rule-makers» and promote such «progressive» approaches. The forecasting method helped identify and propose potential trajectories for the future development of human rights inclusion in bilateral investment treaties.

A significant component of the research involved quantitative analysis based on data from the «International Investment Agreements Mapping» project by UNCTAD, which systematises the content of international investment agreements in a unified database[61]. Additionally, the texts of 157 publicly available bilateral investment treaties were manually examined for quantitative analysis. The specific nature of the research subject justified the use of quantitative methods. Bilateral investment treaties demonstrate sufficient homogeneity, follow clear developmental trends, and are generally accessible for study. These characteristics make them particularly suitable for statistical analysis, the results of which not only document the current State of legal regulation but also reveal promising directions for its development. Unlike many legal fields, statistical research on investment

[61] UNCTAD. Mapping of IIA Content // URL: https://investmentpolicy.unctad.org/international-investment-agreements/iia-mapping (accessed on: 11.03.2025).

agreements can produce verifiable scientific results with substantial theoretical and practical significance. The analysis is limited to publicly available texts of bilateral investment treaties (BITs). Trade agreements containing investment chapters are excluded to minimize distortions arising from the fragmentation of human rights provisions across different sections and the duplication of obligations. The timeframe of the study spans from 2015 to 2023. The selection of 2015 is justified by the lack of published comprehensive studies after 2014, the need to account for the impact of the COVID-19 pandemic on negotiation processes, and the requirement to update data under conditions of incomplete information on the UNCTAD portal for the post-2015 period. Excluding treaties concluded after 2023 mitigates risks of distortions caused by delays in ratification and publication.

The methodological framework incorporated legal formalism[62], enabling the analysis of international investment law standards through their interpretation in judicial practice and academic doctrine. Special attention was given to studying epistemic communities in international law, which involves analyzing legal norms while considering the professional and academic groups that promote them[63]. Furthermore, the research employed the TWAIL (Third World Approaches to International Law) concept, which advocates resistance to unjust norms in international law,[64] as well as the New Haven School of International Law doctrine, which presumes that public international law should contribute to establishing a new world order based on the fundamental value of human dignity[65]. Methods of economic analysis and legal sociology were also applied to examine the balance between human rights and international investment law norms as part of a broader

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[62] Weinrib E.J. Legal Formalism: On the Immanent Rationality of Law // Yale Law Journal. 1988. Vol. 97. No. 6. P. 950.

[63] Cardenas F., d'Aspremont J. Epistemic Communities in International Adjudication // Max Planck Encyclopedias of International Law. 2020.

[64] Chimni B.S. Third World Approaches to International Law: A Manifesto // International Community Law Review. 2006. Vol. 8. P. 4.

[65] Bianchi A. International Law Theories: An Inquiry into Different Ways of Thinking. Oxford : Oxford University Press. 2017. P. 93.

discourse on the rational organization of the international community.

The theoretical basis of the study comprises the scholarly works of internationally recognised experts in the fields of international investment arbitration and human rights. Among Russian authors, notable contributions include the works of A.I. Bessonova, D.S. Boklan, A.S. Borgoiakov, E.S. Burova, A.P. Garmoza, A.S. Gulasarian, A.A. Danelyan, L.I. Zakharova, A.L. Ispolinov, A.S. Kotov, R.A. Kasianov, S.I. Krupko, D.V. Krasikov, K.E. Ksenofontov, D.K. Labin, I.M. Lifshits, O.S. Magomedova, S.R. Oganezova, S.D. Pimenova, V.N. Rusinova, M. Ryazantsev, A.S. Smbatian, E.S. Teimurova, V.A. Trapeznikov, V.L. Tolstykh, N.A. Sokolova, A.V. Solovyeva, A.M. Solntsev, V.M. Shumilov, I.Z. Farkhutdinov, M. Usynin, and others.

Foreign academics include A. van Aacken, T. Broude, W. Rao, K. Gordon, J. Pohl, M. Bouchard, K. Su, W. Shen, W. Alschner, D. Skougarevskiy, J. Morse, M. Barrett, M. Mayan, K. Olson, J. Spiers, J. Yackee, A. Sayed, A. Llamzon, A. Sinclair, C. Partasides, F. Balcerzak, K. Vandevelde, Y. Yueming, G. Laborde, M. Vordermayer-Riemer, A. Mitchell, J. Munro, M. Feeley, E. Knier, L. Peterson, W. Olney, R. Davies, M. Prieur, L. Collins, J. Stone, S. Fletcher, M. Tiemann, A. Mitchell, J. Munro, J. Stone, S. Fletcher, M. Tiemann, A. Mitchell, J. Munro, S. Lester, K. Hou-chih, J. Lo, L. Cotula, N. Perrone, J.S. Stanford, C. Simson, C. Lévesque, S. H. Nikièma, R. Brew, L. Sabanogullari, A. Newcombe, B. Legum, I. Petculescu, J. Kurtz, W. Alschner, K. Hui, P. Muchlinski, C. Cutler, D. Lark, C. Baltag, F. Baetens, F. Francioni, E. De Brabandere, E. Guntrip, K. Kulick, J. Fry, J. H. Fahner, M. Happold, K. Miles, V. Kube, N. Perrone, O. K. Fauchald, P.-M. Dupuy, R. Hoffman, R. Radilofe, S. Schacherer, S. Steininger, Y. Dautaj, E.-U. Petersmann, K. Schefer, K. Vadlamannati and V. Colli Vingarella.

The normative and empirical foundation of the study is formed by sources of international law, primarily international treaties, including 157 directly examined bilateral investment agreements. A significant portion of the work is devoted to analyzing judicial and arbitral practice, encompassing over thirty decisions rendered under the auspices of the International Centre for Settlement of Investment Disputes

and within the framework of *ad hoc* arbitration, as well as written submissions by the parties in these disputes. The research also incorporates soft law instruments related to corporate social responsibility, model bilateral investment treaties, and reports and recommendations developed under the auspices of the United Nations and the OECD.

The scientific novelty of the study lies in the fact that it is one of the first works attempting a scientifically grounded conceptualisation of the impact of human rights on international investment law. Several provisions and conclusions are formulated in international law scholarship for the first time:

– The modalities of the relationship between human rights and international investment law have been identified;
– The grounds for the application or consideration of international human rights law norms in international investment legal relations have been determined;
– A classification of models describing the relationship between international human rights law and international investment law has been introduced into academic discourse. This classification allows for the integration of three parameters: the subjects whose rights are protected, the addressees of the obligations to protect human rights, and the legal mechanisms of influence;
– A critical conclusion has been substantiated regarding the prematurity of distinguishing a category of "progressive" second-generation treaties;
– Methods for balancing the rights of foreign investors and the obligations of the host State have been established within the frameworks of the police powers doctrine, the formation of investors' legitimate expectations, and the determination of compensation for breaches of investment agreements.

Results of the study presented for public defence:

1. It has been identified that the relationship between human rights and international investment law fits into three modalities. The first is complementarity, which consists in the possibility of the joint application of mutually supportive and complementary norms of international investment law and international human rights law. These norms, although enshrined in different sources, are equivalent or

comparable in the part that concerns the protection of property rights and the procedural rights of investors. The second modality is conflict, which is characteristic of situations where norms of international investment law that create negative obligations to protect investors clash with norms of international human rights law that impose positive obligations on States to protect the population of the host country. The third modality is gap-filling, where the existing norms of one of these two branches of international law are insufficient to regulate the arising social relations and, accordingly, the norms of the other branch may be applied.

2. The legal grounds have been defined on the basis of which human rights norms can be applied or considered in the regulation of international investment relations. These grounds include: firstly, the explicit indication in international investment treaties of the applicability of human rights; secondly, the use of human rights as applicable law in dispute resolution; and thirdly, the systemic integration of norms from international investment law and international human rights law.

3. A critical conclusion has been made that, despite the growing number of bilateral investment treaties that in one way or another refer to human rights, it would be premature to accept the idea of the existence of a “second generation” of international investment treaties. This conclusion is based on the understanding that second-generation international investment treaties should be divided into two types: strong and weak. Strong treaties include a number of second-generation standards and may impose obligations on investors, including the possibility of submitting counterclaims. In contrast, weak second-generation treaties are limited to declarative provisions, mostly contained in preambles, and do not significantly differ from first-generation bilateral investment treaties in terms of the applicability of human rights and the possibility for states to invoke them in investment disputes. The vast majority of States tend to prefer the weak second-generation bilateral investment treaties. The spread of human rights provisions in modern international investment treaties is

largely a result of acculturation, and only a limited number of States promote the advancement of second-generation treaties.

4. A new approach has been proposed for classifying legal models of the relationship between international investment law and international human rights law. This approach is based on the combination of three criteria: the subject whose rights are protected (investors or the population of the host state), the bearer of obligations to protect human rights (State or investors), and the method of regulatory influence (enhancing the scope of investors' rights or guarantees; encouraging investors to respect the rights of the host population; and balancing the rights and obligations of investors and host states). Based on this approach, three models are distinguished: a model aimed at strengthening the protection of investors' rights; a model focused on protecting the rights of the host population; and an intermediate model based on balancing the rights and obligations of both investors and host States.

5. It has been established that the model of the relationship between international investment law and international human rights law, which focuses on protecting the rights of the population of the host State, may take the following forms:

– imposing obligations on States to comply with international human rights law or establishing the relationship between human rights and the provisions of bilateral investment treaties;
– using necessity to protect human rights as a circumstance precluding wrongfulness of a State's actions;
– encouraging investors to respect human rights;
– imposing direct obligations on investors to comply with human rights standards.

6. It has been substantiated that the model of balancing the rights and obligations of investors and the host State includes the possibility of applying and considering human rights in the context of: the police powers doctrine; the

interpretation of investors' legitimate expectations as part of the fair and equitable treatment standard; and the determination of compensation amounts for breaches of investment agreements.

7. It is a widely held view that legal barriers limit the impact of human rights on international investment law: these include regulatory chill, where States refrain from taking general measures to protect the rights of the local population for fear of having to pay multimillion-dollar compensation to investors; the almost complete absence of a general rule allowing States to bring counterclaims in investment disputes; and the lack of direct obligations on foreign investors to respect human rights. However, applying the tools of law and economics reveals that the obstacles to aligning international investment law with human rights are not solely legal in nature. Rather, they reflect the complex and contradictory triangular nature of investment relations, which involve not only the host State and foreign investors, but also the population of the host State. These challenges are further compounded by a fundamental dilemma faced by States: the protection of labour, economic, and social rights of their populations often depends on the success of attracting foreign investment, which in turn results in a race to the bottom, where States lower protections for these very same rights. Finally, there are epistemological barriers, as the development, application, and reform of international investment law and international human rights law are undertaken by largely non-overlapping epistemic communities of legal scholars.

Theoretical significance of the research. The dissertation enriches the conceptual framework of international law by introducing terminology that identifies specific forms of applying or accounting for human rights in international investment legal relations, as well as clarifying existing concepts. These include, for example, the police powers doctrine, legitimate investor expectations, the right to regulate, and others. Furthermore, the work refines and systematises quantitative and

qualitative research methods in this field, which may serve as a guideline for subsequent studies employing similar methodologies.

Conceptually significant is the study's proposed division of the forms and mechanisms through which human rights influence international investment law into three distinct models. It also defines the grounds for applying or considering international human rights norms in international investment relations, identifies forms of protecting the rights of populations in host States, and outlines general modalities for the interplay between human rights and international investment law.

The theoretical value extends to the dissertation's proposals for integrating human rights considerations into balancing the rights of foreign investors and the obligations of host States. The findings of this research can be applied in teaching international investment law and courses on business and human rights, as well as serve as a foundation for further qualitative and quantitative studies in the field.

Practical significance of the research. The findings of this study can be directly applied in the negotiation, interpretation, and termination of bilateral or multilateral investment treaties. They may also serve as a guideline for interpreting existing bilateral investment agreements. Furthermore, the conclusions of the research can aid in resolving international investment disputes involving State interests. Given that UNCTAD and UNCITRAL are currently exploring potential pathways for reforming international investment law, the results of this work could provide a foundation for designing relevant reform proposals.

The Russian Federation has actively utilised mechanisms of international investment law, having concluded 79 bilateral investment treaties, 63 of which have entered into force[66]. However, over the past decade, Russia has paused its treaty practice: following the 2016 agreement with Palestine, no new bilateral investment

[66] UNCTAD. International Investment Agreements Monitor. Russian Federation // URL: https://investmentpolicy.unctad.org/international-investment-agreements/countries/175/russian-federation (accessed on: 23.03.2025).

treaties have been signed[67]. This study establishes a necessary scientific foundation for Russia's potential return to active negotiations on investment agreements and can inform the development of State policy in this sphere. The research underscores the importance of aligning international investment frameworks with contemporary challenges, such as balancing investor protections with human rights and regulatory sovereignty, while offering actionable insights for policymakers and negotiators.

Approval of the results of the study and the main publications of the author on the topic of research. The thesis was written at the School of International Law of the Faculty of Law of the National Research University "Higher School of Economics" (HSE University). In the course of its preparation, the most significant research outcomes were presented and discussed at the following conferences:

- XXI International Congress "Blischenko Readings" (12 April 2025, Moscow);
- III Annual International Research and Practice Conference "Law and Business in the Realities of Modernity: National, Regional and International Dimension" (14 October 2024, Moscow);
- International Youth Legal Forum (29 June 2024, Saint Petersburg);
- International Conference "International, National and Corporate Dimensions of ESG-agenda: Does Climate Change Law?" (15 September 2023, Moscow).
- II International Conference in Memory of V.F. Yakovlev "Interdisciplinary Approach in Legal Science: Economics. Law. Court" (2 December 2022, Moscow).

The main conclusions were published in the following scholarly articles on the topic:

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[67] Russia–Palestine Bilateral Investment Treaty. 25 January 2016 // URL: https://investmentpolicy.unctad.org/international-investment-agreements/treaty-files/5612/download (accessed on: 23.03.2025).

1. Tarasov M. General exception clauses in bilateral investment treaties: problems and perspectives // Proceedings of Voronezh State University. Series: Law. 2025. № 1. P. 219–227 (List D).
2. Tarasov M. The «race to the bottom» and its regulation in bilateral investment treaties // Proceedings of Voronezh State University. Series: Law. 2023. № 4 (55). P. 297–306 (List D).
3. Rusinova V., Tarasov M. “If stars are lit, it means — there is someone who needs it”: a new human rights protecting function of bilateral investment treaties // Mezhdunarodnoe pravosudie. Vol. 11. № 2. Pp. 151–174 (List D).

The conclusions drawn in this dissertation were also used in preparing the HSE Faculty of Law team for the international rounds of the Foreign Direct Investment International Arbitration Moot (FDI Moot). In addition, the research results were applied in the course of preparing the student team for the Philip C. Jessup International Law Moot Court Competition.

The conclusions of the work were used in the development of the methodology and the successful implementation of the course «Introduction to International Law» for first-year students of the Master’s program «International Trade Law and Dispute Resolution» at HSE during the 2023–2024 academic year.

Part of the dissertation research was carried out in Rome at the International Institute for the Unification of Private Law (UNIDROIT), where the author worked as a visiting researcher on the topic «Corporate Due Diligence in Global Supply Chains»[68].

This research was initiated within the framework of the grant project «Expansion of Human Rights in the Corporate Sphere». The article co-authored with V.N. Rusinova, “‘If stars are lit, it means — there is someone who needs it’: a new

[68] https://www.roma3unidroitcentre.org/investment-contracts.

human rights protecting function of bilateral investment treaties", won the HSE Best Russian-Language Academic and Popular Science Publications Award in 2022[69].

The scholarly accuracy of this research is supported by a thorough analysis of normative and empirical materials using reproducible quantitative methods, as well as the extensive application of critical legal analysis. The credibility of the findings is reinforced by a comprehensive review of both normative and doctrinal sources, including peer-reviewed academic publications, monographic studies, legal commentaries, scholarly works, and instruments from international organisations. The use of a systemic approach—integrating theoretical analysis with practical verification of conclusions—alongside adherence to contemporary standards of legal science, further substantiates the robustness of the results.

The organisation of this dissertation. The dissertation consists of three chapters, divided into sections, and is preceded by an introduction. At the end of the work, there is a conclusion, appendices, and a list of references.

[69] pravo.hse.ru/intlaw/news/654950654.html.

II. DISSERTATION OUTLINE

The **introduction** outlines the relevance of the research topic, the state of existing scholarship, the objectives and research questions, the object and subject of the study, its methodological, theoretical, and normative foundations, scholarly novelty, key arguments defended in the thesis, theoretical and practical significance of the research, information on the validation of results, and the structure of the dissertation.

First Chapter – "The Concept and Interplay of Human Rights and International Investment Law" consists of two paragraphs. It defines the concepts of human rights, international human rights law, and international investment law, and categorises the modalities of their interplay.

First Paragraph – "Concepts of Human Rights, International Human Rights Law, and International Investment Law" – examines the definitions of the concepts "human rights," "international human rights law," and "international investment law" in their historical development. A distinction is drawn between the concepts of "human rights" and "international human rights law," with the former being a broader category. It is noted that both human rights law and international investment law seek to limit State discretion over private actors—individuals under a State's effective control (in the former case) and foreign investors (in the latter). Accordingly, the nature of international human rights law and international investment law shares similarities, which can lead to normative conflicts between the two fields or be leveraged for mutual complementarity and reinforcement.

The paragraph concludes that States face a dilemma: the protection of labor, economic, and social rights of their populations often depends on successfully attracting foreign investment, which, in turn, leads to a "race to concessions" involving the lowering of human rights protections for their own populations. These challenges are partly epistemological, as the development, application, and reform

of norms in international investment law and international human rights law are driven by largely separate epistemological communities of legal practitioners.

The **second paragraph, "Modalities of the Relationship between Human Rights and International Investment Law"**, identifies and conceptually substantiates three modalities of interaction between the two branches: complementarity, conflict, and gap-filling. Each modality is elaborated in detail. Complementarity refers to the possibility of the joint application of mutually supportive and reinforcing norms of international investment law and international human rights law, which, although stemming from different sources, are equivalent or comparable in the areas concerning the protection of property rights and procedural rights of investors. Conflict arises in situations where norms of international investment law that create negative obligations to protect investors clash with norms of international human rights law that impose positive obligations on States to protect the population of the host country. Gap-filling occurs when norms from one of the two branches are applied to regulate legal relations in cases where the norms of the other branch are insufficient. The paragraph concludes that the most commonly encountered modalities are conflict and complementarity, while gap-filling is used less frequently.

The **second chapter, "Foundations for the Application or Consideration of International Human Rights Law Norms in International Investment Relations"**, consists of three paragraphs. The chapter examines the grounds for applying or considering international human rights law norms in international investment relations. In particular, it explores statistics on explicit references to the applicability of human rights in international investment law, as well as approaches to formulating such references. It also analyses the possibility of considering international human rights law as the law applicable to the substance of an investment dispute, and explores the potential for systemic integration of norms from both legal fields.

The **first paragraph, "Explicit Reference to Human Rights in Treaty Provisions of International Investment Law"**, is divided into two subparagraphs.

This paragraph examines trends in the inclusion of references to human rights in the most recent bilateral investment treaties. The study of such treaties allows for the identification of qualitatively distinct provisions that are in some way related to human rights and alter the content of the State's international legal obligations, as well as for a quantitative analysis of the use of such provisions in order to identify patterns in their inclusion and to draw conclusions regarding the demand for specific model formulations.

The first subparagraph outlines four groups of typical approaches to affirming the applicability of human rights in international investment law: references in the preamble, non-lowering of standards clauses, provisions on corporate social responsibility, and exceptions to obligations. It is noted that the first three groups are characteristic of international investment law, while general exceptions to obligations are based on a similar standard found in Article XX of the GATT. The three approaches developed within international investment law to incorporate human rights are distinguished by their referential nature and deliberately «softened» legal language. It appears that even when such provisions are included in the main text of a bilateral investment treaty, they remain largely declarative.

The second subparagraph presents statistics on the inclusion of human rights-related provisions in bilateral investment treaties. Based on the statistical analysis of the use of each of the four approaches to incorporating human rights, it is concluded that it is premature to assert the emergence of a «second generation» of bilateral investment treaties. Second-generation investment treaties are divided into two types: "strong" and "weak'. The former includes several second-generation standards and may contain provisions imposing obligations on investors, including even the possibility of counterclaims. In contrast, "weak' second-generation treaties are limited to declarative provisions, primarily in preambles, and do not significantly differ from first-generation bilateral investment treaties. Country-level statistical analysis shows that most "rule-making" States tend to opt for 'weak" second-generation bilateral investment treaties.

The **second paragraph, "International Human Rights Law as the Law Applicable to the Substance of the Dispute"**, examines the potential for an investment arbitration tribunal to apply international human rights law as the applicable law. Typically, the law applicable to the substance of investment disputes is the bilateral investment treaty itself. Such treaties may also include references to the applicability of general international law or domestic law. At the same time, existing international treaties do not impose human rights obligations on foreign investors. In this context, the use of human rights law as applicable law can influence the norms of international investment law in two possible ways: either, as part of domestic law, it may be incorporated into the «balancing exercise» in State regulation, or, as part of the corpus of international law, it may be applied through the systemic integration of international human rights norms.

The **third paragraph, "Systemic Integration of International Human Rights Law and International Investment Law"**, considers systemic integration as a method of treaty interpretation. The concept of fragmentation of international law is defined as the simultaneous development of subsystems within international law intended to regulate distinct areas of legal relations. In the context of the relationship between international human rights law and international investment law, investment tribunals have developed three potential approaches to systemic integration: avoidance, harmonisation, and prioritisation. The paragraph concludes that human rights bodies tend to favour interpretation and balancing between the rights of investors and the rights of local populations as a means of protecting the latter. In contrast, investment tribunals more frequently avoid applying systemic integration altogether.

The **third chapter, "Legal Models of the Relationship between International Human Rights Law and International Investment Law"**, consists of four paragraphs. The chapter examines the legal models of the relationship between international human rights law and international investment law, specifically focusing on the interpretation of investor protection standards in light of human rights norms, approaches to protecting the human rights of the population in

the host State, and the application of methods developed in investment arbitration practice to balance the rights of foreign investors with the obligations of the host State.

The **first paragraph, 'Foundations for the Classification of Models of the Relationship between International Human Rights Law and International Investment Law»"**, is introductory and presents various types of relationships between international human rights law and international investment law in three broad models. The first model involves supplementing investor protection with references to human rights law. The second model focuses on the protection of human rights of the population in the host State. The third model lies between the first two, representing a balance between the rights of the foreign investor and the obligations of the host State.

The **second paragraph, "Supplementing Investor Protection with References to Human Rights Law"**, is devoted to possible ways of using international human rights law norms to strengthen the protection of foreign investors through the interpretation or clarification of international investment law standards. It has been established that investment tribunals refer to the practice of human rights bodies to interpret the standards of fair and equal treatment and the prohibition of expropriation without compensation, but more as an illustration rather than for adopting legally binding rules of conduct.

The **third paragraph, "Protection of Human Rights of the Population in the Host State"**, examines possible ways of protecting human rights in international investment law. Specifically, such methods include imposing human rights obligations on States or establishing their relationship with the norms of bilateral investment treaties, referencing the necessity of protecting human rights as a circumstance excluding the unlawfulness of State actions, encouraging investors to comply with human rights, and directly imposing human rights obligations on investors, including the possibility of counterclaims by the State against the investor. It appears that these methods of human rights protection are more related to the

progressive development of international law and are still in their early stages, although they have been addressed in several investment disputes.

The **fourth paragraph, "Balancing the Rights of the Foreign Investor and the Obligations of the Host State"**, deals with the legal mechanisms developed within international investment law that can be used to consider human rights in investment disputes. The issue of balancing private and public interests in protecting foreign investments is reflected in the institutions of international investment law that are unique to this field, namely the doctrine of police powers, the concept of legitimate expectations of investors, and methods of calculating compensation for breaches of investment agreements. The conclusion is that these already existing institutions in international investment law can be interpreted and conceptualised as allowing references to human rights-based arguments.

The general conclusions of the research are summarised in the **Conclusion**.