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Actual problems of social and humanitarian sciences
Актуальные проблемы социальных и гуманитарных наук

**Ijtimoiy-gumanitar
fanlarning dolzarb
muammolari**

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ИЖТИМОЙ-ГУМАНИТАР ФАНЛАРНИНГ ДОЛЗАРБ МУАММОЛАРИ

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АКТУАЛЬНЫЕ ПРОБЛЕМЫ СОЦИАЛЬНО- ГУМАНИТАРНЫХ НАУК

ACTUAL PROBLEMS OF HUMANITIES AND SOCIAL SCIENCES

ТОШКЕНТ-2024

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Isanova Feruza Tulqinovna

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07.00.00- TARIX FANLARI:

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Saidov Sarvar Atabullo o'g'li – katta ilmiy xodim, Imom Termiziy xalqaro ilmiy-tadqiqot markazi, ilmiy tadqiqotlar bo'limi.

08.00.00- IQTISODIYOT FANLARI:

Karlibayeva Raya Xojabayevna – iqtisodiyot fanlari doktori, professor, Toshkent davlat iqtisodiyot universiteti;

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Xojayev Azizxon Saidaloxonovich – iqtisodiyot fanlari doktori, dotsent, Farg'ona politexnika instituti

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Shakarov Qulmat Ashirovich – iqtisodiyot fanlari nomzodi, dotsent, Toshkent axborot texnologiyalari universiteti

09.00.00- FALSAFA FANLARI:

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Yaxshilikov Jo'raboy – falsafa fanlari doktori, professor, Samarqand davlat universiteti;

G'aybullayev Otabek Muhammadiyevich – falsafa fanlari doktori, professor, Samarqand davlat chet tillar instituti;

Saidova Kamola Uskanbayevna – falsafa fanlari doktori, "Tashkent International University of Education" xalqaro universiteti;

Hoshimxonov Mo'min – falsafa fanlari doktori, dotsent, Jizzax pedagogika instituti;

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10.00.00- FILOLOGIYA FANLARI:

Axmedov Oybek Saporbayevich – filologiya fanlari doktori, professor, O'zbekiston davlat jahon tillari universiteti;

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12.00.00- YURIDIK FANLAR:

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Muxitdinova Firyuza Abdurashidovna – yuridik fanlar doktori, professor, Toshkent davlat yuridik universiteti;

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Rahmatov Elyor Jumaboyevich — yuridik fanlar nomzodi, Toshkent davlat yuridik universiteti;

13.00.00- PEDAGOGIKA FANLARI:

Xashimova Dildarxon Urinboyevna – pedagogika fanlari doktori, professor, Toshkent davlat yuridik universiteti;

Ibragimova Gulnora Xavazmatovna – pedagogika fanlari doktori, professor, Toshkent davlat iqtisodiyot universiteti;

Zakirova Feruza Maxmudovna – pedagogika fanlari doktori, Toshkent axborot texnologiyalari universiteti huzuridagi pedagogik kadrlarni qayta tayyorlash va ularning malakasini oshirish tarmoq markazi;

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Bobomurotova Latofat Elmurodovna — pedagogika fanlari bo'yicha falsafa doktori (PhD), Samarqand davlat universiteti.

19.00.00- PSIXOLOGIYA FANLARI:

Karimova Vasila Mamanosirovna – psixologiya fanlari doktori, professor, Nizomiy nomidagi Toshkent davlat pedagogika universiteti;

Hayitov Oybek Eshboyevich – Jismoniy tarbiya va sport bo'yicha mutaxassislarni qayta tayyorlash va malakasini oshirish instituti, psixologiya fanlari doktori, professor

Umarova Navbahor Shokirovna– psixologiya fanlari doktori, dotsent, Nizomiy nomidagi Toshkent davlat pedagogika universiteti, Amaliy psixologiyasi kafedrasi mudiri;

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Shamshetova Anjim Karamaddinovna – psixologiya fanlari doktori, dotsent, O‘zbekiston davlat jahon tillari universiteti;

Qodirov Obid Safarovich – psixologiya fanlari doktori (PhD), Samarkand viloyat IIB Tibbiyot bo‘limi psixologik xizmat boshlig‘i.

22.00.00- SOTSILOGIYA FANLARI:

Latipova Nodira Muxtarjanovna – sotsiologiya fanlari doktori, professor, O‘zbekiston milliy universiteti kafedra mudiri;

Seitov Azamat Po‘latovich – sotsiologiya fanlari doktori, professor, O‘zbekiston milliy universiteti;

SodiqovaShohida Marxaboyevna – sotsiologiya fanlari doktori, professor, O‘zbekiston xalqaro islom akademiyasi.

23.00.00- SIYOSIY FANLAR

Nazarov Nasriddin Ataqulovich –siyosiy fanlar doktori, falsafa fanlari doktori, professor, Toshkent arxitektura qurilish instituti;

Bo‘tayev Usmonjon Xayrullayevich –siyosiy fanlar doktori, dotsent, O‘zbekiston milliy universiteti kafedra mudiri.

OAK Ro‘yxati

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THE EVOLVING LANDSCAPE OF INVESTOR PROTECTION: BALANCING STATE SOVEREIGNTY AND INVESTOR RIGHTS IN THE 21ST CENTURY

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Abstract. The evolving landscape of investor protection in the 21st century requires a delicate balance between safeguarding investor rights and preserving state sovereignty. As global investments expand, investors seek legal assurances to protect their assets, while states must retain the ability to regulate in the public interest, addressing economic, social, and environmental challenges. This tension has sparked debates about the role of investor-state dispute settlement (ISDS) mechanisms and the need for reform. By modernizing investment treaties and dispute resolution processes, the international community can create a more equitable system that fosters both investment and sustainable development, ensuring mutual benefits for investors and states alike.

Keywords: investor protection, State sovereignty, International investment law, Investor-State Dispute Settlement (ISDS), Bilateral Investment Treaties (BITs).

XXI ASRDA INVESTORLAR HUQUQLARINI HIMOYA QILISHNING RIVOJLANISHI: DAVLAT SUVERENITETI VA INVESTORLAR MANFAATLARINI MUVOZANATLASH

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Xalqaro huquq va inson huquqlari kafedrası o'qituvchisi

Annotatsiya. 21-asrda investorlarni himoya qilishning rivojlanayotgan jarayon investorlar huquqlarini himoya qilish va davlat suverenitetini saqlash o'rtasidagi nozik muvozanatni talab qiladi. Global investitsiyalar kengayib borar ekan, sarmoyadorlar o'z aktivlarini himoya qilish uchun huquqiy kafolatlar izlaydilar, davlatlar esa iqtisodiy, ijtimoiy va ekologik muammolarni hal qilishda jamoat manfaatlarini tartibga solish qobiliyatini saqlab qolishlari kerak. Ushbu keskinlik investor-davlat nizolarini hal qilish (ISDS) mexanizmlarining roli va islohot zarurligi haqida bahs-munozaralarni keltirib chiqardi. Investitsion shartnomalar va nizolarni hal etish jarayonlarini modernizatsiya qilish orqali xalqaro hamjamiyat ham investitsiyalar, ham barqaror rivojlanishni ta'minlovchi, investorlar va davlatlar uchun o'zaro manfaatlarini ta'minlovchi yanada adolatli tizim yaratishi mumkin.

Kalit so'zlar: investorlarni himoya qilish, Davlat suvereniteti, Xalqaro investitsiya huquqi, Investor-davlat nizolarini hal qilish (ISDS), Ikki tomonlama Investitsion Shartnomalar (BITs).

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Introduction. The intersection of investor protection and state sovereignty has indeed emerged as a critical focal point in international law, particularly with the rapid expansion of global investment in the 21st century. As multinational corporations and investors increasingly

seek out opportunities across borders, they encounter a range of legal, political, and economic environments. These environments often differ in terms of regulatory frameworks, levels of economic development, and degrees of political stability. As a result, investors are seeking stronger legal protections to ensure that their investments are secure from arbitrary government actions, expropriation, or other forms of unfair treatment. This demand for protection has led to the proliferation of Bilateral Investment Treaties (BITs) and multilateral agreements, which typically include provisions for investor-state dispute settlement (ISDS) mechanisms [1].

At the same time, states must balance the need to attract foreign investment with the preservation of their sovereign right to regulate key issues within their territories. These issues range from economic policy and public health to environmental protection, labor rights, and social justice. Governments, especially in developing countries, are often faced with difficult decisions about how to implement policies that protect public interests without undermining investor confidence. Moreover, states must consider the potential long-term impact of foreign investments on their national economies, natural resources, and the well-being of their citizens.

This tension between investor rights and state sovereignty is at the heart of debates surrounding international investment law and ISDS mechanisms. On the one hand, foreign investors argue that they need robust legal frameworks to protect their assets from discriminatory practices, sudden regulatory changes, or unjust expropriation by host states. On the other hand, states assert that they have the right to regulate in the public interest without being constrained by legal threats from powerful corporations or wealthy foreign investors. This has led to a growing backlash against ISDS mechanisms, particularly in cases where states are sued for implementing regulations intended to protect public health or the environment.

Main part (discussion and results). The roots of modern investor protection date back to the early 20th century, when colonial powers established international agreements to protect investments made by their nationals in foreign territories. After World War II, with the rise of globalization and decolonization, there was a surge in international treaties aimed at safeguarding foreign investments, most notably through Bilateral Investment Treaties (BITs). These agreements typically granted foreign investors certain protections, such as the right to fair and equitable treatment, protection from expropriation without compensation, and access to dispute resolution mechanisms like ISDS [2].

BITs and other investment agreements were designed to protect investors from arbitrary actions by host states. In return, these treaties aimed to promote foreign direct investment (FDI), which was viewed as a catalyst for economic growth. However, as the number of investment agreements grew, so too did concerns that such agreements disproportionately favored investor rights at the expense of state sovereignty.

A central feature of most BITs and multilateral investment treaties is the ISDS mechanism, which allows investors to bring claims against states for alleged treaty violations. ISDS has been a lightning rod for controversy, with critics arguing that it grants foreign investors disproportionate power to challenge state policies, including public interest regulations related to environmental protection, health, and human rights [3].

Proponents of ISDS argue that it provides an essential tool for investors to protect their rights, particularly in countries with weak judicial systems or unpredictable legal

environments. Without ISDS, they contend, investors may be hesitant to invest in countries where their assets could be arbitrarily seized or devalued by state actions.

However, critics counter that ISDS undermines state sovereignty by allowing private arbitrators, rather than national courts, to decide on disputes that can have significant public policy implications. Moreover, the confidentiality of many ISDS proceedings and the perceived bias of arbitrators toward investors have led to concerns about the fairness and transparency of the system [4].

In recent years, the landscape of investor protection has evolved, with many countries rethinking their approach to international investment agreements. The backlash against ISDS has led to calls for reform, and several states have renegotiated or terminated existing BITs. Notably, countries like India, South Africa, and Indonesia have opted to replace older treaties with new agreements that prioritize state sovereignty and limit the scope of investor protections [5].

One significant trend has been the move towards more balanced agreements that better reflect the interests of both investors and states. For example, the European Union's new investment agreements, such as the Comprehensive Economic and Trade Agreement (CETA) with Canada, include provisions for a reformed dispute resolution mechanism known as the Investment Court System (ICS). The ICS seeks to address concerns about transparency and arbitrator independence by creating a permanent tribunal with tenured judges and clear rules for transparency in proceedings [6].

Moreover, the United Nations Conference on Trade and Development (UNCTAD) has played a pivotal role in advocating for a more balanced approach to investment protection. UNCTAD's «Investment Policy Framework for Sustainable Development» calls for reforms that align investment protection with sustainable development goals, emphasizing the importance of preserving state regulatory space to achieve public policy objectives.

The challenge of the 21st century is to strike an appropriate balance between protecting investor rights and respecting state sovereignty. This balance is critical in a world where states face increasingly complex challenges, including climate change, public health crises, and social inequality. At the same time, foreign investors are essential to economic growth and development, particularly in developing countries that rely on FDI to build infrastructure, create jobs, and stimulate innovation [7].

One way to achieve this balance is by ensuring that investment agreements are designed with clear safeguards for state sovereignty. This includes provisions that preserve the right of states to regulate in the public interest, even when such regulations may affect foreign investments. Additionally, greater transparency and accountability in ISDS processes are crucial to rebuilding trust in the system [8].

Furthermore, investment agreements should reflect the broader global consensus on sustainable development. This involves incorporating environmental, social, and governance (ESG) standards into investment protection frameworks, ensuring that investment does not come at the expense of fundamental human rights or the environment.

Currently, one of the key directions of the state policy of the Republic of Uzbekistan is the further development of investment relations, which requires improving the regulatory framework in the field of investment activities. Considering the genesis of development of the

legislation of the Republic of Uzbekistan on ensuring the rights and obligations of investors in the context of international public law has several key aspects.

First, it allows us to determine how Uzbekistan has adapted its legal norms to international standards, which is important for the country's integration into the global legal system and ensuring compliance with international requirements. Secondly, studying the evolution of legislation helps to assess the effectiveness of protecting the rights and obligations of investors, as well as law enforcement in accordance with international norms.

This analysis also demonstrates how Uzbekistan's legal environment has been transformed to create more attractive conditions for foreign investment, which is critical for forecasting future steps to improve the investment climate. Understanding the process of developing legislation in an international context helps to determine how a country fulfills its international obligations.

In addition, the study allows us to understand how Uzbekistan manages risks and resolves investment disputes taking into account international practice. This is especially important for foreign investors seeking legal certainty and protection through international arbitration.

Finally, awareness of the historical context of legal reforms and their impact on international law helps to predict future changes in legislation, which is important for policy makers, investors and legal consultants.

An effective system for ensuring the property rights of investors is a key condition for creating a favorable investment climate, in which the rights of investors, including their property rights, are guaranteed and effective mechanisms and impartial institutions for their protection are ensured.

Since gaining independence, the Republic of Uzbekistan has taken significant measures to radically improve the investment climate in accordance with international standards, which has contributed to strengthening the country's international ranking. Since the first days of independence, Uzbekistan, as an equal participant in the world community, has been actively developing its base of international agreements covering all key aspects of social and state development.

On August 1, 2018, the President of the Republic of Uzbekistan signed the Decree «On measures to radically improve the investment climate in the Republic of Uzbekistan,» aimed at increasing the attractiveness of the investment climate. According to this decree, foreign citizens and stateless persons who invest in Uzbekistan have the opportunity to obtain a multiple-entry visa for three years with the possibility of unlimited renewal without the need to leave the country.

In addition, the minimum required amount of foreign investments in the authorized capital of companies with foreign investments has been reduced from 30 to 15 percent. The requirement for the participation of a foreign legal entity as a participant in a company with foreign investments was also canceled.

On December 25, 2019, the Law of the Republic of Uzbekistan «On Investments and Investment Activities» was adopted and entered into force on January 27, 2020. This Law is aimed at strengthening the protection of the rights of foreign investors by eliminating uncertainties in the legislation and ensuring clear conditions for investment activities in the country.

This normative legal act meets the basic international standards in the field of protection and realization of foreign investments. The new law consolidated the key provisions of previous legislative acts - the Laws «On Foreign Investments,» «On Investment Activities» and «On Guarantees and Measures to Protect the Rights of Foreign Investors,» which were abolished with its entry into force.

The Law of the Republic of Uzbekistan «On Investments and Investment Activities» establishes the main principles governing all stages of the investment process and investment activities for both domestic and foreign investors.

The law confirms the guarantees of the rights of foreign investors, which include free use and transfer of funds, their return in case of termination of investment activities, protection from nationalization and expropriation, as well as from unfavorable changes in the legislation.

There are also guarantees of openness and transparency, additional guarantees that can be provided by the Government. The law also supports the legal regime of foreign investments, including specialized visas, conditions for obtaining a residence permit, the procedure for attracting foreign workers and investment insurance.

At the same time, the Law introduces more detailed and systematized regulation of the investment sphere and provides additional tools for supporting investors. In addition, the Law defines the legal regime for enterprises with foreign investments in the territory of the Republic of Uzbekistan, indicating that they are enterprises in which the share of foreign investments is at least 15% of shares, shares, dividends or authorized capital.

Conclusion. The growing number of investor-state dispute settlement (ISDS) cases, in which investors have challenged government policies, highlights the tension between these competing interests. In some instances, investors have used ISDS mechanisms to sue states for enacting regulations aimed at promoting public health, environmental protection, or social justice. This has led to concerns that ISDS systems are being exploited to undermine state sovereignty, as governments may hesitate to introduce necessary regulations out of fear of being sued or facing exorbitant compensation claims. These concerns are particularly acute in developing countries, where governments may face legal pressure from multinational corporations with significant financial resources [9].

In response to these challenges, there has been increasing momentum within the international community to reform investment agreements and dispute resolution mechanisms. One key area of reform involves the renegotiation of bilateral investment treaties (BITs) and multilateral trade agreements to include provisions that strike a better balance between investor protection and the rights of states to regulate. Many countries are revisiting their investment agreements to ensure that they are aligned with sustainable development goals, and they are incorporating clauses that explicitly protect the state's regulatory powers in areas such as environmental conservation, labor standards, and public health.

In addition to reforming the substantive provisions of investment treaties, efforts are also underway to improve the transparency, accountability, and fairness of ISDS mechanisms. Some proposals have called for the establishment of a multilateral investment court with permanent judges and clearer procedures to resolve disputes in a more consistent and transparent manner. This would address some of the criticisms surrounding ISDS, such as the lack of consistency in tribunal decisions and the perception that arbitrators may be biased in favor of investors. A reformed dispute settlement system could help ensure that both investors

and states are treated fairly, with rulings that reflect a balanced consideration of both parties' rights [10].

Ultimately, the international community faces the challenge of crafting treaties and agreements that provide investors with strong legal protections while ensuring that states maintain their sovereign authority to pursue economic, social, and environmental goals. The aim should not be to pit investor rights against state sovereignty but to harmonize these interests in a way that fosters mutual benefit. A balanced approach can create an international investment regime that encourages sustainable economic development, while also ensuring that states are not unduly constrained in their ability to address the pressing challenges of the 21st century, such as climate change, public health crises, and social inequality.

In this delicate balancing act, it is crucial that future investment treaties reflect the evolving priorities of both investors and states. These agreements should promote responsible and sustainable investment that contributes to long-term economic growth while safeguarding the ability of states to regulate in the public interest. If achieved, such a framework can lead to a fairer and more inclusive global economy, where investment flows are not only encouraged but also directed toward projects that support sustainable development and social well-being. The challenge for the international community in the years to come will be to craft legal instruments that achieve this delicate balance, ensuring that the global investment landscape is both equitable and aligned with the broader goals of humanity.

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