

## BIBLIOGRAPHY

### Books

- Abdurrahman, H. and Soejono. *Metode Penelitian: Suatu Pemikiran dan Penerapan*. Jakarta: Rineka Cipta, 2005.
- Adi, Rianto. *Aspek Hukum dalam Penelitian*. Jakarta: Yayasan Pustaka Obor Indonesia, 2015.
- Brownlie, Ian. *Public International Law, 3<sup>rd</sup> Ed.* Oxford: Oxford University Press, 2003.
- Blaine, Harrison G. *Foreign Direct Investment*. New York: Nova Science Publishers, 2009.
- Dolzer, Rudolf and Schreuer, Christoph. *Principles of International Investment Law, 2<sup>nd</sup> Ed.* Oxford: Oxford University Press, 2012.
- Dolzer, Rudolf and Stevens, Margrete. *Bilateral Investment Treaties*. Leiden: Martinus Nijhoff Publishers, 1995.
- Herdegen, Matthias. *Principles of International Economic Law, 2<sup>nd</sup> Ed.* Oxford: Oxford University Press, 2016.
- Hobér, K. *Investment Arbitration in Eastern Europe: In Search of a Definition of Expropriation*. New York: JurisNet, LLC, 2007.
- Jennings, Robert and Arthur Watts. *Oppenheim's International Law*. Harlow: Longman, 1992.
- Johnson, Harry G. *Further Essays in Monetary Economics*. London: Allen and Unwin, 1972.
- Kothari, C. R. *Research Methodology: Methods & Techniques*. New Delhi: New Age International, 2004.
- Leddy, Paul D. *Practical Research: Planning and Design, 6th Ed.* New Jersey: Practice Hall, 1997.
- Malintoppi, Loretta and Charis Tan. *Investment Protection in Southeast Asia: A Country-by-Country Guide on Arbitration Laws and Bilateral Investment Treaties*. Leiden-Boston: Brill Nijhoff, 2016.
- Marzuki, Peter M. *Penelitian Hukum*. Jakarta: Kencana, 2006.

- McConville, Mike and Wing Hong Chui. *Research Methods for Law*. Oxford: Oxford University Press, 2007.
- Mezak, Meray Hendrik. *Buku Ajar Metode Penelitian Hukum*. Karawaci: Universitas Pelita Harapan, 2010.
- Muchlinski, Peter, Ortino, Federico and Schreuer, Christoph. *The Oxford Handbook of International Investment Law*. Oxford: Oxford University Press, 2008.
- Newcombe, Andrew Paul and Pradell, Lluís. *Law and Practice of Investment Treaties: Standards of Treatment*. The Hague: Kluwer Law International, 2009.
- OECD. *International Investment Law: A Changing Landscape*. Paris: OECD Publishing, 2005.
- Rajasekar, S., Philominathan, P., and Chinnathambi, V. *Research Methodology*. Tamil Nadu: Bharathidasan University, 2006.
- Reinisch, August. *Standards of Investment Protection*. Oxford: Oxford University Press, 2008.
- Ribeiro, C. *Investment Arbitration and the Energy Charter Treaty*. New York: JurisNet LLC, 2006.
- Rovine, Arthur W. *Contemporary Issues in International Arbitration and Mediation - The Fordham Papers*. Leiden: Martinus Nijhoff Publishers, 2011.
- Rubins, N. and N.S. Kinsella. *International Investment, Political Risk and Dispute Resolution: A Practitioner's Guide*. New York: Oceana Publications, 2005.
- Salacuse, Jeswald W. *The Law of Investment Treaties, 2<sup>nd</sup> Ed.* Oxford: Oxford University Press, 2015.
- Schill, S.W. *International Investment Law and Comparative Public Law*. Oxford: Oxford University Press, 2010.
- Schrijver, Nico. *Permanent Sovereignty over Natural Resources: Balancing Rights and Duties*. Cambridge: Cambridge University Press, 1997.
- Schlegel, J. H. *American Legal Realism and Empirical Social Science*. Chapel Hill: University of North Carolina Press, 1995.

- Sidharta, Bernard Arief. *Penelitian Hukum Normatif: Analisis Penelitian Filosofikal dan Dogmatikal* Jakarta: Yayasan Pustaka Obor Indonesia, 2011.
- Soekanto, Soerjono and Sri Mamudji. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. Jakarta: Raja Grafindo Persada, 1995.
- Soemitro, Ronny Hanitijo. *Metodologi Penelitian Hukum dan Jurimetri*. Jakarta: Ghalia Indonesia, 1988.
- Sornarajah, Muthucumaraswamy. *The International Law on Foreign Investment, 3<sup>rd</sup> Ed.* Cambridge: Cambridge University Press, 2010.
- Subedi Surya P. *International Investment Law-Reconciling Policy and Principle*. Oxford: Hart Publishing, 2008.
- Sunggono, Bambang. *Metodologi Penelitian Hukum*. Jakarta: PT Raja Grafindo Persada, 2003.
- Trebilcock, Michael, Howse, Robert and Eliason, Antonia. *The Regulation of International Trade: 4th Edition*. London: Routledge, 2013.
- UNCTAD. *Series on issues in international investment agreements, Taking of Property*. Geneva: UNCTAD, 2000.
- UNCTAD. *UNCTAD Series on Issues in International Investment Agreements II: Sequel*. Geneva: UNCTAD, 2012.
- Vandervele, Kenneth J. *Bilateral Investment Treaties: History, Policy, and Interpretation*. Oxford: Oxford University Press, 2010.
- Vibhute, Khushal and Filipos Aynalem. *Legal Research Methods: Teaching Materials*. Ethiopia: Justice and Legal System Research Institute, 2009.
- White, G.M. *Nationalisation of Foreign Property*. London: Stevens & Sons Ltd., 1961.

### **Journal Articles**

- Christie, G.C., "What Constitutes a Taking of Property under International Law?" *British Yearbook of International Law* Vol. 38 (1962).
- Dolzer, Rudolf, "Indirect Expropriations: New Developments?" *11 NYU Environmental Law Journal* 64 (2002).

- Epstein, L. and King, G., "Empirical Research and the Goals of Legal Scholarship: The Rules of Inference" 69 *University of Chicago Law Review* I (2002).
- Fortier, L. and Drymer, S., "Indirect Expropriation in the law of International Investment: I Know It when I see It or Caveat Investor?" *ICSID Review* Vol. 19(2) (2004).
- Ginting, Budiman, "Refleksi Historis Nasionalisasi Perusahaan Asing Di Indonesia: Suatu Tantangan Terhadap Kepastian Hukum Atas Kegiatan Investasi Di Indonesia," *Jurnal Equality Vol. 12 No. II* (2007).
- Higgins, Rosalyn, "The Taking of Property by the State: Recent Developments in International Law," 176 *Recueil des Cours* (1982).
- Kriebaum, U., and Reinisch, A., "Property, Right to, International Protection," in R. Wolfrum (Ed.), *Max Planck Encyclopedia for Public International Law*, Oxford University Press online, 2009.
- International Law Commission, "Documents of the eleventh session including the report of the Commission to the General Assembly," in *Yearbook of the International Law Commission 1959 Vol. II*, New York: United Nations, 1959.
- Kühn, W. and Wiegel, U., "The Application of International Law and Treaty Provisions by Arbitrators," 4 *The Journal of World Investment* (2003).
- Losari, Junianto James and Ewing-Chow, Michael, "Difficulties with Decentralization and Due Process: Indonesia's Recent Experiences with International Investment Agreements and Investor-State Disputes," in *The Journal of World Investment & Trade 16*, Leiden-Boston: Brill Nijhoff, 2015.
- Nikiema, S., "Best Practices, Indirect Expropriation," International Institute for Sustainable Development (2012).
- OECD, "'Indirect Expropriation' and the 'Right to Regulate' in International Investment Law'" in *International Investment Law: A Changing Landscape*, Paris: OECD Publishing, 2005.
- OECD, "Fair and Equitable Treatment Standard in International Investment Law," OECD Working Papers on International Investment (2004).
- Ratner, Steven R., "Regulatory Takings in the Institutional Context: Beyond the Fear of Fragmented International Law," 102 *American Journal of International Law* 475 (2008).

Reisman, W.M. and Sloane, R.D., "Indirect Expropriation and Its Valuation in the BIT Generation" 74 *British Yearbook of International Law* (2004).

Ruzza, Alice, "Expropriation and Nationalization," in R. Wolfrum (Ed.), *Max Planck Encyclopedia of Public International Law*, Oxford University Press online, 2013.

Sacerdoti, Giorgio, "Bilateral Treaties and Multilateral Instruments on Investment Protection," 269 *Recueil des Cours* 251, 381 (1997).

Schwebel, Stephen M., "On Whether a Breach by a State of a Contract with an Alien is a Breach of International Law", in *International Law at the Time of its Codification, Essays in Honor of Roberto Ago, III*, Milan: Guiffrè, 1987.

Sohn, L.B. and Baxter, R.R., "Draft Convention on the International Legal Responsibility of States for Injuries to Aliens," *American Journal of International Law* Vol. 55 (1961).

## **Laws and Regulations**

*Indonesian Law No. 25 of 2007 concerning Capital Investment.*

*Indonesian Law No. 4 of 2009 concerning Mineral and Coal Mining.*

*Indonesian Government Regulation No. 1 of 2017 on the Fourth Amendment to Government Regulation No. 23 of 2010 on the Activities of Mineral and Coal Mining.*

*Regulation of the Indonesian Minister of Energy and Mineral Resources No. 5 of 2017 on Increasing Added Value Through Domestic Processing and Refining of Minerals, as amended in March 31, 2017.*

*Regulation of the Indonesian Minister of Energy and Mineral Resources No. 6 of 2017 on Procedures and Requirements to Obtain Recommendations for Export Sale of Minerals Resulting from Processing and Refining, as amended in May 15, 2017.*

*Indonesian Government Regulation No. 1 of 2014 on the Second Amendment of the Government Regulation No. 23 of 2010 on the Implementation of Mineral and Coal Mining Business Activities.*

## **Cases**

*Amco Asia Corporation and others v. Republic of Indonesia*, ICSID Case No. ARB/81/1, Award, 20 November 1984.

*Amoco International Finance Corporation v. The Government of the Islamic Republic of Iran, National Iranian Oil Company and Kharg Chemical Company Limited*, Iran-USCTR, Vol. 15, 1987 (II), Partial Award, 14 July 1987.

*Antoine Biloune (Syria) and Marine Drive Complex Ltd (Ghana) v. Ghana Investments Centre and the Government of Ghana*, UNCITRAL, ILR Vol. 95, Award on Jurisdiction and Liability, 27 October 1989.

*Azurix Corp v. Argentine Republic*, ICSID Case No. ARB/01/12, Award, 14 July 2006.

*Cemex Asia Holdings Ltd. v. Republic of Indonesia*, ICSID Case No. ARB/04/3, Parties' Settlement Agreement, 23 February 2007.

*Churchill Mining PLC and Planet Mining Pty Ltd v. Republic of Indonesia*, ICSID Case No. ARB/12/14 and ARB/12/40, Decision on Jurisdiction, 24 February 2014.

*CME Czech Republic BV v. The Czech Republic*, UNCITRAL, Partial Award, 13 September 2001.

*CMS v. Argentina*, ICSID Case No. ARB/01/8, Award, 12 May 2005.

*Consortium RFCC v Morocco*, ICSID Case No. ARB/00/6, Award, 22 December 2003.

*Duke Energy Electroquil Partners and Electroquil SA v. Ecuador*, ICSID Case No. ARB/04/19, Award, 12 August 2008.

*Enron Corporation And Ponderosa Assets, L.P. v. Argentina*, ICSID Case No. ARB/01/3, Award, 22 May 2007.

*Eureko BV v. Republic of Poland*, ICSID, Partial Award, 19 August 2005.

*Feldman Karpa (Marvin Roy) v United Mexican States (Feldman v. Mexico)*, ICSID Case No. ARB(AF)/99/1, Decision on the Merits, 16 December 2002.

*Goetz and others v. Republic of Burundi*, ICSID Case No. ARB/95/3, Award, 10 February 1999.

*Impregilo SpA v. Islamic Republic of Pakistan*, ICSID Case No. ARB/03/3, Decision on Jurisdiction, 22 April 2005.

*Island of Palmas (Netherlands v. United States of America)*, UNRIAA Vol. II, 4 April 1928.

*Jalapa Railroad and Power Co*, American-Mexican Claims Commission, 8 *Whiteman Digest of International Law* (1976), 1948.

*LG&E Energy Corp., LG&E Capital Corp. and LG&E International Inc. v. Argentina*, ICSID Case No. ARB/02/1, Award, October 3 2006.

*Metalclad Corporation v. United Mexican States*. ICSID Case No. ARB(AF)/97/1. Award. 30 August 2000.

*Methanex Corporation v. United States of America*, Final Award on Jurisdiction and Merits, UNCITRAL — NAFTA, 44 ILM 1345, 3 August 2005.

*Middle East Cement Shipping and Handling Co. v. Egypt*, ICSID Case No. ARB/99/6, Award, 12 April 2002.

*Norwegian Shipowners' Claims (Norway v. United States of America)*, 1 UNRIAA 307, 1922.

*Nusa Tenggara Partnership B.V. and PT. Newmont Nusa Tenggara v. Republic of Indonesia*, ICSID Case No. ARB/14/15, Order of the Secretary-General taking Note of the Discontinuance of the Proceeding, 29 August 2014.

*Occidental Exploration and Production Co. v. The Republic of Ecuador*, LCIA Case No. UN3467, Final Award, 1 July 2004.

*Oscar Chinn Case (Britain v. Belgium)*, PCIJ Rep Series A/B No. 63, 25, 1934.

*Pope & Talbot v. Canada*, UNCITRAL — NAFTA, Interim Award, 26 June 2000.

*PSEG Global Inc and Konya Ilgin Elektrik Üretimve Ticaret Ltd Şirketi v. Turkey*, ICSID Case No. ARB/02/5, Award, 19 January 2007.

*Revere Copper & Brass Inc. v. Overseas Private Investment Corporation*, 17 ILM 1321, Award, 24 August 1978.

*Rudloff Case*, US-Venezuelan Claims Commission, IX RIAA 244, 250, Decision on Merits, 19 June 1959.

*SD Myers, Inc. v. Canada*, UNCITRAL — NAFTA, First Partial Award, 13 November 2000.

*Sedco, Inc. v. National Iranian Oil Company*, No. ITL 55-129-3, 9 Iran-United States Claims Tribunal Reports 248, Interlocutory Award, 28 October 1985.

*Sempra v. Argentina*, ICSID Case No. ARB/02/16, Award, 28 September 2007.

*Waguih Elie George Siag and Clorinda Vecchi v. The Arab Republic of Egypt*, ICSID Case No. ARB/05/15, Dissenting Opinion of the Award by Williams P., Orrego Vicuña and Pryles, 11 May 2009.

*Suez v. Argentina*, ICSID Case No. ARB/03/19, Decision on Liability, 30 July 2010.

*Starrett Housing Corp. v. Iran*, No. ITL 32-24-1, Interlocutory Award, 19 December 1983.

*Tecnicas Medioambientales Tecmed SA v. The United Mexican States*, ICSID Case No. ARB(AF)/00/2, Award, 29 May 2003.

*Telenor Mobile Telecommunications AS v. Republic of Hungary*, ICSID Case No. ARB/04/15, Award, 13 September 2006.

*Tippetts, Abbett, McCarthy, Stratton v. TAMS-AFFA Consulting Engineers of Iran*, 6 Iran-US CTR 219, 225, Award, 22 June 1984.

*Tokios Tekeles v. Ukraine*, ICSID Case No. ARB/02/18, Decision on Jurisdiction, 29 April 2004.

*Waste Management Inc v. Mexico*, ICSID Case No. ARB(AF)/00/3, Award, 30 April 2004.

## **News Articles**

“2015 Report of Freeport’s Economic Impact in Indonesia.” Freeport McMoran.  
<https://www.fcx.com/sustainability/communities/economic-impacts/Indonesia>.

“After Pushback, Indonesia Is Likely to Ease Ban on Mineral Exports.” 11 January 2014. The New York Times.  
<https://www.nytimes.com/2014/01/12/business/international/after-pushback-indonesia-is-likely-to-ease-ban-on-mineral-exports.html>.



- “Bank Indonesia Says FDI Still Needed to Boost Growth.” 28 September 2017. Tempo. <https://en.tempo.co/read/news/2017/09/28/056911866/Bank-Indonesia-Says-FDI-Still-Needed-to-Boost-Growth>.
- “Ekspor Mineral Mentah Kembali Dibuka, Ini Penjelasan ESDM.” 21 January 2017. Detik Finance. <https://finance.detik.com/energi/3402098/ekspor-mineral-mentah-kembali-dibuka-ini-penjelasan-esdm>.
- “Foreign Miners Pull Up Stakes in Indonesia.” 30 August 2016. Wall Street Journal. <https://www.wsj.com/articles/foreign-miners-pull-up-stakes-in-indonesia-1472558809>.
- “Freeport agrees to 51% divestment, other terms: CEO.” 29 August 2017. Jakarta Post. <http://www.thejakartapost.com/news/2017/08/29/freeport-agrees-to-51-divestment-other-terms-ceo.html>.
- “Freeport: Contract Alteration Bears Severe Consequences”, 20 February 2017, Tempo <accessed January 14, 2017 at <https://en.tempo.co/read/news/2017/02/20/056848433/Freeport-Contract-Alteration-Bears-Severe-Consequences>>.
- “Freeport Falls on Concern Indonesia Deal Comes at Too Big a Cost.” 29 August 2017. Bloomberg. <https://www.bloomberg.com/news/articles/2017-08-29/indonesia-says-freeport-agrees-to-new-deal-for-grasberg-mine>.
- “Freeport Plans Massive Layoff; Police Anticipate Potential Unrest.” 23 February 2017. Tempo. <https://en.tempo.co/read/news/2017/02/23/055849622/Freeport-Plans-Massive-Layoff-Police-Anticipate-Potential-Unrest>.
- “Freeport seeks settlement.” 21 February 2017. Jakarta Post. <http://www.thejakartapost.com/news/2017/02/21/freeport-seeks-settlement.html>.
- “Freeport still in charge of Grasberg mine after divestment.” 4 September 2017. Jakarta Post. <http://www.thejakartapost.com/news/2017/09/04/freeport-still-in-charge-of-grasberg-mine-after-divestment.html>.
- “Freeport to Give Up Majority Stake in Indonesia’s Grasberg Mine.” 29 August 2017. Wall Street Journal. <https://www.wsj.com/articles/freeport-to-give-up-majority-stake-in-grasberg-mine-under-deal-with-indonesia-1503981573>.
- “Freeport Warns of Arbitration as Indonesia Mining Dispute Escalates.” 20 February 2017. Reuters. <https://www.reuters.com/article/us-indonesia-freeport/freeport-warns-of-arbitration-as-indonesia-mining-dispute-escalates-idUSKBN15Z0EC?il=0>.

- “GDP Distribution Based on Current Price 2000-2014.” Indonesian Statistic Bureau (*Badan Pusat Statistik Indonesia*). [http://www.bps.go.id/tab\\_sub/view.php?kat=2&tabel=1&daftar=1&id\\_subyek=11&notab=5](http://www.bps.go.id/tab_sub/view.php?kat=2&tabel=1&daftar=1&id_subyek=11&notab=5).
- “How Freeport's row over its Indonesian mining contract has escalated.” 28 February 2017. Jakarta Post. <https://www.pressreader.com/indonesia/the-jakarta-post/20170228/281956017563228>.
- “Indonesia’s law on ore exports takes effect.” 12 January 2014. Jakarta Post. <http://www.thejakartapost.com/news/2014/01/12/indonesias-law-ore-exports-takes-effect.html>.
- “Indonesia pledges leeway for obedient miners.” 16 January 2017. Jakarta Post. <http://www.thejakartapost.com/news/2017/01/16/indonesia-pledges-leeway-for-obedient-miners.html>.
- “Indonesia says Freeport, other miners halt exports.” 12 January 2017. Reuters. <https://www.reuters.com/article/us-indonesia-mining-exports/indonesia-says-freeport-other-miners-halt-exports-idUSKBN14WICK>.
- “Indonesia Wants Control of Freeport's Grasberg Within Two Years”. 22 March 2017. Bloomberg. <https://www.bloomberg.com/news/articles/2017-03-22/grasberg-dispute-deepens-as-indonesia-primes-miner-to-take-over>.
- “Indonesia Warns US Mining Giant in Fresh Dispute.” 5 March 2017. Asia Sentinell. <http://www.asiasentinel.com/econ-business/indonesia-warns-us-mining-giant-in-fresh-dispute/>.
- “Indonesia’s Nationalism.” 22 July 2014. Bloomberg News. <http://www.bloomberg.com/quicktake/indonesias-nationalism/>.
- Oxford English Dictionary Online. [www.oed.com.proxy4.lib.le.ac.uk/view/Entry/17578?redirectedFrom=methodology](http://www.oed.com.proxy4.lib.le.ac.uk/view/Entry/17578?redirectedFrom=methodology).
- “Protectionism in Indonesia: Falling Role of Commodities in the Economy.” 29 March 2017, Indonesia Investment. <https://www.indonesia-investments.com/id/business/business-columns/protectionism-in-indonesia-falling-role-of-commodities-in-the-economy/item7708>.
- “The unstimulating stimulus.” 15 October 2015. The Economist. <https://www.economist.com/news/finance-and-economics/21674794-jokowiadministration-tinkers-margins-unstimulating-stimulus>.