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Bilateral Investment Treaties' Protection for Multinational Companies

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ABSTRACT

Bilateral investment treaties (BITs) provide conditional terms which regulate investments between two countries, and are used as a tool for economic growth by attracting external investments. However, some countries claim BITs are a threat to economic and social policies. Furthermore, BITs play a role as a legal cover for unconditional protection for Multinational Companies (MNCs), without linking the terms of protection to any party on the MNCs side. Thus, no provisions deal with acts or the very idea of corruption, or refer to the state's right to safeguard public money and maintaining sovereignty, which become overruled under international arbitration. With a broad definition for "investor," the question of who gets protection under the treaty is not strictly answered. Upon signing a treaty, the investors (signing party) already present in a country (with whom their state signed a BIT), and potential future investors, become protected under the terms of the treaty. This article addresses the very question on whether BITs are a safe haven for encroachments by MNCs, through literature review and various cases that exhibit abuse of BITs in the respective host state. This article provides an understanding as to why BITs are considered a safe haven for the MNCs.

Keywords: Multinational Corporations, Arbitration, Human Rights, Bilateral
JEL Classifications: C610, C623, I23

1. INTRODUCTION

The world is seeing significant changes in the last few decades, in outside ventures, particularly in foreign direct investment (FDI). Generally, peregrine ventures are started by arrangements between the peregrine organizations or speculators in the host nation. Such a common and two-sided assertion is a tying bond between the parties involved (Dolzer and Stevens, 1995). This understanding or agreement enables those organizations through this linking channel connection to penetrate the business sectors of remote or host countries. At the present time, probably the most competent and strongest agents on the world stage are not mandatorily administrations, but rather business substances and aggregates. For instance, in 2011, oil and gas behemoth ExxonMobil incited incomes of US$467 billion, which is the measure of Norway's whole economy. Another case, Walmart, the world's third-most cosmically colossal entity with more than 2 million specialists, has a workforce that is close to the militaries of the United States and China in size. Various economical associations continue running with the thought for the sulubrity of the all-inclusive community whose lives they contact physically. Regardless, those who are cumbersome and execute misleading associations and infringed on human rights conventions, thus on the harm the gatherings around them, their workers, and even the organizations under which they work. Do not understand. While keeping multinational companies' (MNCs) duties toward the approvals and plans on human rights, these associations hold to bilateral investment treaties (BIT) to protect their business and excitement, actuating a dark illicit framework to skip from its commitment.

The U.N. conference on trade and development (UNCTAD) affirmed that the speculation procurements in organized commerce acquiescence oblige the administration's ability to work for her occupants, and informs that BITs were the real reason abruptly jumping into instances of worldwide mediation (UNCTAD, 2015). The report coordinated that 68% of nations experiencing the implicative hints of worldwide mediation were creating nations. BITs, office to authorize nations to stand the tenets is underscored as unjust conditions put by different organizations or nations to rampart their speculations or else get to be debilitated to be liable to worldwide discretion. While in 2014, 60% of all bodies of evidence were brought against creating and moving economies and the remaining 40% were against creating nations. The part of bodies of evidence against creating nations was 47 for each penny in 2013 (UNCTAD, 2015), as appeared in Figure 1 underneath.

As of now, there are around 3000 universal arrangements that have a procurement that endorses MNCs to sue apropos administrations. Out of these, 2700 are BITs. Such arrangements have traversed quickly around the globe since the 1990s. From that point forward, more than 100 distinct nations have been sued more than 550 times. Interestingly, the majority of these nations are creating nations. The U.S., what's more, Canada, have been sued under NAFTA; yet, intriguingly, Western European nations have been sued just a couple times and Japan has never been sued. This exploration has accumulated a database of 360 cases, in which we can learn what unfolds, starting in 2012. Of these, the state won 34% of the time.

The MNC won 31% of the time (Allee and Peinhardt, 2014). The case settled before achieving the last judgment 34% of the time, which legal counselors celebrate of as a win for the MNC (Hang, 2014). By the end of 2014, the overall number of concluding cases reached 356. Out of these, approximately 37% (132 cases) by the discontinuance of 2014, the general number of finishing up cases reached 356. Out of these, roughly 37% (132 cases) were ruled for the State, and 25% (87 cases) finished for the financial specialist. Roughly 28% of cases (101) were settled and 8% of cases (29) were ended for reasons other than settlement (or for obscure reasons). In the remaining 2% (seven cases) an arrangement break was found; however, no fiscal payment was recompensed to the financial specialist.

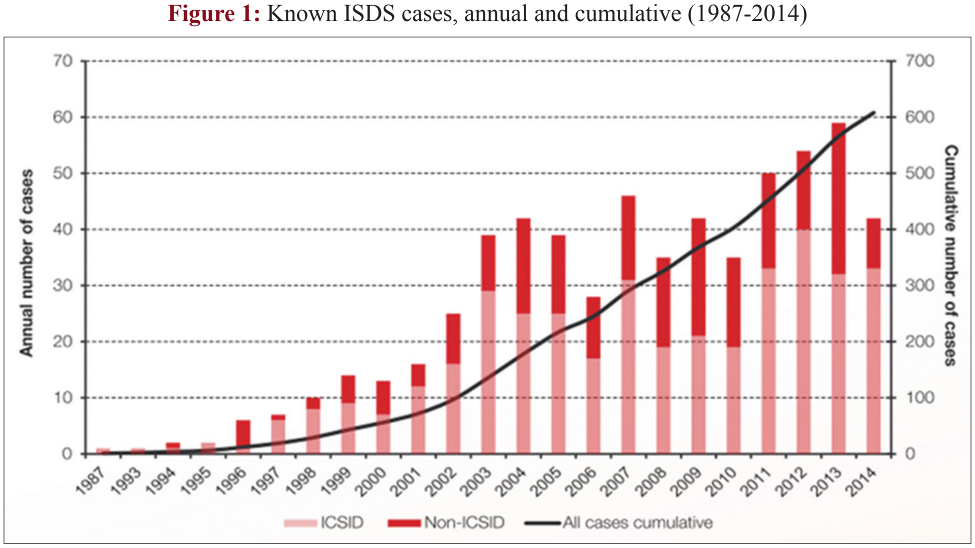
Today, as organizations win billions in harms, insiders verbally express it has become unsafely crazy. Following 2000, many peregrine financial specialists have sued more than a moiety of the world's nations; asserting harms for an extensive variety of administration activities that they verbally express have undermined their benefits. In 2006, Ecuador crossed out an oil-investigation contract with Houston-predicated Occidental Petroleum; in 2012, after occidental documented a suit up to a universal venture tribunal, Ecuador was definitively commanded to pay a record $1.8bn - generally indistinguishable equivalent to the nation's wellbeing spending plan for a year. Ecuador, as indicated by Kennard (2015), has held up a solicitation for the choice to be invalidated (Bastagli, 2015).

For the past fifteen years, there have been increased cases of termination agreement between different parties this has led to increased demand of the BITs and thus they have come to full existence in the world of business (Vandevelde, 2005). Due to the increased termination cases since the early 18th century, it has called for intrusion by the BITs to help regulate and control the agreement between the MNCs and the host countries. In most cases, BITs concentrate on protection of the investors. The international law gives the investors favour as compared to the host countries. The earliest era of BITs started in the late 18th century (Vandevelde, 2005). This was the period referred to as the pre-colonial era. This period continued until to the end of World War II. It was later affected during the 19th century where it saw some improvements in the authorities of the BITs. This era continued until late 1990 where it ended with the collapse of the Soviet Union. The third era of the regime of the BITs began in approximately 1990 (Bastagli, 2015). It holds until present. This era is referred to as the Global Era (Vandevelde, 2005). It is marked by empowering the BITs, who are given power even more that the MNCs and the nationalities which are engaged in the agreement. The bits are expected to regulate and protect the MNCs and other international investors.

2. RELEVANT THEORIES

In reality, the BITs are one of the most important means of regulating the liberated investment mechanisms in the contemporary time (Allee and Peinhardt, 2014). While MNCs are

Figure 1: Known ISDS cases, annual and cumulative (1987-2014)



Source: UNCTAD, ISDS database

the clearest form of growing economic liberalization (Blomstrom, 2014). Principally, the paper relies on explaining the BITs to MNCs on the economic liberalism theory that emerged as a critique of mercantilism (Hirst, 2013). As a developing vendor class tested the force of the European rulers in the 18th century, liberal political scholars, prominently John Locke dismissed the Hobbesian idea of an absolutist state and contended that the state existed exclusively to advance individual freedom. Liberal economists, especially Adam Smith and David Ricardo, tried to establish that free markets, liberated by state regulation, would bring about the best flourishing for all (Vandevelde, 1997). In their perspective, the state's part ought to be constrained to ensuring private privileges of property and contract (Rubin, 1994) and amending any failure in the market (Frieden and Lake, 2002). Progressivism tries to protect the business sector from legislative issues and supports a self-governing lawful framework to ensure private property against state obstruction and to implement expected (Paul and Amawi, 2013) trades in the business sector. Liberal financial matters, as created by Smith and Ricardo, pushed an approach of organized commerce that allows every state to work in the generation of merchandise and administrations in which it has a relative favorable position, and after that exchange its items for others that it needs yet can't deliver as proficiently (Södersten and Reed 1994). Through financial aspects of specialization and scale, a state is able to identify its profitability. The progressivism of the MNCs has been connected with an arrangement of fair drove development strategies to facilitate the growth in the new investment regions (Rapley, 1997). Progressivism additionally has advanced the free flow of capital cross different countries (Tolometi, 2015).

Imperfect market theory states that if one nation stops trading with other countries, then there is no international trade (Bastagli, 2015). From the statistics done by many economy analysts in various nations is that the theory greatly influences the status of the BITs. If then the countries have to trade, there should be governance among them and that is why the BITs come in. The investors in other nations need protection from the host government and the only way this can be offered is through the authorities emphasizing on it through BITs. If there is no international trade, then the existence of the BITs becomes limited as what will be their responsibility (Bastagli, 2015). BITs, in the more extensive response, leads to the widened creation of trust among the parties as they seek to practice and follow set regulations as stated by the international law (Vandevelde, 2005).

The theory of liberalism economics is also a part of the BITs responsibilities because the multinational company has to make decision pertaining to it and therefore the host government should not interfere with that freedom (Rossman and Helpman, 1991). BITs ensure that the MNCs is given freedom to practice their rights when it comes to this sector of decision making. Some local investors or the local government might attempt to interfere with the way the multinational organizations perform their practices, and thus the BITs will have to protect the MNCs from such exploitation (Pesaran and Shin, 1999). The theory expounds on the efficiency of liberalization on economics and the importance of it being well catered for and handled effectively in any economy. International trade is prominently affected by such malpractices and thus there is a need to regulate this.

Marxist economics theory majors on the role of the investors in relation to the productivity and labor approach (Subramanian and Shang-Jin, 2007). It explains the factors the investors should observe when it comes to productivity and labor as they are major factors of the production should be facilitated (Stiglitz, 2007). It also stretches to the surplus productivity and also nature and origin of the economic value as the investors would want it. Economic evolution is also evaluated in this theory and how the MNCs should engage the BITs to help them regulate their practices. Marx's theory states that value of a commodity is socially necessary labor time that has been invested in it. The BITs then support the efficiency as stated by the economic status of the country in which the MNC is investing (Dhooge, 2001).

In addition, economic nationalism is also a part of BITs' factors of consideration during its formulations. Nationalities have different policies that are initiated in the economic aspect of the country. Therefore, when a MNC identifies that it wants to adverse its operations to other countries, then it has to consider the policies of its country and the policies of the country into which it wants to extent its operations. Economic nationalism also engages the transfer of goods, labor, and also capital (Rossman and Helpman, 1991). Different regions have different policies and therefore the policies apply differently depending on different regions.

3. BITs AND INVESTORS' PROTECTION

A comprehensive multilateral set of investment rules has never been conclusively established. It was due to this that multiple failures in developing a multilateral investment treaty prompted developed countries to initiate efforts by negotiating BITs with individual developing country (Guzman, 1997). Host countries sought to protect their respective interests by entering into bilateral, regional, and multilateral investment-related agreements. Today, there are many bits that have been established between developed and developing countries (Elkins et al., 2008). BITs are the most important sources of contemporary investment law (Schreuer, 2009). The purpose of the BITs is to attract foreign investment by providing security to foreign investors; primarily in developing countries where fear of expropriation might otherwise deter investment. BITs exclusively govern the investment relations between two signatory countries. Zachary Elkins, et al. defines BITs as a treaty that is concluded between two countries designed to regulate investment between them. Evidently, BITs are seen as a fundamental legal mechanism that is pursued to protect FDI around the world. Its establishment helps to propel FDI and establish a broad set of investor's rights and BITs. Such establishment protects investors' interest and investment, and they may sue a host state in an international tribunal if these rights are violated, or for any disputes between them (Kerner, 2009).

Under the BITs, peregrine financial specialists are guaranteed sundry rights, including, however not compelled, to one side of payment in the event that the speculation is confiscated, a good fit for the peregrine venture to favorable procurements, ideal for the speculation to be concurred support and security, and the peregrine speculators' right to move capital and money starting with one nation then onto the next. In addition, BITs withal accommodate procedural rights that qualify peregrine financial specialists to sue the host state without looking for earlier assent from their home administrations (Blomstrom, 2014). One might verbalize that peregrine speculators procure locus stand to be subjects of worldwide law for purposes of venture mediation alone. This is verbalized to be the weightiest development brought by BITs (Gantz, 2003).

The support of peregrine speculators in the host nation is built up inside of the semi-institutionalized provision in BITs. There are three essential reasons that incentivize nations to ink a submissive with BITs. These include: Fore fending its nationals' interests in the regions of different nations, changing the business sector; and advancing internal speculations (Salacuse and Sullivan, 2005).

Most partaking nations in FDI consider the financial specialists' aegis of its nationals as a noteworthy objective while working together in the host nation (Stiglitz, 2007). Respective acquiescence would generally incorporate procurements of financial specialist support. As an outline of this, it is recommended that the general principle of treatment of peregrine ventures and financial specialist incorporate the following: Fair and impartial treatment for both the host investors and the multinational investors' full aegis and security, intransigent or unfair measures, expropriation, and dispossession should always be abandoned and undertaken within the treaties. Intimacy of either the BITs or MNCs' rights should never be exposed and the relationship between the two should always be held to standards (Vandevelde, 1998).

Countries are still in search for more competent BITs. In the year 2014, 31 BITs were concluded. Canada was considered to be the most active country in the year 2014. By the end of the year, the world had grown to 3271 treaties that implies that the MNCs have grown interest and have realized that the importance of them being in BITs. During the formulation of the BITs the parties engaged formulate policies that are tied toward achieving specific goals. More than fifty countries in the year 2014 were engaged in reviewing their BITs to make their conditions suitable for all other multinational corporations that might be willing to enter the international market. Moreover business is changing and therefore some of the policies need adjustments (UNCTAD, 2015). Most of the countries in the year 2014 had to terminate their BITs to formulate new suitable international investment treaties such as South Africa and Indonesia. Pre-establishment commitments are included in a relatively small but growing number of BITs. Some 228 treaties now have been formulated to provide national treatment for the acquisition or establishment of investments (Baykitch, 2011). It mostly involved nations such as the United States, Canada, Finland, Japan, and the EU, but a few developing countries (Chile, Costa Rica, the Republic of Korea, Peru and Singapore) also follow this path. It implicates that the regions and countries have realized the importance of the BITs because it can save them and help control the trade between host countries and the international investors.

Most of the countries' investment policy measures continue to be geared significantly toward investment liberalization, promotion, and facilitation of the international trade (Blomstrom, 2014). In 2014, more than 80% of BITs aimed to improve entry conditions and reduce restrictions (Stiglitz, 2007). A focus was investment facilitation and sector-specific liberalization for most of the nation's willing to engage in international trade. New investment restrictions related mostly to national security concerns and strategic industries (Stiglitz, 2007).

3.1. Significance of the BITs

From the different studies that have been aligned and proven to be prolific by the Karl Sauvant and Lisa Sachs, significance of the BITs differs from one nation to the other depending on the demands of the parties to be engaged; that is the host nation and the origin of the investor. The application of the BIT should be econometric because it should apply technically. They impacted that many researchers apply different methodologies and that is why there different applications of the BITs for the multinational investors. In general, the two categorical classifications of the significances are substantive protection and dispute settlement.

3.2. Substantive Protection

BITs ensure that the MNCs is treated equally as the other local companies and other MNCs. They are equally protected or more favorite. BITs ensure that the zone is a non-discrimination trade zone and no mishandling occurs. The annexes or the protocols of the agreement BITs make sure that they are followed and no misappropriation takes place. Before making the investment, even after making the investment all through the investment, BITs perform their duties as it was stated in the agreement (Hang, 2014).

BITs cumulatively state the limits of expropriation of investment and therefore allow the investors and give then the authority to demand compensation whenever such occasions occur. Expropriation is only determined under the law of the international standards as is a wide range that attributes to many factors. Any factor that seeks to deprive the value of the investment per the investor should then be considered a responsibility of the BITs to regulate it. Expropriation isn't only limited to the physical undertakings, but also engages different intermediate factors influencing the investors' economic stand (Pesaran and Shin, 1999).

It is BITs responsibility to overview all the agreements that were signed for are well followed and they are keenly observed (Hang, 2014). For start, the host countries promise that they will provide fair and equitable treatment that then should be observed all during the investment period. The hosts also promise they will provide full protection and security and also not engage in arbitrary and discriminatory decision-making practices (Swenson, 2008). It is the BITs responsibility to make sure that all of these are observed. BITs monitor all the progress to the termination of the investment period. Another benefit related to BITs is that one can turn to the standard gravity model of trade and thus compare the economic effects of BITs with the policy effects of other trade institutions, such as the WTO, regional trade agreements, or generalized system of preferences.

It is the responsibility of the BITs to allow the international investors to move funds in and out of the host country without any restriction by use of the market exchange rates (Bastagli, 2015). All transfers pertaining to the investment are thus regulated and authenticated by BITs. Ensuring that there is efficient transfer of funds justifies the investors of the likelihood of positive growth within the market guided by the BITs (Stiglitz, 2007).

BITs ensure that the investors are not exploited by the host nations in areas such as forcing them to engage in inefficient and distorting practices (Swenson, 2008). Investors who are under the protection of BITs can engage in any transaction provided it is listed and allowed by the assigned BITs. They are eligible for transactions of any type if and if only legible. Exportation and importation of any commodity or services is allowed by the BITs, therefore restricting or prohibiting them will be a form of rights violation (Swenson, 2008).

BITs give the investors an opportunity for being top managerial personnel no matter their nationalities. They can practice their responsibility of being in charge through being top managers in the sectors for which they are willing and believe they can bring the best output. Whenever the investor identifies an opportunity, he/she can therefore initiate the opportunity and cultivate it. He/he can hold the top position in initiating the idea. Also, if he/she believes that he/she has a better capability in managerial work in a certain field, he/she can engage and apply for such vacancies to show his/her competencies.

3.3. Dispute Settlement

BITs give the MNCs right to report any dispute that is directed to them. Sometimes the host government might engage unethically with the MNCs and thus creating differences among them (Swenson, 2008). BITs then issue the MNCs a chance to report such disputes so a control measure can be taken against that activity. The international arbitration will be taken into consideration with aplomb to solve such disputes (Swenson, 2008).

Disputes under a certain BIT are solved under the treaty between the parties. With indulgence, the international law disputes are well resolved whenever they occur. From the BITs interpretation and referencing of the treaty contract which they sign between the two warring parties during conflict resolution, a solution is arrived at.

Moreover, there is a need to inspect whether the host government complies with the BIT set with the MNCs and the government. This acts as the inspection tool for the compliance of the host government to the signed treaties. Disputes are resolved with the consideration of the treaties that was signed between parties. If changes are to be made to suit the parties, it should be in a form of agreement where the two parties disengage in the previous agreement and enter into a new treaty.

In 2014, there were 42 investor dispute settlements that totaled 608 cases that have ever been solved by recognized BITs. In the year 2014, the significance of the BITs was fully realized through the resolution observed through the application of the BITs in international trade. For the overall concluded cases that engaged the BITs were 43. For these cases, 36% have been won by the states while 27% were won by the MNCs (Allee and Peinhardt, 2014). It thus implies that different MNCs have recognized the importance of the BITs and thus they utilize the availability of BITs positively on resolution of differences that might up come between the parties (Allee and Peinhardt, 2014).

4. INVESTMENT DISPUTES AND ARBITRATION

The most particular component in speculation defense arrangements is the speculator state question settlement instrument (Aleman, 2013). This is the thing that makes speculation arrangement exceptionally not quite the same as whatever other settlement there may be. It sanctions peregrine financial specialists to arraign the host nation in advance of an arbitral tribunal on the off chance that they trust that the arrangement has been contradicted. The speculator state process endorses the financial specialists to challenge an extensive variety of legislative measures in a last and tying intervention choice (Allee and Peinhardt, 2014).

There are various special cases to BITs that are relevant inside various circumstances. Harten contended that inside of BITs, there is a special case to the guideline of standard global law that obliges states to speak to its nationals on the off chance that the latter has a case against another state (Van Harten, 2007). Be that as it may, peregrine financial specialists are vindicated from applying this inconvenient course and organization of their cases specifically. The most everyday components incorporate mediation under the support of ICSID, which offers supplemental office discretion and specially appointed assertion under the UNCITRAL intervention rules. It is through BITs that the present universal venture discretion framework was built up (Pesaran and Shin, 1999).

As of not long ago, Aguasdel Tunari embedded that the global group has seen various cases testing the host states' fundamental administrative capacities and some of the time states' commitment to give open facilities to its natives (Rossman and Helpman, 1991). By Morris Asia Inhibited, the Commonwealth of Australia, state administrative measures on ecological issues, well-being and other settlement dissemination to the occupants have been proclaimed illegal for peregrine financial specialists'. By Gas Transmission Company, the Argentine Republic, sometimes the fundamental capacity of the state; security, and peacefulness is put in peril because of unequal BITs; decisions have constantly gone for peregrine financial specialists (Pesaran and Shin, 1999).

Most of the foreign investors are very skeptical of the host local government and also the local investors. There are different levels of standards that the BITs procure to guarantee specific treatment of the investors (Blomstrom, 2014). Per the juridical system of international law, most of the host countries have to accept the conditions that are being offered by the MNCs considered being foreign investors. The presence of the BITs has a very significant role in the creation of efficiency of the FDI and realization of its effectiveness in the economy of different countries. Limited evidences depict that BITs can as well act as substitution of the domestic institutional quality, but this doesn't define the institution of quality specification on performance of its authoritative permissive activities (Hang, 2014).

For effective governance of the FDI, the BITs are signed in the essence of attracting more investors and to show how the countries are dedicated to invite different investors who might have to consider the effectiveness of the BITs and how the government is dedicated to collaborate (Dhooge, 2001). Different resources that are used in order to sign the treaties also create a picture of what the BITs are. The BITs protect the external foreigners because it has not trivial interference to what is considered to be important for the transaction and enforce what is stated.

5. THE ENCROACHMENT OF MNCS

There have been various techniques which have been formulated to explain the origin of the MNCs and why they are still located in wide range of countries. Truth be told, such techniques might have negative results on human rights as most consideration for determination of the MNCs encroachment are not well structured. The assets that administrations need to actualize such projects are all the time being refuted by their misappropriation hence; nations that don't take viable measure to check such misuse are also negating their global human rights commitments, completely with respect to financial, genial, and social rights (Nagan and Hammer, 2013). All nations have the commitment to expand their assets to understand the monetary, gregarious, and social rights. A considerable part of the unlawful money related streams out of the creating nations is constituted. Kar et al. (2010) evaluated that around US 5.6 billion were diverted to unlawful monetary streams from Egypt in the period from 2001 to 2010, and 80% of these surges came about because of corporate assessment mishandling particularly through the unremarkable routine of exchange mispricing (Kar et al. 2010), but a great deal is transferred to illegal duty avoidance, considerable misfortune happens through lawful' expense shirking, and truculent strategies to minimize liabilities. Different techniques to attack charges incorporate non installment of expenses through acquiescence with administrations, the disintegrating basis of engendered by moving benefits to assessment asylums (nations with a 0% charge rate), and also exchange pricings and other common practices (Prosper Makene, 2014). The misfortune that creating nations bring about from assessment asylums is three times more than what they get through peregrine profit each year (OECD, 2015). This predominantly happens through what is referred as exchange mispricing that happens when "two related organizations exchange with one another and misleadingly misshape the cost at which the exchange is recorded keeping in mind the end goal to minimize charges because of expense ascendant elements. For instance, by recording however much benefit as could be expected in an assessment safe house with low or zero duties" (Bastagli, 2015). 60% of capital flight from Africa is assessed to account from exchange mispricing (Mosselmans, 2016).

6. UNDERSTANDING WHY BITS ARE MNC'S SAFE HAVEN

Stiglitz verbalized that the primary reactions of these agreements are the way that they are not vote based and give more insurances to financial specialists who would be generally unattainable (Dhooge, 2001).

There have been an open examination which is unendingly checked (Stiglitz, 2007). In addition, the venture bargains have withal offered a lift to a sizably voluminous number of questions. These incorporate ambiguities in the dialect use in the settlements that request arrangements to give careful consideration to the configuration of a well-suited system for debate determination. The Netherlands, being the most charitable system of BITs on the planet, is an exemplary illustration of this. The Dutch BITs are famously kenned to use extremely wide illicit expressions and definitions. They overlook later and develop bits of knowledge that sweeping venture defenses welcome as "arrangement shopping," where different nations have started inspecting and redesigning their BITs. The Netherlands sustains to pride them on their considerate speculation insurances, which are dubiously expressed and poorly characterized (Van Dijk et al., 2006; Weyzig 2013). Apparently, the procedures for mediating debate have been an incredible worry to be the essential flaws of the bargains, where the coming of speculation arrangement discretion emerges, yet it was not proposed to forefend people in worldwide law, but rather as an odd and extraordinarily strong framework that forefends one class of people by obliging the administrations that sustain to speak to other people. On the opposite, the Western majority rule governments have built up an arrangement of norms, worried due procedure including models of confirmation and methods intended to augment the probability of a reasonable result. The question settling forms in BITs frequently miss the mark concerning these "best practices." Interestingly, there are also sundry debate cases being kept a mystery that give no determination. Offers might furthermore be outlined, and there is no chance to get off determining conflicting choices; thus, since these kept debates are not distributed, different cases can't expand on the point of reference. Hence, this prompts more skepticism and fancy to the choices. BITs are planned to decrease irregularity and not the absolute opposite. There are withal grave worries with the way referees are winnowed. The way authorities are selected might open them to undue political weight. As Van Harten contends, "there can be no principle of law without an autonomous legal" (Van Harten, 2010).

7. NEGATIVE RELATIONSHIP BETWEEN BITS AND MNCS

There can be negative relationships between the BITs and the MNC MNCs. One of the major factors that can lead to this negative relationship is mishandling of the signed treaty between the two parties (Stiglitz, 2007). If the BITs don't take fully into consideration of all what was in the treaty, there is likelihood of growth of disagreement between the two parties, considering what is in the treaty should be held and practiced by the parties with no deviation. Moreover, there can be negative relationships among the parties if the BITs seek to oppress the MNCs by offering limited rights. On the other side, the two MNCs might deviate from the agreement they had with BITs (Pesaran and Shin, 1999). It will thus lead to the violation of the treaty and thus the relationship between the parties is disobeyed. If the MNCs engage in transactions that are not within the treaty, this is considered as violation of international law in the market. To maintain the relationship between BITs and the MNCs, international law should be observed by both parties and maintained. Failure to that the relationship between them is likely to collapse as the treaty will not be suitable for either BITs or MNCs (Pesaran and Shin, 1999).

8. CONCLUSION

The International Covenants on Human Rights and the Declaration on the Right to Development established that States are the essential commitment bearers of human rights and that, as a result, every State is expected to manage peregrine speculation inside its purview. It is basic to test for techniques for considering MNCs responsible and to manage their operations in order to benefit local groups and, in addition, the worldwide monetary framework. In such manner, the procedure includes subsisting global regulation executed and implemented broadly or universally. The household regulation inside of a given host nation is vital. The universal pledges on common and political rights are endorsed by numerous nations to force commitment on these administrations to control the behavior of MNCs inside of their locality, while keeping in mind the end goal is to maintain the standards contained inside of them. This is foremost to control any future misuse of BITs between connecting states.

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