## Contents

Table of Cases	xi
List of Abbreviations	xix
Introduction: A Legal Imagination	1
A. Escaping the 'straightjacket of government control'	9
B. Grasping the legal imagination: a transnational law method	11
C. Overview	15
<ol> <li>Foreign Investor Rights and Investment Relations         <ul> <li>A. Foreign investments as a combination of rights</li> <li>B. The purpose of foreign investor rights and investment treaties</li> <li>C. Foreign investor rights and social relations</li> <li>D. Foreign investor rights and states' right to regulate</li> <li>E. Distribution, recognition, and the embeddedness of foreign investor rights</li> <li>F. Protecting foreign investor rights through ISDS Conclusion</li> </ul> </li> </ol>	17 17 20 23 27 or 35 40 50
<ol> <li>The Norm Entrepreneurs of the 1950s and 1960s         <ul> <li>A. The norm entrepreneurs for international investment protection</li> <li>B. A world of law and prosperity</li> <li>C. Restoring the past through other means</li> <li>D. Making international foreign investor rights Conclusion</li> </ul> </li> </ol>	51 51 60 63 67 80
<ol> <li>Competing Imaginaries and the 1970s         <ol> <li>A business approach to balance: the International Chamber of</li></ol></li></ol>	81
Commerce and the OECD <li>Embedded liberalism and foreign investment: the United Nations</li>	81
and the Group of Eminent Persons <li>The United States' approach to balance: discussions before the</li>	85
US Senate	90
D. The Global South and economic sovereignty: the Charter of Economic Rights and Duties of States Conclusion	92 94
4. The Rise of Investment Treaties and ISDS in the 1990s and Since A. The Washington Consensus and the role of UNCTAD and	96
the World Bank	96
B. Antecedents in investment (non-ISDS) arbitration	105

For		
und	X CONTENTS	
righ		
a hi	C. ISDS and the progressive development of international investment law	108
inve	Conclusion	108
Uns	Conclusion	121
has	5. ISDS in Action	122
oftl	A. Santa Elena v. Costa Rica: the politics of investment disputes	122
eco	B. The <i>Metalclad</i> and <i>Tecmed</i> disputes: the costs and risks of economic development	125
Thi	C. The SD Myers, Methanex, Glamis, and Chemtura	
by s	disputes: environmental regulation, business, and activism	130
are	D. Oxy v. Ecuador 2: states' right to protect their rights	138
inte	E. Philip Morris v. Uruguay and Eli Lilly v. Canada: intellectual	
WO1	property rights and public health	143
ofb	Conclusion	148
int	6. Givings and ISDS	150
the	A. Argentina—privatization and economic crisis	150
suc	B. Spain—green business and economic crisis	163
but	Conclusion	170
ima	7. Local Communities and ISDS	172
spa	A. Foreign investment relations and local communities	172
sou	B. ISDS practice and local communities	172
me		
to ş	Conclusion: Towards a New Legal Imagination	199
inv		
Tra	Documents from International Organizations, Professional Associations, and Research Institutions	207
Wc	Bibliography	207
	Index	233
leg	Intex	255
bai		
pre		
wh		
leg		
sile		
im		
ref		
WC		
NI		
Ni		
As		
sec		