Does International Arbitration ENHANCE or ENFEEBLE Local Legal Institutions?

Tag Time
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Is international arbitration a tool for development or a vampiric parasite?
The Critique

Investment arbitration undermines the development of local legal institutions and the domestic rule of law.

The Response

Investment arbitration has a symbiotic relationship that fosters development of local rule of law.
Proposition 1
International arbitration creates unique and potentially valuable international professional opportunities for local legal professionals.

Proposition 2
International arbitration provides local legal professionals with a readymade toolkit to implement local rule-of-law reforms and incentives to pursue them.
The process

Local legal professionals want to access the professional benefits of international arbitration.

International arbitration provides them with detailed laws, rules, and standards designed to promote effective arbitration.

Local professionals introduce legislative reforms, judicial training, reforms in legal education, and attorney training.

The reforms are more effective because they are implemented by local professionals for a specific purpose.
Why it works?

1. Enlightened self-interest of well-positioned legal professionals who can successfully implement reforms into local legal system.

2. It combines structural legal frameworks with detailed rules and standards that are tied to the nature of international adjudication.
The effects of conflicts at attorneys and arbitrators trained in international standards for conflicts of interest are less likely to accept much lower standards in domestic arbitration or in national court litigation.

Rule-of-law reforms are more “sticky” when there is buy-in by specific individuals through training and incentivized by professional opportunities.
Some case studies

Peru

Georgia

Your examples?
More case studies of how international arbitration can have a positive effect on the rule of law in a country

How can and does the international arbitration community learn from the expertise and insights of local professionals and their experiences?

Can these ideas and efforts be turned to combat corruption?
Leveraging local insights to promote transparency, accountability & diversity globally
HOW IT WORKS

1. Arbitration participants complete confidential online AIQ
2. Arbitrator Intelligence analyzes data from AIQs
3. Arbitrator Intelligence produces AI Reports
4. AI Reports used to select arbitrators in new case
5. Award rendered at end of arbitration

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