1.	Record Nr. Autore Titolo	UNINA9910824011003321 Dupuy Pierre-Marie Human Rights in International Investment Law and Arbitration
	Pubbl/distr/stampa	Oxford, : OUP Oxford, 2014
	ISBN	0-19-172256-1 0-19-158271-9 0-19-158043-0
	Edizione	[1st ed.]
	Descrizione fisica	1 online resource (646 p.)
	Collana	International Economic Law Series
	Altri autori (Persone)	PetersmannErnst-Ulrich FrancioniFrancesco
	Disciplina	346.07
	Soggetti	Investments, Foreign (International law) Human rights Arbitration and award Law, General & Comparative Law, Politics & Government
	Lingua di pubblicazione	Inglese
	Formato	Materiale a stampa
	Livello bibliografico	Monografia
	Note generali	Description based upon print version of record.
	Nota di contenuto	Intro Contents Table of Cases List of Abbreviations List of Contributors I. INTRODUCTION AND SUMMARY OF THE BOOK 1. Introduction and Summary: 'Administration of Justice' in International Investment Law and Adjudication? I. Judicial Administration of Justice in IEL? II. Is There a Role for Human Rights in Investor-State Arbitration and International Economic Adjudication? III. Judicial 'Balancing' of Economic Law and Human Rights in Regional Courts IV. Investor-State Arbitration and Human Rights - Case Studies on 'Protection Standards' and Human Rights V. Conclusions: The Need for a Constitutional Theory of International Economic Adjudication VI. Complementary Functions of 'Constitutional' and 'Global Administrative Law' Approaches to Investment Law II. IS THERE A ROLE FOR HUMAN RIGHTS IN INVESTOR-STATE ARBITRATION AND INTERNATIONAL ECONOMIC ADJUDICATION? 2. Unification Rather than Fragmentation of International Law? The Case of International Investment Law and Human Rights Law I. Introduction II. Origins III. Content IV. Means of Adjudication V. General Conclusion

3. Access to Justice, Denial of Justice, and International Investment Law -- I. A Brief Historical Introduction -- II. Access to Justice as an Investor's Right -- III. Access to Justice by Individuals and Groups Affected by the Investment -- IV. Access to Justice for the Protection of Extraterritorial Investors -- V. Conclusion -- 4. Human Rights and International Investment Arbitration -- I. Introduction -- II. Jurisdiction over Human Rights Issues -- III. Human Rights Law as Applicable Law -- IV. Corporate Social Responsibility -- V. Invocation of Human Rights in Arbitrations -- VI. Conclusion -- 5. Investment Tribunals and Human Rights: Divergent Paths -- I. Introduction -- II. The Case Law of Investment Tribunals.

III. Investment Tribunals' Approach -- IV. International Investment and Human Rights Law: Divergent Paths -- V. Concluding Remarks -- 6. Limits of Commercial Investor-State Arbitration: The Need for Appellate Review -- 7. Transnational Investment Arbitration: From Delegation to Constitutionalization? -- I. Principals and Agents -- II. Judicialization -- III. The Case of ICSID -- IV. Conclusions -- 8. Constitutional Theories of International Economic Adjudication and Investor-State Arbitration -- I. Introduction -- II. The Rule of Law Depends on 'Constitutional Justice' -- III. From 'Principal-Agent Theory' to Constitutional Theory in International Trade Governance and the WTO Dispute Settlement System -- IV. Constitutional Pluralism: Diversity of 'Constitutional Interpretations' of IEL by European Courts -- V. Lessons from the European 'Solange Method' of Judicial Cooperation Beyond Europe? -- VI. Conditional 'Solange Cooperation' for Coordinating Competing Jurisdictions in International Trade and Environmental Law beyond Europe? -- VII. The Need for a Constitutional Theory of Judicial Review of IEL: The Example of Investor-State Arbitration -- VIII. Conclusion: Judicial Protection of Rule of Law Depends on Respect for 'Constitutional Justice' -- III. JUDICIAL 'BALANCING' OF ECONOMIC LAW AND HUMAN RIGHTS IN REGIONAL COURTS -- 9. Balancing of Economic Law and Human Rights by the European Court of Justice -- I. Introduction -- II. The Role of Fundamental Rights in the Court's Control of the European Union's Economic Regulation -- III. Member State Interference with Common Market Freedoms and the Fundamental Rights Dimension -- IV. Private Interference with Economic Activity and the Role of Fundamental Rights -- 10. Economic and Non-Economic Values in the Case Law of the European Court of Human Rights -- I. **Opening Remarks.**

II. Economic and Non-Economic Values in the Evolution of the Notions of 'Possession' and 'Interference' -- III. Public Utility and Non-Discrimination in International Law on Foreign Investments and in the European Convention -- IV. Economic and Non-Economic Values in the Framework of the 'Assessment of Proportionality' -- V. Final Remarks -- 11. Is the European Court of Human Rights an Alternative to Investor-State Arbitration? -- I. Introduction -- II. Jurisdiction -- III. Merits -- IV. Conclusions -- 12. Balancing of Human Rights and Investment Law in the Inter-American System of Human Rights -- I. Introduction -- II. General Legal Framework -- III. Conflicts Between International Protection of Human Rights and the Protection of Investments -- IV. Conclusions -- IV. CASE STUDIES ON PROTECTION STANDARDS AND SPECIFIC HUMAN RIGHTS IN INVESTOR-STATE ARBITRATION -- 13. Balancing Property Rights and Human Rights in Expropriation -- I. Introduction -- II. The Nature of Property Rights and Human Rights -- III. The Problem of Expropriation -- IV. Applicable International Law and Investment Protection -- V. Analysis of the Jurisprudence and Its Human Rights Implications -- VI. Exceptions for Human Rights and Related Purposes -- VII. The Role of Adjudication --

VIII. Conclusion -- 14. The Fair and Equitable Treatment Standard and Human Rights Norms -- I. Introduction -- II. Diversity of Formulations in FET Clauses -- III. HR and FET -- IV. Conclusion -- 15. Non-Discriminatory Treatment in Investment Disputes -- I. Introduction --II. Non-Discrimination Provisions in IIAs -- III. National Treatment Standard: Delineating the Concept -- IV. Investment Jurisprudence Interpreting the NT Standard -- V. Inconsistency of Interpretations, Human Rights, and the Emerging System of International Investment Law.

16. Implementing Human Rights in the NAFTA Regime - The Potential of a Pending Case: Glamis Corp v USA -- I. Introduction -- II. The Glamis Case: An Example of Human Rights Litigation Under NAFTA Chapter 11 -- III. The Current Litigation of Human Rights in the Glamis Case -- IV. Some Mischaracterization of Human Rights Stakes in the Glamis Case -- V. Elements in Support of a Proactive Adjudication Regarding Human Rights -- 17. Human Rights Arguments in Amicus Curiae Submissions: Promoting Social Justice? -- I. Introduction -- II. International Investment Arbitration in a Social Justice Context -- III. The Role of Amicus Submissions in Investment Treaty Arbitration -- IV. Human Rights and Amicus Submissions -- V. Benefits and Problems of Human Rights Interventions through Amicus Submissions in Investment Arbitration Proceedings -- VI. Conclusions and Broader Impact -- 18. 'Proportional' by What Measure(s)? Balancing Investor Interests and Human Rights by Way of Applying the Proportionality Principle in Investor-State Arbitration -- I. Introduction -- II. Before Balancing: Assessing the Legal Relevance and Deeper Significance of Human Rights for Investor-State Arbitration -- III. Behind Balancing: A Close Look at the Interpretation of the Proportionality Principle in Investor-State Arbitration Practice Relating to Expropriation -- IV. Beneath Balancing: From Applicability to Invocation and Effective Interpretation of Human Rights in Investor-State Arbitration -- V. Conclusion -- 19. Reconciling Public Health and Investor Rights: The Case of Tobacco --I. Introduction -- II. International Health Governance and Tobacco Control -- III. International Investment Governance -- IV. Case Studies -- V. Policy Options -- VI. Conclusions -- 20. The Human Right to Water Versus Investor Rights: Double-Dilemma or Pseudo-Conflict? --I. Introduction.

II. The Right to Water as a Human Right -- III. Three Case Studies on Water and Foreign Investment -- IV. Categories of Violations of the Right to Water and Some -- V. Conclusion and Outlook -- 21. Human Rights Dimensions of Corporate Environmental Accountability -- I. Introduction -- II. What Is Corporate Environmental Accountability? --III. Why Does Corporate Environmental Accountability Matter for International Investment? -- IV. What Are the Human Rights Dimensions of Corporate Environmental Accountability? -- V. A Practical Example: the IFC Ombudsman's Role in Ensuring Corporate Environmental Accountability -- VI. Conclusions -- 22. Environmental Rights, Sustainable Development, and Investor-State Case Law: A Critical Appraisal -- I. Introduction -- II. Status and Relevance of International Environmental Law in Investor-State Disputes -- III. The 'Like Circumstances of Investors' Test as a Gateway to Environmental Principles and Rights: The SD Myers -- IV. Participatory Rights at the National Level and Investor- State Case Law -- V. Conclusion -- 23. The Relevance of Non-Investment Treaty Obligations in Assessing Compensation -- I. Introduction -- II. Non-Investment Treaty Obligations in Investment Disputes Case Law: Are They Relevant in the Assessment of Compensation? -- III. The Specific Relevance of the Obligations of the UNESCO Convention in the SPP v Egypt Case -- IV.

	Concluding Remarks 24. EC Free Trade Agreements: An Alternative Model for Addressing Human Rights in Foreign Investment Regulation and Dispute Settlement? I. Introduction II. The Substantive Scope of EC FTA Provisions on Foreign Investment III. Dispute Settlement in EC FTAs IV. Human Rights Considerations in EC FTAs V. Practical Implications of EC FTAs Human Rights Considerations VI. Future Developments Index A B C D E F G H. I.
Sommario/riassunto	There is a growing interplay between international investment law, arbitration and human rights. This book offers a systematic analysis of this interaction, exploring the role of principles of justice in investment law, comparing investment arbitration with other courts, and examining case studies on human rights and protection standards.