Dr Okechukwu Ejims (PhD)

Research Lead for the Law and Social Justice Research Theme
School of Accounting, Law, Marketing and Tourism

Written Statement for the High- level IIA Conference Statement: UNCTAD's Guiding Principles for IIA Reform

My approach to reforming international investment agreements has already been developed through my research work on *International Investment Agreements and the Rights of Indigenous and Local Communities: Rethinking the Protection of Community Rights*. The central argument of that paper is that the protection of Indigenous and local communities cannot be treated as an incidental consideration within investment governance or addressed simply through general exceptions to investor protection.

Instead, I argue for a more integrated approach in which community rights are incorporated into the normative and substantive architecture of investment agreements. This requires moving beyond a State-centric conception of investment governance and recognising that investment activities can have significant social, environmental and territorial consequences for communities.

My research therefore examines how investment agreements can better accommodate issues such as consultation, participation, community interests, Indigenous land and resource rights, and investor responsibilities. Importantly, this approach does not seek simply to subordinate investor protection to community rights. Rather, it seeks to develop a more balanced framework in which the rights and responsibilities of investors, States and affected communities are considered within the same governance structure.

This provides the conceptual foundation for my wider approach to investment treaty reform: rather than treating social and environmental concerns as external constraints on investment protection, they should be understood as integral dimensions of international investment governance.

In considering the most effective pathways for reform, I endorse and see particular value in the UNCTAD Guiding Principles because they provide a coherent framework linking sustainable development, investor confidence, regulatory space, fair and efficient ways of resolving investment disputes and coherence across national, regional and international legal frameworks. Their value is also that they recognise that reform cannot be uniform: national reform strategies should reflect each country's investment priorities, treaty network, institutional capacity and sustainable-development objectives.

In my view, effective implementation requires moving from the UNCTAD principles to an evidence-based assessment of national and regional investment frameworks. This would involve mapping relevant national investment laws, investment treaties, regulations and policy instruments, identifying common approaches and gaps against the Principles, and considering the particular priorities of each State. The assessment should also involve States, regulatory institutions, businesses and other relevant stakeholders. The resulting evidence could then inform an action plan that prioritises and sequences reforms at domestic, bilateral, regional and multilateral levels. This would provide a practical mechanism for translating the Principles into coherent and context-sensitive reform while avoiding fragmented treaty-by-treaty approaches.