

A Shadow Legal System for Corporations

ISDS grants foreign corporations shocking new powers to attack the laws we rely on – for safe food, decent jobs, affordable medicines, a clean environment, and financial stability – and demand unlimited payments from taxpayers over such laws. ISDS elevates individual multinational corporations to the status of a government by allowing them to privately enforce a public treaty. This system empowers multinational corporations to bypass domestic courts and directly “sue” governments before three corporate lawyers sitting on special tribunals that exist outside of any domestic legal system. These corporate lawyers can award the corporations unlimited sums to be paid by taxpayers – including for the loss of expected future profits – as compensation for policies they do not like that they say violate the new corporate rights the ISDS system grants them. There is no outside appeal. If a government does not pay, the corporate lawyers can authorize a corporation to seize government property to extract the money they have ordered taxpayers to fork over.

The ISDS system gives multinational corporations even more rights and powers than local communities and domestic businesses. Among the outrageous grounds corporations can assert to demand taxpayer compensation under this system is that a change in government policy violates their new rights in a way that undermined their “expectations.” It does not matter if the change came in response to a major financial crisis or environmental catastrophe or emerging knowledge about a new health risk – or that this change applies to domestic and foreign firms alike or has been approved by the highest court in a country. Under ISDS, three corporate lawyers can still order our governments to hand over unlimited sums of taxpayer money to corporations.