

## TABLE OF CONTENTS

|                                       |              |
|---------------------------------------|--------------|
| <b>COVER .....</b>                    | <b>i</b>     |
| <b>APPROVAL PAGE .....</b>            | <b>ii</b>    |
| <b>ACKNOWLEDGMENT PAGE .....</b>      | <b>iii</b>   |
| <b>STATEMENT OF AUTHENTICITY.....</b> | <b>iv</b>    |
| <b>DEDICATION PAGE.....</b>           | <b>vii</b>   |
| <b>TABLE OF CONTENTS.....</b>         | <b>xi</b>    |
| <b>LIST OF ABBREVIATIONS .....</b>    | <b>xiv</b>   |
| <b>TABLE OF CASES.....</b>            | <b>xv</b>    |
| <b>ABSTRACT .....</b>                 | <b>xvii</b>  |
| <b>INTISARI .....</b>                 | <b>xviii</b> |
| <b>CHAPTER I</b>                      |              |
| <b>INTRODUCTION.....</b>              | <b>1</b>     |
| A. Underlying Background.....         | 1            |
| B. Problem Formulation .....          | 7            |
| C. Objectives of the Study.....       | 7            |
| D. Statement of Authenticity .....    | 8            |
| E. Benefit of the Study .....         | 8            |
| F. Research Method .....              | 9            |
| 1. Thesis Method and Approach.....    | 9            |
| 2. Sources of Data.....               | 10           |
| 3. Data Collection Method.....        | 11           |
| 4. Data Analysis Method .....         | 11           |
| <b>CHAPTER II</b>                     |              |
| <b>LITERATURE REVIEW.....</b>         | <b>13</b>    |

|  |  |           |
|--|--|-----------|
| A.   | International Centre for Settlement of Investment Dispute (ICSID) .....                                      | 13        |
| B.   | Foreign Investment in general .....  | 14        |
| C.   | International Law Governing Foreign Investment.....  | 17        |
| D.   | International Law <i>de lege ferenda</i> .....   | 25        |
| E.   | Bilateral Investment Treaty.....   | 29        |
| F.   | International Investment Agreement.....  | 31        |
| G.   | Types of Foreign Investor's Protected Rights .....   | 31        |
| H.   | Expropriation .....  | 33        |
| I.   | Type of Measures Amount to Indirect Expropriation.....   | 35        |
| J.   | Regulatory Measures .....  | 36        |
| K.   | Compensation .....   | 37        |
| <br><b>CHAPTER III</b>   |  |           |
| <b>DISTINGUISHING INDIRECT EXPROPRIATION AND A MERE REGULATION .....</b>   |  | <b>41</b> |
| A.   | The Application of Sole Effect Doctrine in ICSID Cases .....   | 42        |
| B.   | The Application of Substantial Deprivation Approach in ICSID Cases.....                                      | 50        |
| C.   | The Application of Appropriation Approach in ICSID Cases.....  | 63        |
| D.   | Preliminary Conclusion .....   | 67        |
| <br><b>CHAPTER IV</b>  |  |           |
| <b>ICSID ANALYSIS IN BALANCING THE RIGHT TO REGULATE AND THE OBLIGATION TO PROTECT FOREIGN PROPERTY RIGHTS .....</b> |  | <b>71</b> |
| A.   | State's Right to Regulate under international law and investment treaties ..                                 | 71        |
| B.   | Guarantee against Indirect Expropriation within Bilateral Investment Treaties.....                           | 77        |
| C.   | State's Right to Regulate in ICSID cases .....   | 82        |
| D.   | ICSID Analysis in Balancing The Right to Regulate and The Obligation to Protect Foreign Property Rights..... | 94        |

|                           |            |
|---------------------------|------------|
| <b>CHAPTER V .....</b>    | <b>101</b> |
| <b>CLOSURE .....</b>      | <b>101</b> |
| A. Conclusion .....       | 101        |
| B. Recommendation .....   | 103        |
| <b>BIBLIOGRAPHY .....</b> | <b>105</b> |