

# From Colonial Law to Corporate Lawfare: The Neocolonial Logics of Resource Extraction

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## ABSTRACT

This review critically examines how colonial legal systems have evolved into contemporary mechanisms of corporate lawfare that enable neocolonial forms of resource extraction. The study employs a narrative review methodology using descriptive analysis to synthesize recent interdisciplinary literature from 2020 to 2024. The research draws from legal, postcolonial, and political economy perspectives and focuses on secondary sources, case studies, and legal documents that explore the historical and contemporary legal architectures of resource extraction. Findings show a clear continuity between colonial legal instruments—such as terra nullius, concession laws, and sovereignty-denying codes—and modern corporate legal strategies including investor-state dispute settlement (ISDS), arbitration, regulatory capture, and tax avoidance. Case studies of Chevron in Ecuador, Vedanta in Zambia, and Shell in Nigeria illustrate how multinational corporations use lawfare to consolidate control, suppress opposition, and neutralize local legal systems. Regional comparisons reveal common patterns of legal dispossession across Africa, Latin America, and Asia, alongside the emergence of powerful resistance movements rooted in indigenous legal traditions, environmental justice, and legal pluralism. Contemporary corporate lawfare represents a reconfiguration of colonial legal logics within a globalized legal framework. To achieve equitable and sustainable resource governance, legal systems must be fundamentally transformed to center justice, community sovereignty, and ecological integrity.

**Keywords:** corporate lawfare, colonial legal systems, neocolonialism, resource extraction, legal resistance, environmental justice, investor-state arbitration, indigenous rights.

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## 1. Introduction

Resource extraction has long served as both a material and symbolic cornerstone of global power structures, operating through legal, economic, and political mechanisms that reinforce historical hierarchies. In the modern world economy, the regulation of access to, and ownership of, natural resources is heavily mediated through legal regimes that

often mask asymmetries of power under the guise of neutrality, development, or investment security. While it may appear that contemporary legal frameworks are grounded in principles of sovereignty and equal participation, a closer inspection reveals deep structural continuities between colonial legal systems and present-day global resource governance. The logic that once underpinned imperial extraction—wherein colonized lands were deemed terra nullius and local populations



were denied legal agency—has morphed into a more sophisticated form of legal engineering that continues to enable external control over vital resources in the Global South.

One of the key mechanisms by which contemporary power asserts itself in these contexts is through the concept of “lawfare”—a term denoting the strategic use of legal tools to advance geopolitical or economic agendas. Originally framed within military discourse to refer to the use of law as a weapon of war, lawfare has since expanded to include corporate strategies that exploit legal frameworks to secure resource access, suppress dissent, or disempower host communities. This notion of lawfare is particularly relevant in analyzing how multinational corporations operate in postcolonial states, utilizing investor-state dispute settlement mechanisms, international arbitration forums, and bilateral investment treaties to insulate themselves from domestic regulatory pressures. The law, in this view, is not merely a neutral arbiter but an active terrain of conflict, where corporate actors can engage in what has been termed “corporate lawfare”—the use of legal processes to maintain control over extractive economies and displace environmental and human rights concerns (Lucas, 2021).

Colonial law, in this context, refers to the legal doctrines and instruments established by imperial powers to formalize control over land, labor, and resources in the territories they occupied. These legal frameworks justified dispossession through constructs such as “eminent domain,” “concessionary rights,” and “native absenteeism,” often codifying racial and civilizational hierarchies into law (Brisbois et al., 2021). After formal decolonization, many of these legal structures were retained or adapted by newly independent states under pressure to attract foreign investment or adhere to the neoliberal conditionalities imposed by global financial institutions. Neocolonialism, therefore, describes the continued economic and political subjugation of postcolonial states through mechanisms such as debt dependency, market coercion, and legal domination. In the context of extractive industries, neocolonialism is often manifested through the imposition of legal norms that prioritize investor protection over environmental regulation or community consent (Mireille et al., 2024). Corporate lawfare can be seen as a contemporary manifestation of this neocolonial condition. It

encompasses a wide range of legal tactics used by multinational corporations to secure advantageous terms for resource extraction, such as threatening lawsuits under international trade agreements, litigating against environmental protections, or exploiting legal ambiguities to avoid taxation and accountability. These tactics are not deployed in a legal vacuum; they are made possible by a global legal order that privileges capital mobility, enforces proprietary claims, and treats state sovereignty as secondary to the sanctity of contracts (Wood et al., 2021). In effect, corporate lawfare reproduces the colonial logic of external domination under the veneer of legality.

The objective of this review is to critically examine the historical continuity and transformation of legal strategies used in the global regime of resource extraction, focusing on how colonial legal systems have evolved into modern mechanisms of corporate lawfare. This analysis is crucial in understanding the legal foundations of contemporary resource exploitation, as well as the structural limitations facing communities and states attempting to assert control over their natural wealth. By mapping these legal trajectories, the review aims to reveal the ways in which law functions not as a neutral tool but as a strategic instrument of neocolonial governance. Understanding these dynamics is essential for challenging prevailing narratives of development and for envisioning alternative legal and political frameworks rooted in equity, sustainability, and decolonial justice.

## 2. Methodology

This narrative review was conducted using a descriptive analysis method to trace the historical evolution and contemporary manifestations of legal instruments enabling resource extraction under neocolonial logics. The approach was selected to synthesize a wide array of interdisciplinary literature from law, political economy, postcolonial studies, and environmental justice in order to offer a comprehensive understanding of the continuity between colonial legal systems and present-day corporate lawfare. Given the nature of the topic—situated at the intersection of legal history and global political economy—this review does not rely on empirical field data, but rather on systematic engagement with secondary sources that critically analyze legal frameworks, case studies, and theoretical

debates relevant to the postcolonial condition and extractive practices.

The research design was based on a qualitative interpretive approach, emphasizing thematic reading and discourse analysis of academic publications, legal documents, policy reports, and case-based analyses from 2020 to 2024. These materials were sourced through academic databases such as JSTOR, Scopus, Web of Science, and HeinOnline, as well as from the archives of international human rights organizations, environmental advocacy networks, and legal NGOs. Special attention was paid to peer-reviewed articles and books that explored the historical development of colonial extraction laws, contemporary investor-state dispute settlement mechanisms, and corporate legal strategies across the Global South. Key terms used during the literature search included “colonial legal systems,” “resource extraction law,” “neocolonialism and law,” “corporate lawfare,” “investor-state arbitration,” and “legal dispossession.” The inclusion criteria prioritized works that provided in-depth conceptual, legal, and empirical insights into resource governance and legal control from a critical and postcolonial perspective.

In analyzing the selected materials, a descriptive thematic coding strategy was employed. The documents were read iteratively to extract key themes such as the persistence of colonial legal logics, the role of transnational corporations in legal manipulation, and the reproduction of structural inequality through international investment regimes. These themes were then organized to reflect a historical-to-contemporary trajectory, allowing the article to unfold as a narrative connecting colonial extraction laws to modern forms of legal domination. Cross-regional case studies were selected to illustrate legal strategies and resistance movements in diverse contexts, including Latin America, sub-Saharan Africa, and Southeast Asia. This method enabled the study to construct a critical synthesis of how law—once a tool of empire—continues to serve as a vehicle of global capitalist accumulation in the present.

### 3. Conceptual and Theoretical Framework

To unpack the legal architecture underpinning neocolonial extractive practices, this review draws from multiple critical theoretical traditions, with postcolonial

legal theory serving as its foundational lens. Postcolonial legal theory interrogates how law, as a colonial instrument, was used to legitimize the occupation, control, and economic exploitation of non-European societies. It foregrounds the idea that colonialism was not merely a political project but a profoundly legal one, whereby imperial powers constructed entire systems of jurisprudence that rationalized land seizure, resource extraction, and the suppression of indigenous sovereignty. Even after the formal end of colonial rule, these legal templates continue to inform postcolonial governance structures, particularly in the domain of resource management (John et al., 2023). By emphasizing the endurance of colonial legal rationalities, postcolonial theory illuminates how current legal regimes often serve to maintain rather than dismantle imperial hierarchies.

Closely related to this is the theoretical framework of neocolonialism and extractivism, which considers how former colonial powers, now often embodied by transnational corporations and international institutions, continue to exert control over the economic and legal systems of the Global South. Neocolonialism is not defined by territorial occupation but by legal, financial, and infrastructural domination, in which global legal norms are designed to serve the interests of capital rather than those of the local populace (Sharma, 2023). Extractivism, in turn, refers to an economic model predicated on the large-scale removal of natural resources for export with minimal local processing or reinvestment. This model is often imposed through legal frameworks that enable long-term concessions, tax holidays, and weak environmental oversight, which benefit foreign companies at the expense of host communities (Jurema & Maria Cecília da Silva, 2023).

Critical legal studies (CLS) further enhance this analysis by challenging the presumed neutrality and objectivity of legal systems. CLS posits that law is inherently political, shaped by the interests and power dynamics of dominant groups. From this perspective, legal frameworks are not simply reflections of social norms but active agents in producing and reproducing inequality. In the context of corporate lawfare, CLS reveals how the architecture of international law—particularly trade and investment treaties—is designed to constrain state autonomy while amplifying corporate rights (Campling, 2021). The emphasis in CLS on legal

indeterminacy and the role of ideology in legal reasoning helps explain how legal language can be mobilized both to justify and to resist extraction, depending on the positionality of the actors involved.

The analytical lens employed in this review draws heavily on the concepts of structural violence and legal instrumentalism. Structural violence refers to the systematic ways in which legal and institutional arrangements harm marginalized populations by denying them access to basic resources, rights, or protections. In the case of extractive industries, this is evident in the legal sanctioning of displacement, ecological degradation, and labor exploitation—all of which are often justified in the name of development or national interest (Brisbois et al., 2021). Legal instrumentalism, meanwhile, frames law not as a neutral adjudicator of disputes but as a tool strategically used by actors—particularly states and corporations—to achieve specific economic and political goals. This perspective is crucial for understanding how corporations deploy lawfare to navigate and manipulate complex legal environments in ways that reproduce colonial patterns of accumulation and dispossession (Adekanbi, 2024).

Methodologically, this article follows the narrative review approach using descriptive analysis. A narrative review is particularly suitable for synthesizing theoretical perspectives and case-based evidence across disciplines, allowing for the development of a comprehensive and critical understanding of a complex issue. The descriptive analysis method enables the researcher to organize themes and insights according to historical continuities and transformations, rather than through statistical generalization or hypothesis testing. This approach permits the examination of legal texts, academic literature, and case studies not only for their content but also for their ideological underpinnings and material effects (Guo, 2024). The use of descriptive analysis in this context helps trace how colonial legal frameworks have been rearticulated in contemporary corporate practices, while also highlighting the resilience of extractivist logics within international legal institutions.

By combining postcolonial legal theory, neocolonialism and extractivism, and critical legal studies, and by applying an analytical lens rooted in structural violence and legal instrumentalism, this review aims to offer a

rigorous critique of the legal foundations of global resource extraction. The methodology supports a nuanced exploration of both historical legacies and present-day corporate practices, situating them within a broader matrix of global inequality, resistance, and legal transformation.

#### 4. Historical Trajectory: Colonial Legal Instruments of Extraction

The colonial project was not merely a violent conquest of territories but an intricately constructed legal system designed to legitimize the extraction of resources and the subjugation of indigenous populations. European colonial powers embedded their economic interests within legal codes that formalized dispossession, institutionalized forced labor, and extinguished the political sovereignty of colonized peoples. Legal instruments such as the doctrine of *terra nullius*, concession laws, and the transformation of communal lands into Crown lands served as foundational tools in the colonial economy of extraction. These legal doctrines were not accidental or secondary to military conquest—they were central to the very logic of empire, offering a framework through which imperial powers could rationalize and regulate resource exploitation under the guise of legality and civilization.

The doctrine of *terra nullius*—meaning "land belonging to no one"—was instrumental in allowing European empires to declare entire territories unowned and thus open for seizure. In British colonial Africa, this concept was deployed to deny the legal existence of indigenous property systems. British legal officers claimed that African land tenure was informal or communal and therefore lacked the characteristics of ownership recognized under English law. This allowed vast swaths of territory to be reclassified as Crown lands, which could then be leased or sold to private investors or settler populations. The dispossession was not incidental but legally codified, often enforced through ordinances that criminalized squatting or unauthorized use of land by indigenous peoples (John et al., 2023). In South Africa, for example, the 1913 Natives Land Act prohibited Black South Africans from owning or renting land outside designated reserves, which comprised less than 10% of the country's land area. These legal exclusions underpinned the colonial economy and continued to

structure land ownership patterns into the post-apartheid era.

In Latin America, Spanish colonial rule was similarly predicated on a legal framework that transformed indigenous communal lands into royal patrimony. The Spanish Crown claimed ownership over all land and resources in the Americas through the *Requerimiento* and *Leyes de Indias*, legal instruments that demanded submission from indigenous populations under threat of violence. Conquistadors were granted *encomiendas*—rights to extract tribute and labor from native communities—thereby fusing legal authority with economic exploitation. These legal constructs enabled forced labor systems such as *repartimiento* and *mita*, where indigenous people were compelled to work in silver mines, plantations, and public works projects under extremely harsh conditions (Abd-Elwahab, 2022). The law served as both a legitimizing and coercive tool, ensuring that resistance to colonial exploitation could be framed as rebellion and punished accordingly.

The Dutch East Indies offers another example of how colonial legal regimes structured extractive economies. The Dutch colonial administration instituted a complex web of land laws that allowed the government to claim all land not under continuous, documented cultivation as state-owned. These laws were used to displace indigenous agricultural systems and replace them with state-supervised plantations producing cash crops for export. The Cultivation System (*Cultuurstelsel*), enforced through these legal mechanisms, compelled Javanese peasants to grow export crops such as sugar and coffee on communal lands and deliver a portion of their harvest to the colonial state, effectively institutionalizing forced agricultural labor through legal contracts and tax obligations (Lucas, 2021). Colonial courts upheld these arrangements, demonstrating how law was used not to protect rights but to enable systemic exploitation.

Legal codes also played a pivotal role in denying sovereignty and political agency to colonized populations. Across empires, colonial subjects were governed by distinct legal regimes that separated them from European settlers and rendered them legally inferior. In British Africa, for example, the system of indirect rule allowed colonial administrators to issue “native laws” through traditional authorities, which were then enforced through separate native courts. These courts operated under a separate logic from British

common law and were often manipulated to suppress dissent or enforce labor obligations. This bifurcated legal order reinforced the idea that colonized subjects were not full legal persons, thereby legitimizing their exclusion from property rights, political participation, and legal recourse (Brisbois et al., 2021). The denial of legal equality was thus not merely symbolic but had profound material consequences, particularly in the context of resource governance.

What binds these diverse colonial contexts together is the strategic use of law to naturalize exploitation and to convert violence into order. Colonial legal systems were not only reactive but anticipatory—crafted in advance to pre-empt resistance and secure the uninterrupted flow of resources to imperial metropolises. Concession laws granted monopoly rights to European companies for mining, forestry, and agriculture, often for decades and with minimal oversight. These laws laid the groundwork for contemporary legal regimes of extraction, particularly in how they privileged corporate actors over indigenous communities and national sovereignty. The colonial legal legacy continues to reverberate in the postcolonial world, particularly through legal structures that prioritize contract sanctity and foreign investment over ecological sustainability or local self-determination (Campling, 2021). The trajectory of legal dispossession thus reveals a persistent pattern: law has long been weaponized not as a shield for the vulnerable, but as an apparatus of control, extraction, and accumulation.

## 5. Continuities and Transformations: From Colonialism to Neocolonialism

The formal end of colonial rule did not result in a rupture of the legal systems that governed extraction. Instead, many postcolonial states inherited legal institutions, property regimes, and contractual norms that continued to favor foreign capital. The handover of political sovereignty was not matched by economic autonomy, as colonial legal codes were retained, adapted, or embedded within new international legal frameworks that maintained the structural advantage of former colonial powers and their corporate successors. In many cases, independence was granted conditionally, tethered to constitutions and commercial laws that aligned with Western legal norms and investment protections (Usacheva, 2024). This legal continuity preserved the extractivist architecture of the colonial state,

transforming it into a legal infrastructure compatible with global capital.

One of the most profound transformations in the postcolonial legal landscape has been the rise of international financial institutions and investment law as dominant forces in structuring national economies. The International Monetary Fund and the World Bank, acting under the guise of development, have frequently imposed legal reforms as conditions for loans and structural adjustment programs. These reforms often include liberalization of extractive sectors, privatization of state assets, and the weakening of environmental and labor protections—all justified through legal language centered on “efficiency,” “growth,” and “rule of law” (Adekanbi, 2024). Through these interventions, postcolonial states are not only pressured to open their markets but are also legally bound to uphold a system of property rights and investor protections that limits their ability to regulate resource extraction for the public good (Mireille et al., 2024).

The persistence of unequal bilateral investment treaties (BITs) and investor-state dispute settlement (ISDS) mechanisms exemplifies how neocolonial legal strategies operate today. These instruments allow foreign investors to sue host states in international arbitration tribunals when policies, regulations, or legal decisions are perceived to negatively impact their profits. While presented as neutral mechanisms for dispute resolution, ISDS proceedings overwhelmingly favor corporate interests and have been used to challenge a wide range of public interest laws, including environmental regulations, indigenous land rights, and community health protections (Wood et al., 2021). For example, in numerous cases, corporations have sued governments for canceling mining permits due to local resistance or environmental degradation, framing such actions as violations of investor rights rather than expressions of national sovereignty (Brisbois et al., 2021). The result is a global legal regime where the rights of capital are enshrined above those of citizens and ecosystems.

This shift from direct colonial rule to corporate governance marks a significant transformation in the modes of domination but not in their underlying logics. Today, multinational corporations wield legal power comparable to, and often greater than, that of sovereign states. They negotiate directly with governments,

influence legislation, and deploy armies of legal advisors to draft contracts that ensure profit maximization and legal insulation. The move from colonial administrators to corporate lawyers reflects a broader trend in which the private sector assumes functions once performed by colonial states, such as infrastructure development, labor management, and resource control (Lacy-Vawdon et al., 2023). Legal contracts now function as tools of governance, determining who gets to access what, under what terms, and with what consequences. This transformation blurs the line between law and business, with transnational corporations emerging as key architects of the new global order.

Moreover, the ideology that underpins this legal transformation remains grounded in the assumptions of Western superiority, rational governance, and economic determinism. Legal language continues to frame the Global South as a zone of risk, requiring legal certainty and investor protection, while overlooking the historical violence and structural imbalances that produce such conditions in the first place. Legal reforms are often introduced through elite pacts and technocratic processes that exclude affected communities, thereby reproducing the exclusionary dynamics of colonial legal systems (Guo, 2024). The tools may have changed—arbitration clauses have replaced gunboats—but the logic remains: law is used not to protect sovereignty or justice, but to secure access, extract value, and minimize resistance.

In sum, the transition from colonialism to neocolonialism is best understood not as a rupture but as a reconfiguration. The legal structures of the colonial era have not disappeared; they have been globalized, privatized, and embedded within transnational legal networks that prioritize corporate mobility and investor rights. What emerges is a legal order in which the authority of the state is increasingly subordinated to the imperatives of capital, and where law itself becomes the primary battlefield in the ongoing struggle over resources, rights, and resistance.

## 6. Contemporary Lawfare: Corporate Legal Strategies for Resource Control

Corporate lawfare refers to the deliberate and strategic use of legal systems and legal instruments by corporations to assert, expand, and protect their access to natural resources—often at the expense of local

populations, environmental protections, and national sovereignty. This phenomenon is not accidental but is built into the architecture of the global legal order, which increasingly treats corporations as transnational actors with rights similar to or even exceeding those of sovereign states. Through sophisticated legal maneuvering, multinational corporations have mastered the art of using law as both shield and sword: shielding themselves from accountability while using the law to suppress opposition and expand extractive frontiers.

One of the most powerful tools in the corporate lawfare arsenal is international arbitration, particularly under the investor-state dispute settlement (ISDS) mechanisms embedded in bilateral investment treaties and trade agreements. These tribunals, typically composed of private arbitrators, allow corporations to sue states over policies or legal decisions that allegedly harm their investments. Chevron's dispute with Ecuador is emblematic of how ISDS mechanisms can be mobilized to override domestic legal decisions and community rights. After indigenous communities in Ecuador won a \$9.5 billion judgment against Chevron for environmental devastation in the Amazon, the corporation refused to comply and instead pursued arbitration under the US-Ecuador Bilateral Investment Treaty. Chevron argued that the judgment constituted a denial of justice and sought to have it annulled through international arbitration, bypassing Ecuador's legal system entirely (Brisbois et al., 2021). This use of arbitration illustrates how corporations can manipulate legal forums to avoid responsibility while framing their actions as the defense of investor rights.

Regulatory capture is another strategy often employed in corporate lawfare, whereby corporations exert significant influence over the formulation, implementation, and enforcement of laws and regulations. This can occur through lobbying, revolving-door appointments, or direct participation in legislative drafting. In the context of extractive industries, regulatory capture enables corporations to shape environmental standards, labor protections, and land acquisition laws to suit their interests. In Zambia, Vedanta Resources' operation of the Konkola Copper Mines exemplifies how corporate-state alliances can facilitate legal impunity. Despite repeated allegations of environmental contamination and labor rights violations, the company benefited from weak regulatory

oversight and favorable legal interpretations that prioritized investment continuity over community well-being (Wood et al., 2021). When the Zambian government attempted to revoke Vedanta's license and nationalize the mine, the company responded by initiating legal action in foreign jurisdictions and arbitration forums, arguing that the state's actions breached its contractual and investment protections (Lucas, 2021).

Tax avoidance is another tactic central to corporate lawfare. Multinational corporations frequently exploit gaps and inconsistencies in international tax law to shift profits to low-tax jurisdictions, often using shell companies and transfer pricing strategies. This practice deprives host countries of vital public revenue while allowing corporations to reinvest profits in expanding their legal and political influence. Legal loopholes are carefully exploited to ensure that even in resource-rich states, the majority of financial benefits accrue to foreign investors rather than local populations. The problem is compounded by non-disclosure clauses in resource contracts, which obscure the terms of revenue-sharing agreements and make public scrutiny nearly impossible (Adekanbi, 2024). These contracts are often protected by commercial confidentiality laws, further insulating corporate actors from democratic accountability.

Litigation against indigenous rights and environmental defenders has also become a hallmark of corporate lawfare. Corporations routinely use strategic lawsuits against public participation (SLAPPs) to intimidate activists, journalists, and community leaders who oppose extractive projects. These lawsuits, while often legally baseless, are designed to exhaust the financial and emotional resources of defendants, effectively silencing dissent. In Nigeria, Shell's operations in the Niger Delta have long been associated with environmental destruction, community displacement, and human rights abuses. When local communities and environmental organizations attempted to hold the company accountable through domestic courts, Shell responded with countersuits and jurisdictional challenges, arguing that the Nigerian legal system was either incompetent or biased (John et al., 2023). The case eventually reached European courts, highlighting the transnational complexity of legal accountability and the strategic advantage held by corporations with deep legal resources.

Corporate-state partnerships further reinforce the dominance of corporate lawfare. In many extractive zones, governments actively collaborate with corporations through public-private partnerships, joint ventures, and exclusive concessions. These relationships often come with legal guarantees of stability, allowing corporations to operate under favorable legal regimes regardless of changes in political leadership or public opposition. In many African countries, such as those rich in mining or hydrocarbon resources, these partnerships are framed as development initiatives but often result in the undermining of local land rights and the criminalization of resistance (Sharma, 2023). The legal frameworks governing these partnerships often include stabilization clauses, which limit the ability of governments to enact new environmental or labor regulations once contracts are signed, effectively freezing the legal environment in favor of corporate interests.

The power imbalance in corporate lawfare is not only legal but also epistemic. Corporations often control the production and dissemination of technical knowledge used to justify their operations. Environmental impact assessments, feasibility studies, and risk analyses are frequently commissioned and conducted by consultants hired by the corporation itself. This creates a knowledge monopoly that shapes legal outcomes and policy decisions, further marginalizing community voices and alternative knowledge systems (Guo, 2024). In many cases, legal arguments about the public interest or national benefit are underpinned by data and expertise that reflect the corporation's perspective, reinforcing the legitimacy of their claims in court and arbitration proceedings.

What distinguishes corporate lawfare from earlier forms of legal domination is its institutional embeddedness within international law and global governance frameworks. Corporations today operate within a legal infrastructure that not only permits but actively facilitates their power. From arbitration tribunals and investment treaties to non-disclosure clauses and stabilization agreements, the global legal system has been reengineered to serve capital over community, corporate rights over ecological justice, and transnational mobility over national sovereignty. Understanding corporate lawfare, therefore, is essential to any critical examination of resource politics in the 21st

century. It reveals how legal tools once used to justify colonial conquest have been reinvented to sustain corporate empires, often with the active participation of the very states that once fought for independence.

## 7. Regional Perspectives and Case Comparisons

Corporate lawfare, while global in scope, manifests differently across regions due to variations in legal traditions, state capacity, civic resistance, and historical experiences with colonialism. Despite these differences, certain patterns emerge across Africa, Latin America, and Asia, revealing a striking convergence in how multinational corporations exploit legal systems to secure resource control. The similarities lie in the structural imbalance between corporate legal power and state or community agency, while the differences stem from the intensity of local resistance, legal pluralism, and institutional resilience.

In Africa, corporate lawfare operates primarily through mining and energy sectors, where resource-rich countries such as the Democratic Republic of Congo, Ghana, and Nigeria are targeted for their mineral wealth and oil reserves. Many African legal systems retain colonial-era mining codes that favor foreign investment over local rights. The result is a legal architecture that grants extensive concessions to multinational corporations while offering limited legal recourse to affected communities. In Nigeria, for example, the Petroleum Act of 1969 vests ownership of oil resources in the federal government, effectively excluding local communities from decision-making processes. This has allowed corporations like Shell to operate with minimal accountability, relying on legal contracts and state backing to override environmental and human rights concerns (John et al., 2023). Resistance movements, while persistent, often face legal repression, including arrests, surveillance, and SLAPPs.

Latin America, by contrast, has a long history of popular mobilization against extractive industries, which has led to the emergence of stronger legal and constitutional protections for indigenous rights and environmental justice. In countries such as Ecuador, Bolivia, and Colombia, social movements have successfully pushed for the recognition of the rights of nature and the principle of free, prior, and informed consent (FPIC). However, these legal advances are frequently undermined by international arbitration. The Chevron

vs. Ecuador case reveals how corporate lawfare can neutralize even the most progressive legal frameworks through extraterritorial litigation (Brisbois et al., 2021). Despite Ecuador's constitutional recognition of the rights of nature, Chevron's use of ISDS mechanisms reversed a domestic judgment, illustrating the limits of national sovereignty in the face of global corporate law.

In Asia, the focus of corporate lawfare often revolves around land concessions and infrastructure megaprojects, particularly in countries like Cambodia, Indonesia, and India. Legal frameworks in these countries often combine colonial land laws with neoliberal reforms, creating hybrid systems that facilitate land acquisition for corporate use while displacing local populations. In Cambodia, for example, the Economic Land Concessions program allows corporations to lease vast tracts of land for decades, often displacing indigenous communities without adequate compensation. In Indonesia, laws governing palm oil plantations and mining licenses are notoriously opaque, allowing corporations to secure land through corrupt practices and weak enforcement of environmental regulations (Jurema & Maria Cecília da Silva, 2023). In India, resistance to large infrastructure projects has led to prolonged legal battles, where courts have at times sided with local populations but more often upheld state-corporate interests under the rationale of national development.

One key similarity across regions is the reliance on secrecy and legal obfuscation. Resource contracts are rarely made public, and arbitration proceedings are often confidential, preventing communities and civil society from scrutinizing the legal basis of corporate claims. This lack of transparency reinforces the asymmetry of legal knowledge and access, allowing corporations to operate with minimal oversight (Campling, 2021). Another common feature is the use of legal fragmentation, where corporations exploit jurisdictional ambiguities and competing legal systems—customary, national, and international—to evade responsibility.

However, differences also matter. In Latin America, indigenous legal traditions and constitutional reforms have enabled more robust legal resistance, even if these gains are constantly under threat. In Africa, the entrenchment of postcolonial elites and state dependence on extractive revenues has limited legal

autonomy and civic space. In Asia, rapid industrialization and centralized governance have often prioritized state-led development over legal pluralism or participatory rights. These differences shape the trajectories of legal contestation and the prospects for transformative change.

Taken together, these regional perspectives highlight the adaptability of corporate lawfare to diverse legal and political environments. They underscore the need for global solidarity among resistance movements and a reimagining of international law from below—one that centers ecological sustainability, indigenous sovereignty, and legal accountability. Only by understanding the regional specificities of corporate lawfare can meaningful strategies for legal reform and social justice be developed.

## 8. Resistance and Legal Counter-Mobilizations

In response to the growing dominance of corporate lawfare and the persistence of neocolonial legal structures, various forms of resistance have emerged that challenge extractive legal regimes through indigenous legal claims, transnational activism, and legal empowerment strategies. These counter-mobilizations seek not only to protect local environments and communities but also to fundamentally reimagine the relationship between law, land, and justice. Indigenous peoples, in particular, have asserted legal rights based on ancestral claims, cultural survival, and international norms, offering a powerful critique of extractive legality from below. Across the Global South, indigenous legal claims have emphasized the right to *free, prior, and informed consent* (FPIC), the recognition of customary land tenure, and the protection of sacred sites. In Latin America, movements in Ecuador and Bolivia have invoked constitutional provisions that recognize the rights of nature, challenging extractive activities through litigation grounded in indigenous cosmologies and environmental ethics (Jurema & Maria Cecília da Silva, 2023).

Transnational activism has played a crucial role in amplifying these struggles and linking local resistance to global accountability mechanisms. Grassroots organizations, environmental NGOs, and legal advocacy groups have mobilized across borders to support communities in their fight against corporate impunity. Campaigns such as the Global Campaign to Dismantle

Corporate Power and the Permanent Peoples' Tribunal have exposed corporate violations and pressured international bodies to hold multinational corporations accountable. In many cases, transnational networks have provided legal expertise, funding, and platforms for indigenous and local voices to be heard in international forums. For instance, the movement against Chevron in Ecuador gained global traction due to sustained transnational advocacy, which brought attention to the environmental and human rights abuses committed by the company and challenged its narrative in international courts and media outlets (Brisbois et al., 2021).

Legal empowerment strategies have also emerged as a critical tool in resisting extractive lawfare. These strategies involve building the capacity of communities to understand and use the law to defend their rights, challenge unjust practices, and propose alternative legal norms. Legal empowerment goes beyond courtroom litigation; it includes paralegal training, participatory legal education, and the development of community-based legal systems that reflect local values and traditions. In many African and Asian contexts, NGOs have facilitated legal literacy programs that empower villagers to contest unlawful land grabs, demand environmental accountability, and engage with legal institutions on more equal footing (Guo, 2024). These localized forms of legal engagement have challenged the dominance of Western legal norms and demonstrated the value of pluralistic legal traditions in resource governance.

International law and human rights frameworks have provided important—though often limited—support for resistance efforts. Instruments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), the Convention on Biological Diversity, and the International Labour Organization's Convention 169 have been cited in legal challenges to extractive projects. These frameworks affirm the rights of indigenous peoples to self-determination, cultural preservation, and environmental stewardship. In several cases, regional human rights courts, such as the Inter-American Court of Human Rights, have issued rulings in favor of indigenous communities, ordering states to halt or reverse extractive operations that violate collective rights (John et al., 2023). However, the enforceability of these norms remains weak, particularly when confronted with the

economic and legal power of multinational corporations operating under investment treaties and arbitration regimes (Wood et al., 2021).

Beyond legal resistance, alternative visions have emerged that seek to redefine justice, legality, and development. Environmental justice movements argue for the redistribution of environmental benefits and burdens in ways that are equitable, participatory, and ecologically sustainable. Legal pluralism challenges the monopoly of state law by recognizing the legitimacy of multiple legal systems, including indigenous, customary, and religious laws. These approaches offer pathways for decolonial legal praxis that center community autonomy, spiritual relationships with nature, and collective ownership of resources. In doing so, they reject the extractivist logic embedded in mainstream legal systems and envision a future where law serves the needs of people and the planet rather than profit (Mireille et al., 2024). Such counter-mobilizations not only resist extraction but also reclaim law as a tool of liberation, proposing transformative models rooted in care, reciprocity, and justice.

## 9. Discussion

This review has demonstrated how contemporary corporate lawfare is not a new phenomenon but a reconfiguration of colonial legal strategies that were historically deployed to facilitate resource extraction and domination. The continuity between colonial legal instruments and current corporate legal practices is neither coincidental nor superficial. It reflects the deep structural embedding of extractivist logic within both national and international legal systems. From the imposition of *terra nullius* to modern-day arbitration under investor-state dispute settlement mechanisms, the underlying purpose remains consistent: to secure external access to natural resources through legal means, often at the expense of local sovereignty, ecological balance, and human dignity (Campling, 2021). The corporate use of arbitration, regulatory capture, tax avoidance, and legal intimidation illustrates how legal systems can be weaponized by powerful actors to reinforce global inequalities. Legal tools that once legitimized imperial conquest now serve to protect corporate investments and undermine democratic governance. As seen in the Chevron vs. Ecuador case, corporations can leverage international law to override

domestic judicial decisions, thereby undermining the rule of law in host countries (Lucas, 2021). These dynamics reveal that sovereignty in the postcolonial world is highly conditional—bound by legal obligations to international investors and vulnerable to legal retaliation when communities assert their rights.

The implications for environmental justice are equally profound. Legal regimes that prioritize economic efficiency and investment protection often marginalize ecological concerns and dismiss alternative models of sustainability. Environmental harm becomes externalized, rendered invisible through legal loopholes and corporate influence. As extractive activities intensify amid the global push for energy transition and technological advancement, the burden of environmental degradation disproportionately falls on indigenous and marginalized communities (Sharma, 2023). The law, instead of mitigating these harms, frequently enables them through permissive regulatory standards, weak enforcement mechanisms, and the criminalization of environmental defenders (Kusen et al., 2023).

Efforts to reform this system face significant obstacles. Current legal protections against extractivism are fragmented, unevenly enforced, and frequently subordinated to trade and investment obligations. While international human rights instruments and environmental conventions offer important normative frameworks, they often lack binding enforcement or are overridden by the provisions of bilateral investment treaties (Usacheva, 2024). Furthermore, national legal systems—especially in resource-dependent economies—are often constrained by fiscal reliance on extractive revenues and political entanglement with corporate actors. This creates a structural limitation on the capacity of states to enact and enforce meaningful legal reforms that challenge the dominance of extractive interests (Junejo, 2022).

Despite these challenges, resistance movements and alternative legal visions offer hope for more equitable and sustainable forms of resource governance. Indigenous legal claims, environmental justice movements, and legal empowerment strategies demonstrate that law can be reclaimed and reimagined from below. These efforts challenge the assumption that law must serve capital and instead propose legal frameworks rooted in dignity, reciprocity, and care for

the earth. They invite scholars, practitioners, and policymakers to rethink legal norms not as fixed rules but as evolving tools that can either reinforce or dismantle systems of domination.

In conclusion, understanding the persistence of colonial legal logics in contemporary corporate lawfare is essential for any serious engagement with global resource justice. It demands a critical interrogation of legal institutions, a commitment to amplifying marginalized voices, and a willingness to envision legal systems that prioritize people and planet over profit. The path forward lies not only in legal reform but in legal transformation—toward a world where law becomes a site of resistance, accountability, and liberation.

## 10. Conclusion

The analysis of resource extraction through the lens of legal history and corporate lawfare reveals a deeply entrenched system of global inequality that is sustained not only by economic or political power but by law itself. From the colonial period to the present day, legal instruments have been used to legitimize and enable the exploitation of natural resources in ways that marginalize indigenous communities, undermine environmental sustainability, and erode national sovereignty. While the tools and actors have evolved—from imperial administrators to multinational corporations, from conquest to contractualism—the underlying logic remains remarkably consistent. Law has functioned as a means of codifying and perpetuating asymmetrical access to land, labor, and natural wealth. The shift from direct colonial control to neocolonial corporate governance has not diminished the extractive imperative; rather, it has transformed its legal expression. Through mechanisms such as international arbitration, bilateral investment treaties, tax avoidance structures, and regulatory capture, corporations have acquired unprecedented legal power to shape and insulate their operations. This legal power is further reinforced through corporate-state partnerships, non-transparent contractual arrangements, and the suppression of dissent through litigation and criminalization. Corporate lawfare represents not a deviation from legal norms but their calculated deployment to serve the interests of capital under the guise of legality and investment protection.

Yet this hegemonic legal architecture has not gone unchallenged. Across regions and continents, communities have mobilized against the injustice of extraction and have sought to reclaim legal systems as tools for resistance and transformation. Indigenous legal claims, environmental justice movements, and transnational legal activism have emerged as powerful counterforces to the dominance of corporate lawfare. These movements are not simply oppositional; they propose alternative ways of understanding law—rooted in collective ownership, ecological stewardship, and decolonial values. They assert that law must not be a tool of domination but a vehicle for justice, dignity, and sustainability.

The future of legal governance over natural resources will depend on the ability to confront and transform the deeply embedded legacies of colonialism that continue to shape contemporary legal systems. This transformation will require rethinking the role of law in society, shifting from a model of law that protects investment at all costs to one that prioritizes the rights of communities and the health of the planet. Legal reform must address the structural asymmetries embedded in international legal instruments, curtail the expansive rights granted to corporations, and ensure that affected populations have meaningful access to justice and participation.

Ultimately, dismantling the legal foundations of neocolonial extraction is not only a matter of policy or jurisprudence—it is a matter of ethical and political commitment. It requires a willingness to question the normative assumptions that have long governed international law and to imagine new legal paradigms that center care, equity, and ecological responsibility. By tracing the historical trajectory of legal extraction and exposing the contemporary strategies of corporate lawfare, this review offers a foundation for such reimagining. It calls on legal scholars, practitioners, and policymakers to recognize the law as a contested space and to engage actively in the struggle to transform it into an instrument of justice, not exploitation.

### Authors' Contributions

Authors contributed equally to this article.

### Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

### Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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