UC Berkeley
Journal of Law and Political Economy

Title
The Color of Carbon: Racial Capitalism, Climate Change, and Law

Permalink
https://escholarship.org/uc/item/02z8w43b

Journal
Journal of Law and Political Economy, 5(4)

Authors
Atapattu, Sumudu
Gonzalez, Carmen G.

Publication Date
2025-12-29

DOI
10.5070/LP6.61876

Copyright Information
This work is made available under the terms of a Creative Commons Attribution-NonCommercial-ShareAlike License, available at https://creativecommons.org/licenses/by-nc-sa/4.0/

Peer reviewed

eScholarship.org Powered by the California Digital Library
University of California

Sumudu Atapattu, University of Wisconsin
Carmen G. Gonzalez, Loyola University Chicago*

The Color of Carbon: Racial Capitalism, Climate Change, and Law

Climate change is a direct consequence of capitalism's drive to maximize profits through the unbridled extraction of wealth from humans and nature, aided and abetted at every turn by law. In its voracious demand for cheap labor, cheap raw materials, and cheap waste disposal, capitalism has created a treadmill of fossil fuel–dependent production and consumption that has triggered a planetary emergency. It has also produced extreme economic inequality—a racialized division of wealth grounded in colonialism that enables the ultrarich to capture the spoils of the capitalist global economy while billions of people continue to live in extreme poverty (Oxfam 2025).

Climate change threatens all human and nonhuman life, but it imposes disproportionate burdens on the racialized and formerly colonized states and people who contributed least to the problem. These include Indigenous peoples, the small island states, women, and racial and ethnic minorities, who reside in climate-vulnerable geographic locations and have been impoverished and deprived of the resources to protect themselves from harm (IPCC 2022).

The fossil fuel–based global economy inflicts death and disease on subaltern communities at every stage of the fossil fuel supply chain, from extraction to waste disposal. Fossil fuel infrastructures (such as oil fields, fracking sites, coal mines, pipelines, refineries, and power plants) are disproportionately located near racialized, Indigenous, and low-income communities. These communities are exposed to the "slow violence" of chemical pollution as well as the spectacular violence of resources wars in oil-rich regions (Nixon 2011). In addition, many of the proposed solutions to the climate crisis, such as biofuel plantations, the mining of critical minerals for the green energy transition, and forest conservation projects to offset carbon emissions (the REDD+ program) threaten to replicate the injustices of the fossil fuel economy by displacing Indigenous and local communities and/or polluting the air, land, and water on which they depend (Gonzalez 2024).

The articles published in this special issue examine the climate emergency and other ecological crises through the framework of racial capitalism. The theory of racial capitalism offers valuable insights into capitalism's inherently eco-destructive logic and its reliance on racial stratification for the extraction of profit.

The term "racial capitalism" was coined by South African scholars and activists during the struggle against apartheid (Kundnani 2020). Challenging both liberal and Marxist analyses that treated race and

* Sumudu Atapattu is Teaching Professor and Director of the Global Legal Studies Center, University of Wisconsin Law School, University of Wisconsin, USA. Please direct correspondence to sumudu.atapattu@wisc.edu. Carmen G. Gonzalez is Morris I. Leibman Professor of Law, Loyola University Chicago School of Law, Loyola University Chicago, USA. Please direct correspondence to cgonzalez19@luc.edu.

class separately, the term explained the interlocking nature of racial domination and economic exploitation. In other words, the racial differentiation of the labor force in South Africa was not an irrational prejudice that would be eroded by economic prosperity, but an essential tool to control workers and maximize profits for the capitalist class. These scholars and activists maintained that capitalism and racism must therefore be challenged simultaneously, not independently (Levenson and Paret 2023).

US political theorist Cedric Robinson further developed the concept of racial capitalism by arguing that all forms of capitalisms were racial—that South Africa was not an aberration. Robinson asserted that European feudalism stratified populations based on protoracial categories. Instead of homogenizing these social hierarchies into class distinctions, capitalism reinforced and reconfigured them as "racial" distinctions for the purpose of profit-making, initially in Europe and later globally through colonization and the transatlantic slave trade. Robinson grounded his work on the pioneering accounts of capitalism, slavery, and postslavery produced by prominent Black radical thinkers, including W. E. B. Du Bois, C. L. R. James, Oliver Cromwell Cox, and Eric Williams (Robinson [1983] 2000). His work also built on anti-imperial Marxist thinkers, such as Frantz Fanon and Walter Rodney, who sought to deepen Marxist theory by explaining the role of racism in the development and reproduction of capitalism (Knox and Kumar 2023).

While dominant understandings of racism in international and domestic law define racism as discrimination based on preexisting "racial" distinctions (Knox 2023), the theory of racial capitalism recognizes that "race" is socially constructed. Capitalism creates racial distinctions and hierarchies to inflict particularly rapacious forms of extraction on certain groups, to justify and naturalize the resulting inequalities, and to divide the working class (Gonzalez and Mutua 2022).

Finally, Indigenous and settler colonial scholars have expanded the concept of racial capitalism by centering land, along with labor, as the target of expropriation. Capitalism transforms Indigenous peoples' responsibility-based relations to land into settlers' property-based and profit-driven relations. In other words, what is at stake in many Indigenous land-based struggles is both material dispossession and conflicts over how humans relate to the natural world (Koshy et al. 2022). Grounded in social obligation and reciprocity, Indigenous conceptions of relations between humans and nature contrast sharply with racial capitalism's view of nature as a "free gift" that can be commodified without cost and without any obligation to protect or replenish the "surplus" parts of nature that do not generate profits (Battistoni 2025). Reframing racial capitalism as racial colonial capitalism foregrounds Indigenous perspectives and experiences and underscores capitalism's historic and ongoing repression of Indigenous philosophies and legal traditions that value relationality and kinship with the nonhuman world (McGregor 2021).

The relationship between racial capitalism, the climate crisis, and other forms of environmental degradation is a relatively new area of scholarly inquiry (Perry and Sealey-Huggins 2023; Ramanujam 2023). The articles published in this special issue make an important contribution to the interdisciplinary literature on racial capitalism and climate change and to the literature on Law and Political Economy by examining the causes, consequences, and responses to the climate emergency (and other ecological crises) through the lens of racial capitalism. The contributors examine the ways that both domestic and international law are implicated in the racialized injustices of the climate emergency, and each author offers suggestions for challenging these injustices. Together, the authors shed new light on the racial capitalism's mutually constitutive processes of race-making and profit-

making (including the profit-making processes of exploitation, expropriation, and expulsion explained in Part I).

This introductory essay proceeds in two parts. Part I uses the framework of racial capitalism to examine the root causes of the climate crisis. Part II examines the significance of this framework for legal scholarship and summarizes the articles included in this special issue.

I. Racial Capitalism and the Origins of the Climate Crisis

Capitalism is structured on the pursuit of profit through private ownership of the means of production and the extraction of wealth from humans and nature. According to conventional Marxist accounts, capitalism originates in the expropriation of the communal lands of European peasants and the criminalization of so-called vagabondage to create the industrial working class. The owners of the means of production generate profits through the *exploitation* of workers—paying them less than the value generated by their labor (Gonzalez and Mutua 2022).

However, capitalism has always proceeded through a second profit-making process: *expropriation* (what Marx called "primitive accumulation"). Expropriation is an intensification of exploitation. It involves the extraction of wealth from the unpaid or grossly underpaid labor (often of women and those racialized as inferior), as well as the looting of nature without providing for its regeneration (Fraser 2022; Gonzalez and Mutua 2022).

The Industrial Revolution, which launched the age of fossil fuels, was driven by the expropriation of human beings, land, and raw materials through slavery and colonialism (Beckert 2014; Baptist 2014; Williams [1944] 2018). European colonizers plundered the territories of non-European peoples to secure the capital, raw materials, energy, and labor needed for industrialization. This included gold and silver from the Americas, arable lands stolen from Indigenous peoples, cotton and sugar produced by enslaved Africans, grains cultivated on confiscated lands in South Asia, and raw materials plundered from Africa (Hickel 2017).

The colonization of the Americas and the enslavement of Africans inaugurated two systems of political-economic power that persist today: white supremacy and a racialized international division of labor (Quijano 2000). First, European conquerors constructed colonized people as inferior "races" and deployed racial classifications to forcibly incorporate the world's population into an economic system of inferior and superior races dominated by European powers (Mills 2003). Second, Europeans developed a racialized international division of labor designed to manufacture commodities for a world market for the benefit of European elites. This globalized system of production included enslaved African labor, European waged labor, and Indian and Chinese indentured labor (Quijano 2000).

A. Exploitation and Expropriation

Capitalism deployed different but overlapping modes of profit-making in different regions of the world. In Europe, *exploitation* was generally the dominant mode of profit-making. Workers were paid less than the value they produced but were "free" to sell their labor on the market to secure the basic necessities of life. The compulsion they faced was largely economic (work or starve). In the colonies, persons racialized as inferior were brutally *expropriated* through violence or the threat of violence—

with either no compensation or grossly inadequate compensation. Examples include enslaved Africans, dispossessed Indigenous peoples, and grossly underpaid indentured "coolie" labor (Fraser 2022; Gonzalez and Mutua 2022).

Colonialism subjected entire continents to expropriation. In Latin America, Africa, and Asia (the Global South), European colonizers displaced local systems of production and accumulated immense profits by expropriating the land and natural resources of non-Europeans. This colonial order "underdeveloped" the Global South by dismantling Indigenous governance systems, undermining economic self-reliance, and transforming the colonized territories into economic satellites of Europe that furnished raw materials and purchased manufactured goods (Gunder Frank 1967; Rodney 1972; Amin 1974).

Expropriation (also known as accumulation by dispossession) is not a one-time historic event, but an ongoing structural feature of capitalism (Harvey 2004). Today, for example, capitalism exploits workers by enslaving them (labor trafficking) or by paying them less than a living wage (undocumented workers, farm workers, domestic workers, and fast food workers). Racial hierarchies frequently determine which groups of people are disproportionately exploited (persons racialized as superior) and which groups are disproportionately expropriated (persons racialized as inferior) (Fraser 2022; Gonzalez and Mutua 2022). Capitalism also expropriates nature by looting or polluting it without attempting to replenish or restore it or to compensate the people who rely on it for subsistence (Moore 2015).

European states achieved a high material standard of living through their control of a large part of the world's resources while ravaging the livelihoods, ecosystems, and cultures of colonized and racialized peoples (Ponting 2007). When national liberation movements succeeded in defeating colonialism, what emerged were neocolonial states that remained economically dependent on their former colonial overlords and vulnerable to penetration by new hegemonic powers, including the United States (Chimni 2017). Global South elites, deeply influenced by Eurocentric ideologies, subjugated their own Indigenous and minority populations in order to "modernize" and "civilize" them (Anghie 2004).

The transfer of wealth from the Global South to the Global North intensified in the decades following World War II due to the North's growing demand for energy and raw materials and to the South's continuing dependence on the production and export of commodities (Bonneuil and Fressoz 2016). New ideologies emerged to racialize the Global South and justify the ongoing expropriation of its natural wealth. Chief among these was the ideology of development, which portrayed Southern states as backward and in need of modernization and Northern states as the standard of civilization to which all should aspire (Gordon and Sylvester 2004; Escobar 2011; Rist 2014).

The ideology of development perpetuated the racialization of the Global South as backward and inferior. Instead of providing reparations for slavery and colonialism, Northern states subjected the formerly colonized territories to new rounds of expropriation through debt—predatory lending in the name of development. When this sovereign debt proved unpayable, the World Bank and the International Monetary Fund imposed disadvantageous neoliberal economic reforms through loan conditionalities. These reforms included privatization of state-owned enterprises, currency devaluation, reduction of trade barriers, cuts to government spending, regressive taxation to replace lost tariff revenues, and measures to encourage foreign investment (Linarelli et al. 2018). States that implemented these one-size-fits-all economic reforms experienced declining wages, rising consumer prices, increased poverty, and environmental degradation caused by the expansion of logging, mining,

and agro-export production to generate revenues for debt repayment (Gonzalez 2015). Today, many highly indebted countries in the Global South dedicate more than half of their budgets to servicing the foreign debt (Gathii 2022), spend more on interest payments than health care or education, and lack the resources to combat the devastating effects of climate change (Cohen 2024; Elsheikh and Ayazi 2017).

Racial capitalism compels companies to maximize profits to remain competitive against rival firms. This results in a treadmill of overproduction, overconsumption, planned obsolescence, and an unending quest for the cheapest available land, labor, energy, and raw materials (Bell 2015). It also produces prodigious greenhouse gas emissions. The Global North is responsible for approximately 92 percent of historical cumulative carbon dioxide emissions in excess of the safe planetary level between 1850 and 2015 (Hickel 2020, e403). Historic carbon dioxide emissions serve as a proxy for responsibility for climate change because carbon dioxide, once emitted, remains in the atmosphere for hundreds or even thousands of years (Inman 2008).

Racial capitalism treats nature as a "free gift," an inert reservoir of natural resources to be expropriated and commodified for purposes of profit-making (Moore 2016). It also racializes and feminizes nature as humanity's savage and inferior "other," who must be dominated, tamed, and civilized (Natarajan 2022; Moore et al. 2003; Merchant 1990; Plumwood 1993).

Racial capitalism expropriates and commodifies the parts of nature it finds profitable and disposes of the surplus as waste. However, the parts of nature that capitalism expropriates or pollutes "are virtually always the life-conditions of some human group—their habitat and meaning-laden place of social interaction; their means of livelihood and material basis of social reproduction" (Fraser 2021, 122–23). Much of the ecological damage inflicted by the fossil fuel–based global economy is concentrated in so-called "sacrifice zones"—places inhabited by groups racialized as inferior in both affluent and poor countries (Gonzalez 2021b).

B. Expulsion and the Production of Sacrifice Zones

The US government coined the term "sacrifice zone" to describe areas rendered uninhabitable by radioactive contamination caused by the production of nuclear weapons (Lerner 2010; Schneider 1998). Today, the term refers more broadly to contaminated spaces inhabited by racially subordinated populations. Throughout the world, persons racialized as inferior reside near oil drilling operations, coal mines, petroleum refineries, power plants, oil and gas pipelines, and other polluting industries (Healy et al. 2019). They live in oil-rich regions, such as the Middle East, that have been repeatedly invaded, occupied, and ravaged by resource wars (Klare 2004). As the former UN Special Rapporteur on contemporary forms of racism (E. Tendayi Achiume) observed in her 2022 report on climate and racial justice, "The territories subject to the most rapacious forms of extraction are those belonging to groups and nations that were colonially designated as racially inferior" (Achiume 2022, para. 15).

These racial sacrifice zones are the outcome of a third profit-making process through which racial capitalism operates: *expulsion*. Expulsion entails the discarding as "waste" of persons who come to be viewed as "surplus humanity" because they are no longer profitable as workers and consumers (Yates 2011; Gonzalez and Mutua 2022). Examples include persons warehoused in slums, ghettos, and reservations with no jobs and no prospects of employment (Sassen 2014). These surplus populations

(and the lands they occupy) are abandoned and left to sicken and die because they are surplus to the needs of capital (Gonzalez and Mutua 2022).

However, the expulsion of racialized persons to the margins of society is also highly lucrative. Communities relegated to the racial sacrifice zones of the global economy subsidize racial capitalism by providing extremely cheap sites for the disposal of pollution and waste (Faber 2008). Indeed, polluting industries often locate their facilities in marginalized communities where land is cheap (due to redlining, housing segregation, and government underinvestment) and people lack the resources to resist (Cole and Foster 2000).

The climate crisis is producing new sacrifice zones, as the lands occupied by racialized and formerly colonized people become uninhabitable due to hurricanes, wildfires, droughts, desertification, and rising sea levels, producing mass displacement. These communities have been rendered vulnerable to climate change not only by the greenhouse gas emissions of the affluent and powerful but also by the colonial and neocolonial policies and practices discussed in this essay that impoverished them and deprived them of the resources to adapt to climate change (Gonzalez 2020a). And when these racialized, climate-displaced persons attempt to migrate to the United States, Europe, Australia, or other affluent states, they are classified as "illegal" and are criminalized, detained, and deported (Walia 2021; Gonzalez 2021a). Despite decades of debates regarding the plight of "climate refugees," there is no binding legal framework to protect people who are displaced from their countries of origin due to climate change (Atapattu 2018). Scholars, activists, and climate-vulnerable states are increasingly recognizing that the call for reparations for slavery and colonialism must be joined with the call for reparations for climate change because these injustices are systemic, intertwined, and cumulative (Riley Case 2023; Táíwò 2022; Gonzalez 2020b; Sealey-Huggins 2017).

Finally, racial capitalism's rapacious and eco-destructive logic is creating "green sacrifice zones" where marginalized communities are being expropriated of their land, labor, and natural wealth in the name of climate mitigation or the transition to renewable energy (Zografos and Robbins 2020). Examples include wind farms, mega-dams, and forest conservation projects such as REDD+ that displace Indigenous peoples or interfere with their subsistence livelihoods; biofuel plantations that trigger food price increases and land grabs; and the ecologically devastating extraction of minerals such as cobalt (in the Democratic Republic of the Congo) and lithium (in Bolivia, Chile, and Argentina) for electric batteries (Gonzalez 2024). The articles in this special issue highlight this emerging trend.

An analysis of climate change grounded in racial capitalism provides at least three distinct insights for legal scholarship. First, to understand the injustices caused by climate change, it is essential to go beyond a description of its racialized adverse impacts and instead focus on its underlying systemic causes. The root cause of the climate emergency is racial capitalism's relentless imperative to reduce production costs and accumulate profits by plundering nature and targeting racialized, stigmatized, and impoverished people for successive rounds of expropriation. A second insight is that the climate crisis is an intensification of the preexisting racialized injustices caused by colonial and postcolonial domination. Tinkering on the margins of the current system is insufficient to achieve the structural transformations required to challenge these intertwined injustices. A third insight is that the expropriation of humans and nature and their expulsion as waste are intimately interconnected and need to be analyzed in tandem. The planetary emergency cannot be resolved by simply embracing green technology. Instead, it requires a reconceptualization of how humans relate to one another and to the natural world.

The contributions to this special issue reflect these themes. All four articles use the framework of racial capitalism to highlight the need to address the underlying causes of the climate emergency. All four also emphasize how the injustices manifested in the fossil fuel economy are being replicated in the transition to a green economy. In addition, these articles show that an alternative path is possible, a path that reckons with the past, addresses root causes, and gives a voice to those who were hitherto suppressed or ignored.

II. Racial Capitalism and the Legal Architecture of the Climate Crisis

This part examines the significance of the theory of racial capitalism for legal scholarship related to climate change. Most legal scholarship on climate change focuses on the climate treaties and documents—the United Nations Framework Convention on Climate Change (UNFCCC), the Kyoto Protocol, the Paris Agreement, and the decisions of the Conference of Parties (COP). Environmental law scholars have criticized the climate regime's lack of ambition, its embrace of market mechanisms and technological fixes, and its resistance to demands for climate justice (Atapattu and Gonzalez 2025). However, the deeper flaw in the climate regime and in international environmental law more broadly is its attempt to ameliorate the excesses of the capitalist global economy without questioning the system's predatory logic and the bodies of law that structure and legitimate it.

For example, the former UN Special Rapporteur on Human Rights and the Environment (David Boyd) issued a pathbreaking report on the ways that investor-state dispute settlement (ISDS) pursuant to international investment agreements has been weaponized by the fossil fuel industry to undermine efforts to mitigate climate change. These one-sided agreements authorize investors to challenge state regulatory measures that diminish their profits, without imposing corresponding investor duties and obligations. Litigated in secretive arbitration tribunals, cases brought by the fossil fuel and mining industries have forced states to pay billions of dollars in damage awards at the expense of other priorities, such as health care, education, environmental protection, and climate action. The Special Rapporteur's report points out that these cases are creating "regulatory chill," and have "especially devastating consequences for the Global South, perpetuating extractivism and economic colonialism" (Boyd 2023, para. 8).

Instead of limiting his observations to human rights law and climate law, Boyd provides a richer, more robust analysis of the role of law in perpetuating the climate crisis (Boyd 2023). We hope that this report will encourage legal scholars to go beyond their areas of expertise and confront the ways that international economic law is deeply implicated in climate change and its underlying racialized injustices.

Another obstacle to critical thinking and creative lawyering on climate change is the legal academy's relegation of the environment to a specialized silo, marginalizing it from mainstream legal discourse and consigning it to the periphery of the law school curriculum. We hope that this will change in the aftermath of the advisory opinions on climate change by the International Court of Justice, the Inter-American Court of Human Rights, and the International Tribunal for the Law of the Sea, as well as the forthcoming advisory opinion on climate change from the African Court of Human and Peoples' Rights. However, centering the environment is necessary but not sufficient to tackle the planetary emergency. Without an analysis grounded in the systemic root causes of climate change and other socioecological crises, legal interventions will continue to tinker on the margins of the problem—akin to rearranging the deck chairs on the sinking Titanic.

In a recent book chapter, we implored critical scholars who specialize in other areas of law (such as economic law) to write about climate change within their respective areas of expertise in order to identify and critique the many bodies of law that create legal impunity for the climate crisis (Atapattu and Gonzalez 2025). In this special issue, we invite Law and Political Economy scholars to engage with the climate crisis through the framework of racial capitalism and showcase examples of scholars who are doing this work.

One way to examine the legal architecture of the climate crisis through the framework of racial capitalism is to combine the insights of scholars affiliated with Third World Approaches to Environmental Law (TWAIL) with the insights of scholars writing from Marxist approaches to international law (recognizing the significant overlap in these categories). Another is to adopt an Indigenous environmental justice approach based on Indigenous knowledge systems, legal orders, and conceptions of justice that recognize reciprocal responsibilities between the human and the more-than-human world (McGregor 2021; Tsosie 2019; Kronk Warner 2015).

TWAIL scholarship has provided a detailed and nuanced account of the emergence and ongoing deployment of international law in the service of colonialism and neocolonialism (Anghie 2023). It has exposed the ways that international law racializes the Global South to deny sovereignty and justify imperial interventions (Anghie 2004; Mutua 2001); constructs nature as an object for human domination (Natarajan and Khoday 2014); uses trade law, finance law, and international investment law to enable Northern states and transnational corporations to plunder the Global South's wealth (Linarelli et al. 2018; Miles 2013); and suppresses (or ignores) the voices of marginalized communities.

TWAIL-affiliated scholars have identified the "civilizing mission" as a crosscutting theme of international law.

> The "civilizing mission" operates by characterizing non-European peoples as the "other"—the barbaric, the backward, the violent—who must be civilized, redeemed, developed, pacified. Race has played a critically important role in constructing and defining the other. This concept of the "civilizing mission" justified the continuous intervention by the West in the affairs of Third World societies and provided the moral basis for the economic exploitation of the Third World that has been an essential part of colonialism. (Anghie and Chimni 2004, 85)

A recent edited volume provides a comprehensive introduction to TWAIL scholarship, including major topics and contributions to theoretical debates (Anghie et al. 2025). Another valuable resource is a volume edited by two of the contributors to this special issue examining how ecological destruction is embedded in the core doctrines of international law, including property, sovereignty, development, and human rights (Natarajan and Dehm 2023).

In addition, legal scholars writing from a variety of Marxist perspectives have integrated race, gender, class, and nature in their analysis of international law (Chimni 2017); have "stretched" Marxism to show how racial differentiation is central to capital accumulation (Knox 2016); have analyzed the racialized foundations of property relations (Bhandar 2018); have examined international law's use of racialized, gendered, and infantilizing tropes to justify colonial domination and capitalist expansion (Tzouvala 2020); and have analyzed the pitfalls of criminalizing ecocide (including criminal law's tendency to blame a few "bad apples" for capitalism's ecocidal logic and to selectively prosecute racialized "others") (Knox and Whyte 2025; Gonzalez 2024).

TWAIL scholarship that examines the climate crisis through the lens of race, empire, and political economy can serve as the foundation for future work on climate change, racial capitalism, and law (Atapattu and Gonzalez 2025). This includes scholarship interrogating the South-North divide in relation to climate change (Mickelson 2009); explaining the racialized nature of the emerging legal frameworks on climate displacement (Gonzalez 2020a); analyzing the political economy of carbon sequestration markets (Dehm 2021); and surveying social movements organizing transnationally to demand climate justice (Natarajan 2024). In addition, TWAIL scholars who are not climate law experts are using the framework of racial capitalism to examine how the global finance industry is leveraging the climate crisis to extract wealth from climate-vulnerable states in the Global South through carbon credits, debt-for-nature swaps, and a variety of bond instruments that exacerbate the sovereign debt crisis (Gathii 2024).

Finally, drawing on the work of Indigenous and radical Black thinkers, legal scholars are centering land (and not just labor) in their critiques of capitalism and analyzing the legal techniques used to racialize and dispossess Indigenous peoples (Park 2024; Nichols 2019; Bhandar 2018). Climate change (and many of its proposed solutions, such as REDD+) threatens to exacerbate this dispossession by displacing Indigenous peoples from their territories and severing their unique legal and cultural ties to the land. Legal scholars are analyzing the mechanisms available to respond, including litigation against state and corporate actors and measures to strengthen Indigenous territorial rights to ensure that climate adaptation and mitigations measures do not constitute new forms of expropriation (such as the mining of critical minerals on Indigenous lands without their free, prior, and informed consent) (Abate and Kronk 2013; Finn and Stanton 2022). They are also calling for a formal role for Indigenous institutions in national and international governance to place Indigenous struggles on the national and international agenda and to infuse Indigenous traditions of kinship and care for the land into domestic and international law (Watson 2022; McGregor 2021; Tsosie 2019).

This special issue builds on an earlier special issue in the *Journal of Law and Political Economy* on racial capitalism and law, particularly the lead article in that volume (Gonzalez and Mutua 2022), as well as a special issue of the *Wisconsin International Law Journal* based on a workshop organized by the Global Legal Studies Center at the University of Wisconsin Law School. The contributors to this special issue draw on these and many other sources to illuminate the relationship between climate change, racial capitalism, and law—both international and domestic.

In her article "Climate Injustice, Racial Capitalism, and the Contradictions of Property," Julia Dehm examines the racialized dynamics of property in the context of climate change. Building on the former UN Special Rapporteur's observation that "the global ecological crisis is simultaneously a racial justice crisis" (Achiume 2022, para. 1), she explores, first, the failure of the international climate regime to contest unjust appropriation of the atmosphere by industrialized countries through historical greenhouse gas emissions; second, she discusses the limitations of the "no harm" rule to provide compensation for the racialized harms caused by climate change; and finally, she analyzes how, despite the recognition of the urgent need to phase out fossil fuels, international investment law is enabling fossil fuel companies to seek compensation if climate mitigation measures impact their investment. Focusing on a key building block of the regime of racial capitalist ecological destruction, namely property rights, which enable "things" to become "assets," the examples in her article underscore how the legal protection of property is preventing just and effective climate responses, and how property regimes work to continually reproduce racial differences and racial inequality. Moreover, noting how property rights have shaped—and also constrained—existing international legal responses to the

climate crisis, she stresses that understanding the racialized construction of property is crucial for engaging and contesting climate change and fossil fuel capital.

Sheila Foster explores the link between historic patterns of racially discriminatory land practices, climate risk vulnerability, and climate mobility patterns in her article titled "Racialized Landscapes and Climate Adaptation Economies." Drawing insights from the literature on racial capitalism and using Miami, Florida, as a case study emblematic of the risks faced by coastal cities around the world due to climate change, she examines how the city's racial history influences its climate adaptation economy. She posits that as climate impacts and adaptive responses play out across Miami's physical environment, they directly interact with the ways in which racial capitalism has been embedded in the city. For example, the movement of affluent residents to higher-elevation lands to escape rising sea levels drives up property values and displaces residents in historically Black Liberty City and Little Haiti. In order to understand the factors driving "climate gentrification" and the differential impacts of other adaptation practices and policies, she argues that it is essential to understand how racialized landscapes in American cities like Miami interact with climate adaptation dynamics and economies. She concludes with a call to focus adaptation policies on "just adaptation economies" that empower marginalized communities by providing them control over resources for sustainable infrastructure, including affordable housing, and workforce development. She cites the example of the City of Providence, Rhode Island, which has established "climate justice zones" that center equity and justice while explicitly addressing historically entrenched racialized land and property systems, to show how just adaptation economies are beginning to take root.

In her article "Racializing Nature and Naturalizing Race: Intertwined Harms in International Law," Usha Natarajan argues that how people treat each other and how they treat the environment are intertwined. Highlighting five centuries of colonialism, genocide, slavery, apartheid, and racial discrimination that have produced climate change, mass extinction, desertification, deforestation, and a polluted environment, she notes that the West has used international law to institutionalize and normalize lack of accountability for racism and environmental destruction it has caused. Arguing that international law's inability to stem ecological decline is inseparable from its inherent racism, she explores five legal techniques—comparison, objectification, exploitation, taming, and extermination—to illustrate the link between racism and environmental destruction. Situating her article within the TWAIL movement and building on it, she argues that another international legal regime is possible where diverse legal traditions participate in structuring more sustainable and equitable global relations on their own terms. Such a transformation, she maintains, requires understanding the links between and consolidating solidarity between antiracist and environmentalist spaces of law and policymaking, scholarship, and activism, as well as the ability to decenter Western legal traditions and worldviews.

In her article "Human Rights Risks in Clean Energy Supply Chains: Racial Capitalism, Critical Minerals, and Corporate Responsibility," Erika George examines the link between racial capitalism and critical minerals in light of the international community's commitment to green energy technologies to mitigate climate change. She points out that, while clean energy is essential to address the challenge of climate change, and to achieve other UN Sustainable Development Goals including reduction of inequalities and promotion of healthy lives, not all clean energy projects respect human rights. With the high demand for critical minerals, the article shows how lithium extraction is displacing Indigenous peoples, depleting water resources, destroying biodiversity, and causing ecological risks in Argentina, Bolivia, and Chile. Yet mining in fragile arid ecosystems in these countries continues unabated. As investments in renewable energy and interest in clean technology

increase, she points out, there is growing pressure to obtain the critical rare earth minerals, such as cobalt, lithium, copper, and nickel, necessary to manufacture the technologies needed to meet global climate goals more rapidly. She highlights the adverse human rights impacts of decarbonization strategies with a case study of Chile, which has the world's most "economically extractable" lithium. Adopting a racial capitalism lens to activities of the extractive sector, she posits that protective provisions informed by international human rights law and global policy standards can be helpful tools to ensure that the rights of racialized communities are not ignored in the global rush to decarbonize. This article is an excellent example of the way climate mitigation projects are replicating the injustices created by the fossil fuel economy. It highlights how the "Triple E" framework of racial capitalism—exploitation, expropriation, and expulsion—continues to play out today.

The articles published in this special issue examine the histories and contemporary manifestations of racial capitalism and the ways that climate adaptation and mitigation policies threaten to reinforce racialized injustices. However, the articles also offer hope. The example of the city of Providence, Rhode Island, which has established "climate justice zones" that center equity and justice while reckoning with the racialized past, is a case in point. By forging alliances among social movements and centering the diverse legal traditions that were hitherto ignored, a new international law is possible. However, as Achiume succinctly points out, "there can be no meaningful mitigation or resolution of the global ecological crisis without specific action to address systemic racism, in particular the historic and contemporary racial legacies of colonialism and slavery" (Achiume 2022, 2). The climate crisis cannot be solved without addressing its systemic root causes. We hope that the articles published in this special issue will spark additional research on the intersection of climate change, racial capitalism, and law.

REFERENCES

Abate, Randall S., and Elizabeth Kronk. 2013. "Commonality Among Unique Indigenous Communities: An Introduction to Climate Change and Its Impacts on Indigenous Peoples." In *Climate Change and Indigenous Peoples: The Search for Legal Remedies*, edited by Randall S. Abate and Elizabeth Kronk, 3. Edward Elgar.

Achiume, E. Tendayi. 2022. *Report of the Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance: Ecological Crisis, Climate Justice and Racial Justice*. UN Doc. A/77/549, October 25. https://docs.un.org/en/A/77/549.

Amin, Samir. 1974. *Accumulation on a World Scale: A Critique of Theories of Underdevelopment*. Monthly Review Press.

Anghie, Antony. 2004. *Imperialism, Sovereignty and the Making of International Law*. Cambridge University Press.

Anghie, Antony. 2023. "Rethinking International Law: A TWAIL Retrospective." 34 *European Journal of International Law* 7. https://doi.org/10.1093/ejil/chad005.

Anghie, Antony, and B. S. Chimni. 2004. "Third World Approaches to International Law and Individual Responsibility in Internal Conflict." 2 *Chinese Journal of International Law* 77.

Anghie, Antony, B. S. Chimni, Michael Fakhri, Karin Mickelson, and Vasuki Nesiah, eds. 2025. *Research Handbook on Third World Approaches to International Law*. Edward Elgar.

Atapattu, Sumudu. 2018. "A New Category of Refugees? 'Climate Refugees' and a Gaping Hole in International Law." In *'Climate Refugees': Beyond the Legal Impasse?*, edited by Simon Behrman and Avidan Kent, 34. Routledge.

Atapattu, Sumudu, and Carmen G. Gonzalez. 2025. "Climate Change." In *Research Handbook on Third World Approaches to International Law*, edited by Antony Anghie, B. S. Chimni, Michael Fakhri, Karin Mickelson, and Vasuki Nesiah, 609. Edward Elgar.

Baptist, Edward E. 2014. *The Half Has Never Been Told: Slavery and the Making of American Capitalism*. Basic Books.

Battistoni, Alyssa. 2025. *Capitalism and the Politics of Nature*. Princeton University Press.

Beckert, Sven. 2014. *Empire of Cotton: A Global History*. Knopf.

Bell, Karen. 2015. "Can the Capitalist Economic System Deliver Environmental Justice?" 10 *Environmental Research Letters* 125017. https://doi.org/10.1088/1748-9326/10/12/125017.

Bhandar, Brenna. 2018. *Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership*. Duke University Press.

Bonneuil, Christophe, and Jean-Baptiste Fressoz. 2016. *The Shock of the Anthropocene: The Earth, History, and Us*. Translated by David Fernbach. Verso Books.

Boyd, David. 2023. *Paying Polluters: The Catastrophic Consequences of Investor-State Dispute Settlement for Climate and Environment Action and Human Rights*. UN Doc. A/78/168, July 13. https://docs.un.org/en/A/78/168.

Chimni, B. S. 2017. *International Law and World Order: A Critique of Contemporary Approaches*. 2nd ed. Cambridge University Press.

Cohen, Patricia. 2024. "Africa's Debt Crisis Has 'Catastrophic Implications' for the World." *New York Times*, August 28. https://www.nytimes.com/2024/08/28/business/african-debt-crisis.html.

Cole, Luke W., and Sheila R. Foster. 2000. *From the Ground Up: Environmental Racism and the Rise of the Environmental Justice Movement*. New York University Press.

Dehm, Julia. 2021. *Reconsidering REDD+: Authority, Power and Law in the Green Economy*. Cambridge University Press.

Elsheikh, Elsadig, and Hossein Ayazi. 2017. *Moving Targets: An Analysis of Global Forced Migration*. Haas Institute for a Fair and Inclusive Society. September. https://belonging.berkeley.edu/sites/default/files/haasinstitute_moving_targets_globalmigrationreport_publish_web.pdf?file=1&force=1.

Escobar, Arturo. 2011. *Encountering Development: The Making and Unmaking of the Third World*. 2nd ed. Princeton University Press.

Faber, Daniel. 2008. *Capitalizing on Environmental Injustice: The Polluter-Industrial Complex in the Age of Globalization*. Rowman & Littlefield.

Finn, Kathleen, and Christina A. W. Stanton. 2022. "The (Un)just Use of Transition Minerals: How Efforts to Achieve a Low-Carbon Economy Continue to Violate Indigenous Rights." 33 *Colorado Environmental Law Journal* 341. https://scholar.law.colorado.edu/faculty-articles/1574.

Fraser, Nancy. 2021. "Climates of Capital: For a Trans-Environmental Eco-Socialism." 127 *New Left Review* 94.

Fraser, Nancy. 2022. *Cannibal Capitalism: How Our System Is Devouring Democracy, Care, and the Planet—And What We Can Do About It*. Verso Books.

Gathii, James Thuo. 2022. "Sovereign Debt as a Mode of Colonial Governance: Past, Present, and Future Possibilities." Just Money. May 13. https://justmoney.org/james-thuo-gathii-sovereign-debt-as-a-mode-of-colonial-governance-past-present-and-future-possibilities/.

Gathii, James Thuo. 2024. "Financing Climate Change Through a Racial Capitalism Lens." 41 *Wisconsin International Law Journal* 521. https://doi.org/10.59015/wilj.mpjz4503.

Gonzalez, Carmen G. 2015. "Bridging the North-South Divide: International Environmental Law in the Anthropocene." 32 *Pace Environmental Law Review* 407. https://doi.org/10.58948/0738-6206.1765.

Gonzalez, Carmen G. 2020a. "Climate Change, Race, and Migration." 1 *Journal of Law and Political Economy* 109. https://doi.org/10.5070/LP61146501.

Gonzalez, Carmen G. 2020b. "Migration as Reparation: Climate Change and the Disruption of Borders." 66 *Loyola New Orleans Law Review* 401. https://dspace.loyno.edu/jspui/handle/123456789/172.

Gonzalez, Carmen G. 2021a. "Racial Capitalism, Climate Justice, and Climate Displacement." 11 *Oñati Socio-Legal Series* 108. https://doi.org/10.35295/osls.iisl/0000-0000-0000-1137.

Gonzalez, Carmen G. 2021b. "The Sacrifice Zones of Carbon Capitalism: Race, Expendability, and Loss and Damage." In *Research Handbook on Climate Change Law and Loss and Damage*, edited by Meinhard Doelle and Sara L. Seck, 43. Edward Elgar.

Gonzalez, Carmen G. 2024. "Racial Capitalism, Climate Change, and Ecocide." 41 *Wisconsin International Law Journal* 479. https://doi.org/10.59015/wilj.VCPQ4704.

Gonzalez, Carmen G., and Athena Mutua. 2022. "Mapping Racial Capitalism: Implications for Law." 2 *Journal of Law and Political Economy* 127. https://doi.org/10.5070/LP62258224.

Gordon, Ruth E., and Jon H. Sylvester. 2004. "Deconstructing Development." 22 *Wisconsin International Law Journal* 1. https://repository.law.wisc.edu/s/uwlaw/item/29042.

Gunder Frank, Andre. 1967. *Capitalism and Underdevelopment in Latin America: Historical Studies of Chile and Brazil*. Monthly Review Press.

Harvey, David. 2004. "The 'New' Imperialism: Accumulation by Dispossession." 40 *Socialist Register* 63. https://socialistregister.com/index.php/srv/article/view/5811.

Healy, Noel, Jennie C. Stephens, and Stephanie A. Malin. 2019. "Embodied Energy Injustices: Unveiling and Politicizing the Transboundary Harms of Fossil Fuel Extractivism and Fossil Fuel Supply Chains." 48 *Energy Research & Social Science* 219. https://doi.org/10.1016/j.erss.2018.09.016.

Hickel, Jason. 2017. *The Divide: A Brief Guide to Global Inequality and Its Solutions*. Heinemann.

Hickel, Jason. 2020. "Quantifying National Responsibility for Climate Breakdown: An Equality-Based Attribution Approach for Carbon Dioxide Emissions in Excess of the Planetary Boundary." 4 *Lancet Planet Health* e399. https://doi.org/10.1016/S2542-5196(20)30196-0.

Inman, Mason. 2008. "Carbon Is Forever." 2 *Nature Reports Climate Change* 156. https://doi.org/10.1016/j.jeem.2018.09.002.

IPCC (Intergovernmental Panel on Climate Change). 2022. *Climate Change 2022: Impacts, Adaptation and Vulnerability: Summary for Policymakers*. https://ipcc.ch/report/ar6/wg2/chapter/summary-for-policymakers/.

Klare, Michael R. 2004. *Blood and Oil: The Dangers and Consequences of America's Growing Dependency on Imported Petroleum*. Henry Holt.

Knox, Robert. 2016. "Valuing Race? Stretched Marxism and the Logic of Imperialism." 4 *London Review of International Law* 81.

Knox, Robert. 2023. "International Law, Race, and Capitalism: A Marxist Perspective." 117 *AJIL Unbound* 55. https://doi.org/10.1017/aju.2023.5.

Knox, Robert, and Ashok Kumar. 2023. "Reexamining Race and Capitalism in the Marxist Tradition—Editorial Introduction." 31 *Historical Materialism* 25. https://brill.com/view/journals/hima/31/2/article-p25_2.xml.

Knox, Robert, and David Whyte. 2025. "Law's Quick Fix? Ecocide, Social Transformation and the Pitfalls of Criminalisation." *Environmental Politics*, April, 1. https://doi.org/10.1080/09644016.2025.2492443.

Koshy, Susan, Lisa Marie Cacho, Jodi A. Byrd, and Brian Jordan Jefferson. 2022. "Introduction." In *Colonial Racial Capitalism*, edited by Susan Koshy, Lisa Marie Cacho, Jodi A. Byrd, and Brian Jordan Jefferson, 1. Duke University Press.

Kronk Warner, Elizabeth Ann. 2015. "South of South: Examining the International Climate Regime from an Indigenous Perspective." In *International Environmental Law and the Global South*, edited by Shawkat Alam, Sumudu Atapattu, Carmen G. Gonzalez, and Jona Razzaque, 451. Cambridge University Press.

Kundnani, Arun. 2020. "What Is Racial Capitalism?" Arun Kundnani on Race, Culture, and Empire. October 23. https://kundnani.org/what-is-racial-capitalism/.

Lerner, Stephen. 2010. *Sacrifice Zones: The Front Lines of Toxic Chemical Exposure in the United States.* MIT Press.

Levenson, Zachary, and Marcel Paret. 2023. "The South African Tradition of Racial Capitalism." 46 *Ethnic and Racial Studies* 3403. https://doi.org/10.1080/01419870.2023.2219300.

Linarelli, John, Margot E. Salomon, and M. Sornarajah. 2018. *The Misery of International Law: Confrontations with Injustice in the Global Economy.* Oxford University Press.

McGregor, Deborah. 2021. "Indigenous Environmental Justice and Sustainability." In *Cambridge Handbook of Environmental Justice and Sustainable Development*, edited by Sumudu Atapattu, Carmen G. Gonzalez, and Sara L. Seck, 58. Cambridge University Press.

Merchant, Carolyn. 1990. *The Death of Nature: Women, Ecology, and the Scientific Revolution.* Rev. ed. HarperOne.

Mickelson, Karin. 2009. "Beyond a Politics of the Possible: South-North Relations and Climate Justice." 10 *Melbourne Journal of International Law* 411. https://commons.allard.ubc.ca/fac_pubs/229.

Miles, Kate. 2013. *The Origins of International Investment Law: Empire, Environment, and the Safeguarding of Capital.* Cambridge University Press.

Mills, Charles W. 2003. *From Class to Race: Essays in White Marxism and Black Radicalism.* Rowman & Littlefield.

Moore, Donald S., Jake Kosek, and Anand Pandian. 2003. "Introduction: The Cultural Politics of Race and Nature." In *Race, Nature, and the Politics of Difference*, edited by Donald S. Moore, Jake Kosek, and Anand Pandian, 1. Duke University Press.

Moore, Jason W. 2015. *Capitalism in the Web of Life: Ecology and the Accumulation of Capital.* Verso Books.

Moore, Jason W. 2016. "The Rise of Cheap Nature." In *Anthropocene or Capitalocene? Nature, History, and the Crisis of Capitalism*, edited by Jason W. Moore, 78. PM Press.

Mutua, Makau. 2001. "Savages, Victims, and Saviors: The Metaphor of Human Rights." 42 *Harvard International Law Journal* 201. https://digitalcommons.law.buffalo.edu/book_sections/216.

Natarajan, Usha. 2022. "Who Do We Think We Are? Human Rights in a Time of Ecological Change." In *Locating Nature: Making and Unmaking International Law*, edited by Usha Natarajan and Julia Dehm, 200. Cambridge University Press.

Natarajan, Usha. 2024. "Climate Justice and the Right to Solidarity." In *Research Handbook on International Solidarity and the Law*, edited by Cecilia Bailliet, 241. Edward Elgar.

Natarajan, Usha, and Julia Dehm, eds. 2022. *Locating Nature: Making and Unmaking International Law*. Cambridge University Press.

Natarajan, Usha, and Kishan Khoday. 2014. "Locating Nature: Making and Unmaking International Law." 27 *Leiden Journal of International Law* 573.

Nichols, Robert. 2019. *Theft is Property! Dispossession and Critical Theory*. Duke University Press.

Nixon, Rob. 2011. *Slow Violence and the Environmentalism of the Poor*. Harvard University Press.

Oxfam. 2025. *Takers, Not Makers: The Unjust Poverty and Unearned Wealth of Colonialism*. https://www.oxfamamerica.org/explore/research-publications/takers-not-makers.

Park, K-Sue. 2024. "Property and Sovereignty in America: A History of Title Registries and Jurisdictional Power." 133 *Yale Law Journal* 1487. https://yalelawjournal.org/article/property-and-sovereignty-in-america-a-history-of-title-registries-jurisdictional-power.

Perry, Keston K., and Leon Sealey-Huggins. 2023. "Racial Capitalism and Climate Justice: White Redemptive Power and the Uneven Geographies of Eco-Imperial Crisis." 145 *Geoforum* 103772.

Plumwood, Val. 1993. *Feminism and the Mastery of Nature*. Routledge.

Ponting, Clive. 2007. *A New Green History of the World: The Environment and the Collapse of Great Civilizations*. Penguin Books.

Quijano, Aníbal. 2000. "Coloniality of Power, Eurocentrism, and Latin America." 1 *Nepantla: Views from South* 533.

Ramanujam, Archana. 2023. "Climate Scholarship Needs Du Bois: Climate Crisis Through the Lens of Racial and Colonial Capitalism." 93 *Sociological Inquiry* 273.

Riley Case, Sarah. 2023. "Looking to the Horizon: The Meanings of Reparations for Unbearable Crises." 117 *AJIL Unbound* 49. https://doi.org/10.1017/aju.2023.4.

Rist, Gilbert. 2014. *The History of Development: From Western Origins to Global Faith*. 4th ed. Zed Books.

Robinson, Cedric. (1983) 2000. *Black Marxism: The Making of the Black Radical Tradition*. University of North Carolina Press.

Rodney, Walter. 1972. *How Europe Underdeveloped Africa*. Bogle-L'Ouverture Press.

Sassen, Saskia. 2014. *Expulsions: Brutality and Complexity in the Global Economy*. Harvard University Press.

Schneider, Keith. 1988. "Dying Nuclear Plants Give Birth to New Problems." *New York Times*, October 31. https://www.nytimes.com/1988/10/31/us/dying-nuclear-plants-give-birth-to-new-problems.html.

Sealey-Huggins, Leon. 2017. "'1.5˚ to Stay Alive': Climate Change, Imperialism, and Justice for the Caribbean." 38 *Third World Quarterly* 2444. https://doi.org/10.1080/01436597.2017.1368013.

Táíwò, Olúfémi O. 2022. *Reconsidering Reparations*. Oxford University Press.

Tsosie, Rebecca A. 2019. "Indigenous Sustainability and Resilience to Climate Extremes: Traditional Knowledge and Systems of Survival." 51 *Connecticut Law Review* 1009. https://digitalcommons.lib.uconn.edu/law_review/407.

Tzouvala, Ntina. 2020. *Capitalism as Civilisation: A History of International Law*. Cambridge University Press.

Walia, Harsha. 2021. *Border and Rule: Global Migration, Capitalism, and the Rise of Racist Nationalism*. Haymarket Books.

Watson, Irene. 2022. "Inter-National Relationships and the Natural World as Relation." In *Locating Nature: Making and Unmaking International Law*, edited by Usha Natarajan and Julia Dehm, 354. Cambridge University Press.

Williams, Eric. (1944) 2018. *Capitalism and Slavery*. Franklin Classics.

Yates, Michelle. 2011. "The Human-as-Waste, the Labor Theory of Value and Disposability in Contemporary Capitalism." 43 *Antipode* 1679.

Zografos, Christos, and Paul Robbins. 2020. "Green Sacrifice Zones, or Why a Green New Deal Cannot Ignore the Cost Shifts of Just Transitions." 3 *One Earth* 543. https://doi.org/10.1016/j.oneear.2020.10.012.