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Human Rights Risks in Clean Energy Supply Chains: Racial Capitalism, Critical Minerals, and Corporate Responsibility

Abstract: This paper argues that decarbonization will fail to deliver climate justice unless the transition to clean energy confronts the racialized political economy that has historically structured extractive activity and shaped international economic law. Grounding its analysis in racial capitalism, the paper contends that the growing demand for critical minerals risks reproducing patterns of exploitation, expropriation, and expulsion. Using lithium extraction in Chile as a case study, it shows how colonial legacies, dictator-era neoliberal reforms, and present-day regulatory architectures governing foreign investment and natural resource extraction have prioritized investors over human rights and the environment. Recent decisions of the International Court of Justice and the Inter-American Court of Human Rights on climate change provide a normative counterweight to international investment law and potentially a pathway for inclusive and transformative reforms. By foregrounding racial equity, the clean energy transition can avoid replicating the distributive injustices of the fossil fuel era.

Keywords: critical minerals, extractives, racial capitalism, business and human rights, just transition, international investment law, Chile

> *States have obligations under international human rights law to respect and ensure the effective enjoyment of human rights by taking necessary measures to protect the climate system and other parts of the environment.*
>
> —International Court of Justice Advisory Opinion, Obligations of States in Respect of Climate Change

* Ernest Haddad Faculty Scholar, Boston University School of Law, Boston University, USA. Please direct correspondence to prof.erika.george@gmail.com. I wish to thank the anonymous reviewers at the *Journal of Law and Political Economy* for constructive comments on earlier versions of this paper. I extend my appreciation to Carmen Gonzalez, Sumudu Atapattu, Aziza Ahmed, Sebastián Mantilla Blanco, Enrique Prieto-Rios, and Tara Van Ho for helpful conversations and comments. I acknowledge Enrique Martinez, J. Adam Snow, Caitlin E. Imhoff, Madelynn Woolf, Hannah Taub, Sarah Eastland, Alexis Luckett, Oumieratou Sowe, Solomon Hayes, Tyler Roderick, Stefanie Weigmann, and Aaron Black for their excellent research assistance. Earlier iterations of these ideas were presented at the Climate Justice and Racial Capitalism Workshop hosted by University of Wisconsin Law School and at the annual meeting of the Law and Society Association. All errors are my own.

The reality of living in a cleaner, greener world is that we still need to get our hands dirty through mining activities.

—Mutuso Dhliwayo, Executive Director, Zimbabwe Environmental Law Association

Race, for us, is like the miner's canary.

—Lani Guinier and Gerald Torres

I. Introduction

The international community has committed to mitigate climate change by investing in green energy technologies. The Paris Agreement and the United Nations Sustainable Development Goals have inspired action to avert a climate crisis on the part of states as well as among a broad range of community stakeholders. In July 2025, the International Court of Justice reaffirmed that states have binding obligations under international law to ensure the protection of the climate system and other parts of the environment.

Not only will accessible and affordable clean energy be essential to addressing the challenge of climate change, but cleaner energy could also help the international community succeed in achieving other goals in the UN Sustainable Development Goals including reduction of inequalities and promotion of healthy lives. A rapid reduction in global reliance on fossil fuels will be essential to avoid the worst impacts of climate change. The worst impacts will be disproportionately borne by people in places least equipped to mitigate expected losses and damage. As investment in renewable energy accelerates and interest in clean technology intensifies, there is growing pressure to obtain the critical rare earth minerals necessary to manufacture the technologies needed to meet global climate goals more rapidly.

However, not all clean energy is consistent with respect for human rights. Critical minerals including cobalt, lithium, copper, and nickel are in high demand and strategically significant for powering the global economy and consumer lifestyles in the Global North. Even though lithium extraction is displacing Indigenous peoples, depleting water resources, destroying biodiversity, and causing ecological risks, mining in fragile arid ecosystems continues largely unabated in parts of Argentina, Bolivia, and Chile (Voskoboynik and Andreucci 2022). Indeed, extraction is likely to increase to meet growing demand (World Bank 2025).

Historically, mineral extraction has often contributed to adverse human rights impacts including displacement, dangerous labor conditions, and environmental degradation with negative consequences for the health and well-being of people in the surrounding communities living near mine sites. Many countries in the Global South that are rich in the critical minerals needed to decarbonize the global economy have colonial legacies of racialized extraction (Dal Pra 2022; Finn and Cobbinah 2025; Kataria 2024; Lester 2023). Exploitation and expropriation of the lands of peoples racialized as inferior generated profits first for colonial powers and later for global corporations (Nkrumah 1966, 29). Unless the risks to human rights presented by racial capitalism are assessed and addressed in the laws, policies, and practices that will shape the green economy, the risk of replicating

the types of human rights abuses traditionally associated with the fossil fuel economy will remain high. The transition to a carbon-neutral economy must incorporate the responsibility to respect human rights.

Taking the extraction of a critical rare earth mineral in Chile, holder of the world's most "economically extractable" lithium (USGS 2025), as a point of departure, this paper offers an overview of how the logic of racial capitalism operates in the context of extractive industries that are central to decarbonization strategies. The paper reviews relevant domestic laws and regulations with reference to selected global policy standards on responsible corporate conduct to demonstrate how the logic of racial capitalism is replicated in legal reforms and continues to constrain efforts to protect the rights of racialized communities and the environment. It considers what types of protective provisions to govern critical minerals extraction consistent with the promise of universal human rights could be included in corporate policies and practices and in proposed legislative and regulatory reforms. It also explains how courts have approached risks to human rights and the environment in the context of climate change. In conclusion, it identifies ways to reduce racialized hierarchies in the distribution of benefits and burdens that will accompany the transition to a cleaner global economy to advance a transformative transition.

This paper proceeds in five parts. Part II provides a brief overview of the political and economic history of Chile and offers a critical examination of the evolution of select Chilean laws and policies that regulate mining. It also explains how the country's effort to expand extractive activities risks replicating the logics of racial capitalism. Next, Part III situates the climate crisis as rooted in racial capitalism—a system that uses racial hierarchy and stratification to justify exploitation and enable "extractivism."[2] Part IV discusses the increased demand for critical minerals, the documented risks to human rights associated with mining supply chains, and the way in which the structure of international economic law can serve to impede efforts to protect human rights and the environment. Part V shows how Chilean courts have protected space for public consultation and how legal actions that Indigenous rights groups bring, calling for environmental laws to be enforced, are providing a foundation for protecting the human right to a clean environment. It also summarizes Chile's international legal obligations as well as the responsibilities that investors and industry sector actors have to respect human rights. In conclusion, the paper argues that viewing extractive sector activities through the lens of racial capitalism can be revealing and that protective provisions informed by international human rights instruments and global policy standards can be helpful tools to ensure that the rights of racialized affected communities and concerned stakeholders are not ignored in the world's rush to decarbonize.

II. Racial Capitalism, Resource Extraction, and Regulatory Reform

Chile provides an interesting example through which to analyze how the logic of racial capitalism constrains transformative regulatory reform efforts. The disproportionate natural resource wealth of South America including the mineral reserves of the "Lithium Triangle," as well as the political and economic history from colonial conquest to the imposition of laissez-faire capitalism, combined with the growing demand for critical minerals globally, makes Chile an important case study for understanding obstacles to progress and opportunities for positive change. Moreover, the country is vulnerable to the impacts of climate change (Bury and Bebbington 2013). Chile will confront droughts,

[2] Achiume (2019, para. 7) (defining the term "extractive economy" as "the industries, actors and financial flows . . . the economic, material and social processes and outputs, associated with the globalized extraction of natural resources").

desertification, wildfires, heat waves, extreme weather events, and costal erosion more frequently as the climate changes (Tigre 2024).

This part explores how Chilean extractive sector governance plays out between the state, global business enterprises, and civil society stakeholders. Specifically, the way that mining operations impact Indigenous communities living in lithium-rich regions will be examined in historical context to illuminate present challenges and to illustrate the utility of viewing challenges through the lens of racial capitalism.

A. Context: A Short Political History of Conquest, Colonialism, and Capitalism in Chile

Before considering Chilean mining regulations and human rights risks related to extractive activities in the country's lithium-rich regions, it is important to understand the country's history, its unique geology, and the political and economic context in which the rules currently governing resource extraction were crafted. The exploitation of natural resources has been central to Chile's political economy as well as its social life historically (Louder 2024, 17). An in-depth presentation of Chilean history is beyond the scope of this paper; however, the following summarizes key past political and economic developments that shape present sociolegal challenges.

1. Geography and Economy

The geographic location and unique weather pattern of Chile's Atacama Desert make it one of the world's most ideal sites for mining (Louder 2024). Due to the Atacama's sun exposure, evaporation, and lack of precipitation, minerals are concentrated near the surface of the land (ibid. at 17). Located between the Andes Mountains and the Pacific Ocean coast in northern Chile, the Atacama comprises salt flats and contains minerals essential to the green economy, including lithium and copper (17). There is a long history of mining in the region. Both Indigenous peoples and Spanish colonists mined copper in the Atacama Desert, but the scale of mining increased in the early twentieth century with the introduction of industrial technologies (18). When the North American industrialists acquired the Chuquicamata mining claim in 1912, intensive large-scale copper mining was set in motion (18).

2. Conquest, Colonization, and Independence

Spanish colonists learned about the riches in the lands south of the Atacama Desert from the Inca Empire. The Incas received gold tributes from peoples living in the south who later came to be called Araucanian (Faron 1960, 239). The Spanish conquest of present-day Chile is reported to have started in 1541 when Pedro de Valdivia declared the founding of Santiago (Feliko 1921, 9). A successful uprising of the Indigenous Araucanians led to the capture and killing of Valdivia in 1553 (ibid.).

Ultimately, Spanish conquest converted much of the Indigenous population into a rural or urban proletariat (Faron 1960, 240). The Atacameño people lived in the Atacama region until Spanish colonization decimated most of the population and destroyed much of their culture. Survivors of Spain's atrocities were assimilated into the Aymara population. Today Indigenous inhabitants of the Atacama Desert sustain their communities through small-scale farming, herding, and working for the mining companies that now shape the ecology, economics, and politics of the region (Carrasco 2011, 12; J. Jackson 2009; McCarty et al. 2009).

Louis C. Faron describes Spanish colonial policy as "an absolute, rigid administrative and exploitative system, in which almost no allowance was made for social and cultural-ecological diversity" (Faron 1960, 240). Colonial policy in Chile was influenced by the medieval laws and theocratic doctrines developed in Spain to manage the Moorish population (ibid. at 241). Racial hierarchy was accepted and used to administer the territory conquered by the Spanish.

Europeans extracted raw materials from colonized regions to pay for sustaining military conflicts (Gathii 2010). The Spanish crown grew heavily economically dependent on South American resources to fund wars (Elliot 2002). Chile first declared its independence from Spain in 1810 following the Spanish king's fall to Napoleon. The Spanish regained control of Chile in 1814 but lost control after losing battles to the Army of the Andes led by Jose de San Martin and Bernardo O'Higgins in 1817. O'Higgins served as the leader of the newly independent Chile until his forced resignation in 1823. Independence from Spain did not mean liberation and freedom for the Indigenous peoples of the region.

Through the "Pacification of Araucanians," or the "Occupation of the Araucanía," a conflict that spanned two decades (1861–1883), Chile expanded its territory to the south (Anglophone Chile, n.d.). The Chilean government viewed Indigenous lands as a new frontier to be "pacified" and "civilized" (Beuter 2020). The government provided incentives to encourage European immigration to Mapuche land in south-central Chile as the Chilean army systematically displaced the Indigenous inhabitants to pave the way for European immigration (Anglophone Chile, n.d.). In the War of the Pacific (1879–1884), Chile defeated Peru and Bolivia, expanding its territory in the north and gaining control over mineral deposits in the Atacama Desert and access to ports on the coast (Louder 2024, 17).

3. From Democracy to Dictatorship

After winning independence from Spain in 1818, and the establishment of the republic via constitutional convention in 1823, within a few decades Chile developed into one of Latin America's most stable democratic republics (Bethell 1993, 9). Despite the Enlightenment-era ideals that inspired the early years of postcolonial Chile, the country was dominated by an oligarchical economic and political order (ibid. at 369).

The "Parliamentary Republic" period (1891–1925) was marked by elite-controlled liberalism and economic dependence on nitrate exports (Brown 1963, 237). With control over the Atacama won from Peru and Bolivia, Chile gained a monopoly on the world supply of nitrate, a mineral used in the production of fertilizers and explosives (Adkins and Adkins 2025). Through World War I, Chile had almost a total global monopoly on nitrate exports from the Atacama Desert. The nitrate economy was facilitated by foreign-owned capital and investment firms, most notably those owned by the British government (Brown 1963, 242). Between 1900 and 1905 the number of working nitrate factories in Chile, specifically in the Atacama region, went from sixty-six to 113 (ibid. at 242). Over time new methods of extracting nitrate allowed other countries to produce the mineral, and Chile's overreliance on nitrates and fluctuating prices caused severe socioeconomic problems (Stanton 1997). Copper replaced nitrate as Chile's primary revenue source. Companies based in the United States would dominate copper mining until the industry was nationalized in 1970 (Carrasco 2011; Collier and Sater 1996).

Between 1920 and 1924, the Chilean government struggled to respond to social unrest and calls for economic reform. While Chile remained relatively stable, the next several decades saw increased labor unrest, and populist pressures from growing working-class movements led to the rise of leftist and centrist parties by the mid twentieth century (Valenzuela 1995, 14). The 1925 constitutional reformation failed to reconcile rising social demands by civilians with entrenched elite interests (ibid. at 14). By the 1960s, land reform and copper nationalization were central political issues, culminating in a left-leaning consensus that set the stage for Salvador Allende's election in 1970.

Before the 1973 military coup led by General Augusto Pinochet ended the democratically elected government of Salvador Allende, Chile was in the process of instituting legal and economic reforms (Valenzuela 1995). Salvador Allende, a Marxist and head of the Chilean Socialist Party, was elected president in 1970 as the leader of the Popular Unity Coalition (Navia and Osorio 2017, 775). Allende won the election with a 36.3 percent plurality (ibid. at 771). His government represented the first attempt to build socialism through democratic means rather than through an armed revolution. Allende sought to address deep social inequalities through redistributive economic policy (771).

In his first year in office Allende fully nationalized the copper industry, which was signed into law by the Congress, and the anniversary was named the "National Day of Dignity" (Collier and Sater 1996, 334). His government also pursued massive agrarian reform and expanded education, housing, and health programs (ibid. at 334). However, these policies polarized the country, with the right-wing opposition, US interests, and segments of the military perceiving the new government as a threat to private property and national stability. Perhaps more importantly for the fate of Allende's government and his supporters, a socialist government in Chile was seen by capitalists as a threat to the over $1 billion that US corporations had invested in Chile.[3]

Allende's government sought to institute reforms to address inequalities through redistributive economic policies. The Allende administration expanded education, housing, and health programs, instituted agrarian reforms, and nationalized important industries, notably mining (Navia and Osorio 2017, 789). Alarmed by these actions, the United States government began to back Allende's domestic right-wing opposition. Under President Richard Nixon and his Secretary of State Henry Kissinger, the US provided clandestine support to opposition groups and media outlets as part of a broader Cold War campaign to prevent the creation of a successful Marxist government.

Between 1970 and 1973 the Chilean economy continued to lag, inflation increased, productivity decreased, and consumer goods became scarce because of US-sponsored political sabotage and capital flight. However, "[d]espite the difficult economic conditions under Allende, partially resulting from the destabilisation strategy promoted by the right-wing opposition—and by US government covert operations—support for Allende remained strong among the groups that initially voted for him" (Navia and Osorio 2017, 789). The CIA[4] covertly supported attempts to assassinate key members of

[3] Staff Rep. of the Select Comm. to Study Gov't Operations with Respect to Intel. Activities (Church Comm.), 94th Cong., *Covert Action in Chile, 1963–1973*, at 32 (1975), https://www.intelligence.senate.gov/wp-content/uploads/2024/08/sites-default-files-94chile.pdf.

[4] Staff Rep. of the Select Comm. to Study Gov't Operations with Respect to Intel. Activities (Church Comm.), 94th Cong., *Covert Action in Chile: 1963–1973*, at 2 (1975), https://www.intelligence.senate.gov/wp-content/uploads/2024/08/sites-default-files-94chile.pdf ("Half a decade later, in 1970, the CIA engaged in another special effort, this time at the express request of President Nixon and under the injunction not to inform the Departments of State or Defense or the Ambassador of the project. . . . The CIA attempted, directly, to foment a military coup in Chile. It passed three weapons to a group of Chilean officers who plotted a coup. Beginning with the kidnapping of Chilean Army Commander-in-Chief

the Allende administration (ibid. at 771). Still, in 1973 Allende was reelected to the presidency, receiving 44.1 percent of the national vote (791).

4. Fascism and Chicago School Capitalism

The military coup of September 11, 1973, led by General Augusto Pinochet and backed by the CIA, overthrew Allende and brought a brutal end to Chile's democratic experiment.[5] Allende died during the military's bombing of La Moneda Palace, the headquarters of the Chilean government's executive branch (Guardiola-Rivera 2013). General Pinochet ruled as a military dictator with the support of the US government until 1990 when a democratically elected president was inaugurated (CIA 2025).

Pinochet suspended Congress, banned political parties, and curtailed civil liberties like freedom of expression, movement, and protest (Doubek 2023). The regime carried out widespread human rights abuses, including the torture, execution, and forced disappearance of thousands of Chileans (Amnesty International 2008). Meanwhile, the military junta led by Pinochet consolidated power through a new constitution in 1980 that entrenched military influence and executive dominance and formally established the dictatorship (Couso 2011, 396). The regime's actions were initially framed as necessary to restore order, but international condemnation of its authoritarianism and brutality grew throughout the 1980s (Kandler 2022). During the decades of Pinochet's dictatorship thousands of people were murdered. Many of those disappeared during his military regime remain missing (Edwards 2023; Valdés 1995).

Pinochet entrusted economic policy to the "Chicago Boys," a group of Chilean economists trained at the University of Chicago under the guidance of Milton Friedman (Bohoslavsky 2021; Loveman 2001). The Chicago Boys implemented sweeping neoliberal reforms in Chile (Winter 2023). These reforms, designed to "shock" the economy into transition, included privatization of state enterprises, deregulation, and a shift to a market-driven pension system (Klein 2008). Though the regime was initially marked by deep recession and inequality, Chile experienced rapid growth by the late 1980s (called the "Chilean miracle"), becoming a model for neoliberal development in the region (Escalante 2022). However, the social costs were high: Inequality soared, labor unions and minimum wages were eliminated, and access to education and health care was privatized. Racialized Chileans fared far worse under these economic measures.

In 1988, Pinochet lost a national plebiscite on extending his presidency, paving the way for a negotiated democratic transition (Couso 2011). A series of center-left governments ruled from 1990 to 2010. They prioritized economic stability, truth and reconciliation processes, and incremental social reform. In this period macroeconomic growth remained stable, but no fundamental changes to the economic model were made, and some argue that few fundamental challenges were made to the existing neoliberal framework (ibid.).

Rene Schneider. However, those guns were returned. The group which staged the abortive kidnap of Schneider, which resulted in his death, apparently was not the same as the group which received CIA weapons.").

[5] Staff Rep. of the Select Comm. to Study Gov't Operations with Respect to Intel. Activities (Church Comm.), 94th Cong., *Covert Action in Chile, 1963–1973*, at 39 (1975), https://www.intelligence.senate.gov/wp-content/uploads/2024/08/sites-default-files-94chile.pdf.

5. The Pursuit of Justice and Restoration of Democracy

Transitional justice in Chile after the dictatorship has been slow and not fully satisfying for the Chilean population victimized by Pinochet's political and economic violence (Kornbluh 2004; Payne et al. 2021). The Rettig Commission established to investigate alleged abuses under Pinochet did document thousands of human rights violations but many perpetrators were never tried (USIP 1993). The government of Chile has officially recognized more than forty thousand victims of human rights abuses under the Pinochet regime (Rojas 2022, 11). Pinochet was arrested under an international warrant in London in 1998 but never stood trial (Amnesty International 2008).

Although democratic elections and institutions were restored, the 1980 Constitution remained largely intact and limited the scope of reform that was possible after the collapse of the Pinochet regime (Couso 2011). Nevertheless, beginning with Ricardo Lagos and continuing with Michelle Bachelet, the early twenty-first century saw leaders of center-left governments in Chile attempt to humanize neoliberalism by investing in social programs and expanding inclusion of marginalized groups. Bachelet created gender parity in her cabinet and supported Indigenous recognition, while social spending expanded in education and housing (Thomas 2016, 87; Franceschet 2006). She also set up a commission to examine the mining governance (Symington 2023, 82).

In response to public demands to address inequality, the Chilean Congress passed new legislation in 2020 reserving seventeen congressional seats (out of 115) for ten Indigenous representatives, reflecting their proportion of the country's total population (Ginsburg and Álvarez 2024, 185). In 2021, former student leader Gabriel Boric was elected president, vowing to draft a new socially focused constitution (*BBC News* 2021). While a 2022 progressive draft constitution was rejected, the movement for structural change continues (Ginsburg and Álvarez 2024, 182). Today, Chile is viewed as one of South America's most prosperous and stable countries (*BBC News* 2023).

B. Regulating Resource Extraction and Risks to Human Rights

1. Mineral Wealth and the Market for Minerals

Mining has been and remains a significant industry sector for the Chilean economy. Mining exports made up over 60 percent of the country's total exports in 2021 (Statista 2025). The mining sector made up 15 percent of Chile's GDP in 2021 (ibid.). Chile is the world's leading copper producer with 28 percent of global copper production and the world's second largest producer of lithium with 22 percent of global production. There are two strategically significant lithium brine extraction operations in the Salar de Atacama region of Chile. Mining processes in the Atacama use substantial amounts of water and threaten the availability of a resource fundamental to life (Babidge 2016).

2. Mining Laws and Regulations

Under the Chilean Constitution the government retains exclusive and absolute ownership of all mines.[6] Mining activities in Chile are regulated by the 1983 Mining Code (InvestChile and Ernst &

[6] Chile Const. art. 24 (1980). Article 24 states:

> The State has absolute, exclusive, inalienable and imprescriptible domain of all mines, including guano deposits [covaderas], metalliferous sands, salt mines, coal and hydrocarbon deposits and other fossil substances, with the

Young 2025, 35). The Mining Code reaffirms the government's authority over all mines, even those on private property. Mining concessions for private business enterprises are regulated by the 1982 Mining Concessions Law.[7] Mining Concessions Act No. 18,907.

Under Article I of the Mining Code, the state has "absolute, exclusive, inalienable and imprescriptible ownership of all mines." The state's primary role is as grantor/regulator, mining "easements" are intended to facilitate quick and easy extraction, and "every person" has the right to dig for minerals (arts. 14, 15). Pursuant to the 1983 Code, mining concessions were treated as independent of surface rights to land and easements "with the aim of facilitating convenient and comfortable mining exploration and exploitation" (art. 120). A person or community could live on the land, but a mining concern intent on exploration and exploitation could access the land to explore and to exploit resources discovered (Symington 2023, 82).

Different state agencies manage exploration depending on the location of the lithium deposit and have the authority to award exploration and exploitation contracts to private business enterprises and to set fixed extraction quotas. The Corporación de Fomento de la Producción, the Corporación del Cobre, and the Empresa Nacional de Minería are the main public entities overseeing private exploration of lithium extraction and hold rights to mining in the *salares* of northern Chile (Symington 2023). State-owned enterprises play a significant role in the extractive sector. For example, CORFO, the Chilean state entity, renegotiated its lithium contract with two lithium companies in recent years, exercising a significant amount of state-level influence (1983 Mining Code, art. 2).

The Chilean Mining Code (1983) and the Decree of Ministerio de Minería (1979) make lithium a matter of national security (InvestChile and Ernst & Young 2025, 35). Chilean law provides that no exploitation of lithium can be undertaken without prior permission from the country's nuclear energy commission and court approval granting authority to extract from a concession. Concessions for mines of "special status," such as lithium mines, cannot be granted without undergoing this process. Because lithium occupies a special status in Chilean mining law, all requests for concessions to mine lithium are subjected to more rigorous procedural review than those for other minerals (Symington 2023, 82).

3. The Lasting Legacy of the Pinochet Period and Human Rights Risks Related to Mining

Deregulation and privatization in postdictatorship Chile have continued to serve an extractive economy, with the export of natural resources driving economic growth (Symington 2023, 82). The

> exception of superficial clays, notwithstanding the property of natural or legal persons over the terrains in which they may be contained. Surface properties are subject to the obligations and limitations established by law to facilitate exploration, exploitation and processing of such mines.

[7] See also ICLG (2025); Resource Watch (2025).

> A mining concession refers generally to a formal agreement or right granted by a government to a company to explore for minerals and extract minerals from public lands usually granting exclusive access to an area for a set period. Resource Watch has compiled a dataset of mining concessions from different countries showing the location of public lands allocated by governments to mining corporations using data generated by Global Forest Watch and the World Resources Institute. (Resource Watch 2025)

Mining Code was enacted during the Pinochet regime and remained intact with limited changes until it was amended in 2022. The legal framework regulating mining introduced by Pinochet military dictatorship favored foreign business enterprises and facilitated extraction.

The Chilean Mining Code provides the underlying authority for a "classically extractivist" framework, with the state receiving revenues from mining operations. Even though Chile replicates a neoliberal legal framework, the country does secure significant revenue from the extractive operations of foreign business enterprises (Symington 2023, 82). Chile charges a mining royalty and imposes tax on operators, which current President Boric has recently increased (Garcia and Guiterrez 2023).

In the lithium resource-rich areas of Chile researchers have documented adverse human rights impacts affecting the right to water and the self-determination rights of Indigenous peoples, as well as procedural protections requiring community consultation and consent where natural resources are at issue (Symington 2023, 81). On paper, Chile's Indigenous Act protects Indigenous land from exploitation, but in practice it grants CONADI, the country's Indigenous affairs agency, the "power of encumbrance of Indigenous land"—provided it does not include homes or subsistence use. Based on her fieldwork studying renewable energy development in Chile's Atacama Desert, Elena Louder found that efforts to be more participatory notwithstanding, government policies continue to favor market mechanisms as the primary tool of governance. She argues that Chile allocates risks in ways that protect investments over people and predicts that injustices will continue to be perpetuated against Indigenous communities as the state seeks to be in strategic partnership with the private sector to advance policy goals of extraction under the cover of the climate crisis (Louder 2024, 208).

Andy Symington conducted an in-depth analysis of Chilean mining laws and concluded that the country's mining regulations still reflect "the colonial attitude of the continent's European conquest" (Symington 2023, 81). For example, the 1983 Code grants the right to dig for minerals on any land without landowner permission if the land is "unpopulated and uncultivated" (ibid.). Conceivably, should Indigenous landholders decide not to dig, the failure to exploit land could be grounds for becoming displaced by others intent on extracting natural resources. This is consistent with the logic of racial capitalism that expects land to be exploited and considers uses not obvious or profitable to be wasteful and to warrant removal of the people who live on the land.

4. Opportunities to Promote Progress and Obstacles

The Chilean government oversees the control of lithium extraction, with most surface mining rights held by state mining companies and foreign firms that are awarded concessions from the government to mine. Accordingly, were the government inclined to elect to exercise its influence in a manner aligned with respect for human rights, because it holds leverage over corporate interests it could mandate or incentivize responsible business conduct, including respect for the free, prior, informed consent rights of Indigenous communities and constructive engagements with other affected stakeholder communities. Chilean lithium policies now require business enterprises engaged in extraction to reserve a set percentage of production for lower-priced sale to support the growth of local initiatives. More recent Corporación de Fomento de la Producción agreements are being crafted to make sure that the Chilean state stands to benefit from lithium production. Whether these benefits will also flow to mining-affected communities is not clear.

A report commissioned by the government of former President Michelle Bachelet, who was the first woman to hold the Chilean presidency and who would later serve as the United Nations High Commissioner for Human Rights, was critical of the state's concession system, acknowledging the risks to the water supply related to certain types of extractive processes and failures to fulfill promises of community participation in the economic benefits derived from lithium extraction. The report recommended that the Corporación de Fomento de la Producción revise contract conditions to create a different relationship between extractive projects and affected stakeholder communities such that communities would have rights to receive benefits from the company's use of public land and water resources and would have the right to receive compensation for adverse impacts caused by a project (Symington 2023, 101). The Chilean Constitution guarantees the right to live in a contamination-free environment and establishes a state duty to protect and safeguard the environment. This resulted in the creation in 2010 of the Ministry of the Environment (SMA), which oversees the Environmental Impacts Evaluation System. Given these reform initiatives, Chile should be well positioned to regulate to ensure that businesses in the mining sector respect human rights.

III. Confronting Crisis: Climate Change and Racial Capitalism

Climate change—the long-term changes in the earth's climate, due to human activity, that are warming the oceans and the atmosphere—is causing more extreme weather events and altering the balance of ecosystems that sustain life (IPCC 2022a, 11). Unsustainable patterns of consumption and carbon-intensive economic development reliant on fossil fuels (oil, gas, coal) continue to make the earth's ecosystems and socioeconomic systems more vulnerable by generating more of the greenhouse gas (GHG) emissions that trap the sun's heat in the earth's atmosphere.[8] The Intergovernmental Panel on Climate Change (IPCC) projects that multiple potentially catastrophic hazards will occur simultaneously and will interact, resulting in greater risks of losses and damages that will spread across different regions of the world unless immediate action is taken to mitigate and manage climate change (IPCC 2022b, 4).

A. Climate Change

The international community through the United Nations Framework on Climate Change (UNFCCC) has agreed that all countries must stabilize GHG in the atmosphere at a level that would prevent anthropogenic harm to the climate system (NAZCA 2025). The UNFCCC acknowledges that countries vary in their contributions to climate change and that different countries have different obligations according to their contributions. In the Kyoto Protocol, a related subsequent instrument, the international community agreed to set quantified emissions limitations over specific time frames. Parties to the Paris Agreement, another UNFCCC related instrument, are required to establish a Nationally Determined Contribution (NDC) plan to reduce emissions and adapt to climate change. A country's NDC can balance other public policy priorities, such as the imperative of poverty alleviation, when setting targets.[9]

[8] Sustainability Directory (2025); EPA (2025). "Continued escalation of energy demand will hasten the impacts of climate change. . . . Climatically, rainfall anomalies and constricted seasonal flows of snow and glacial melts are aggravating water scarcities, harming agriculture in many parts of the globe. Energy and climate dynamics also combine to amplify a number of other ills such as health problems, agricultural losses to pests, and storm damage" (National Intelligence Council 2008, 41–42).

[9] Paris Agreement to the United Nations Framework Convention on Climate Change, art. 4, Dec. 12, 2015, T.I.A.S. No. 16-1104. Art. 4. See also United Nations (n.d.).

The Paris Agreement addresses the different obligations held by developed and developing countries in reducing global emissions and also acknowledges the role of "non-party stakeholders" including the private sector in addressing climate change.[10] The Paris Agreement also contains provisions that speak to the disruption and displacement that the global transition to a net-zero economy could entail, encouraging calls for a "just transition."

The hazards of climate change will not be equally distributed. Displacement, dispossession, and deaths due to the earth's changing climate will be felt most acutely in places and by people that have done the least to contribute to the climate crisis (UNCTAD 2021). Populations in developing countries and racialized people in developed countries often do not enjoy the same level of protection from environmental risks as racially and economically privileged populations in developed countries (Bullard 1996; 1999).

B. Environmental Injustice and Racial Capitalism

The current ecological crisis due to the changing climate is inexorably linked to the extraction of fossil fuels that was facilitated by racial capitalism. Unhealthy environments—air and water pollution, poor sanitation, radiation, agricultural pesticides, occupational hazards, toxic chemicals, the built environment, and climate change—give rise to health risks and have been linked to rises in mortality rates (Prüss-Ustün et al. 2016; Téllez Chávez and Horne 2022; Landrigan et al. 2018). In the US, racialized communities experience disproportionate exposure to fossil fuel pollution (Bullard 2005, 35; Donaghy et al. 2023).

1. Environmental Injustice

Fossil fuel–related emissions account for about 65 percent of the excess mortality rate attributable to air pollution and disproportionately affect communities of color and tribal communities in the US—with Black people facing the highest risk of death from fine-particle pollution emitted from power plant smokestacks (Tessum et al. 2021; EPA 2021). Transitioning to clean energy will reduce pollution burdens on communities of color in the US, but the means used to secure critical minerals needed for the energy transition may risk imposing unjust burdens on racialized communities in other regions (Zografos and Robbins 2020). The challenge we must meet and the question we must answer as we transition away from a carbon-based global economic system is the one posed by Carmen G. Gonzalez and Athena D. Mutua (2022): If at every stage of the fossil fuel economy racism is embedded, can the green economy avoid replicating the patterns of the past?

2. Racial Capitalism

a. What Might the Conceptual Framework of Racial Capitalism Contribute to Efforts to Incorporate Respect for Human Rights into the Transition to a Cleaner Economy?

Globally, racial capitalism has played a central role in the degradation of the environment and the violation of the environmental and human rights of racialized peoples in particular. Understanding

[10] Paris Agreement (Dec. 12, 2015).

how it operates can inform solutions to the climate crisis that are more just and fair. Broadly, the term "racial capitalism" refers to the connection between capitalism and racial inequality (Go 2021). Historians, philosophers, sociologists, and legal scholars have contributed to the creation of a racial capitalism literature (Go 2021, 38; Johnson 2017; Ralph and Singhal 2019, 857). Definitions of racial capitalism in the literature differ, but Julian Go has identified commonalities across uses of the term by different disciplines. First, racial capitalism holds that significant connections exist between capitalism and racial inequality or racism (Go 2021, 39; Ashiagbor 2021). Second, it focuses primarily on global economic relations between nations. Finally, it interrogates the political implications of the nature of the connection between racism and capitalism. For instance, a key point of political contestation in the literature is whether "the fight against racism is also a fight against capitalism" (Go 2021, 40; Lemann 2020).

Racial capitalism provides a structural account of the relationship between race and class globally and historically. Profit-making and "race-making" are the core structural features of racial capitalism (Saini 2019; Kendi 2017; Wekker 2016; Carrell and Osuh 2025). Where capitalism is accepted as fair exchange accelerating innovation and economic development, racial capitalism challenges this accepted wisdom. It also challenges Marxist critiques of capitalism as inadequate for their failure to sufficiently recognize the role of chattel slavery, racial hierarchy, and colonialism as fundamental to the way capitalism orders societies (Go 2021, 42). This paper uses racial capitalism to describe the recognition that racial stratification is pervasive on a global scale across different historical periods and places where profit-making depends on exploitation or expropriation (ibid. at 44). Moreover, racial capitalism as used in this paper is a discourse on how differences are constructed to justify domination such that it concerns not just skin color but sustaining a structure of power by manufacturing and maintaining social divisions that can differ in different contexts (Miapyen and Bozkurt 2022, 613). The adverse and inequitable impacts of unregulated or underregulated capitalism are best analyzed at the intersection of differences that have been given social salience in a given society—race, ethnicity, indigeneity, majority status, minority status, and gender, among other identity markers.

Martin Legassick and David Hemson, South African Marxist scholars opposed to apartheid, articulated an understanding of racial capitalism to counter the simplistic and incomplete ideas advanced by foreign investors that from an increase in economic growth would naturally follow a decrease in racial discrimination and animus (Legassick and Hemson 1976; Al-Bulushi 2020). They and others argued that racialized stratification of the labor force was a key structural feature sustaining South African capitalism, and that investing more capital into the country would not necessarily or naturally bring an end to racist rule by whites (Legassick and Hemson 1976; Lichtenstein 2016; De Waal 2016). Subsequent thinkers have posited that all capitalisms were racial as a rule (Gonzalez and Mutua 2022, 129). For example, some scholars have argued that racism is intrinsic to capitalism because racism serves to divide the working class and legitimate the rule of a wealthy elite class by justifying persistent inequality (Fraser 2019; McCarthy 2016).

Carmen G. Gonzalez and Athena D. Mutua have described racial capitalism as a global racial system of extraction, one that relies on seizing the wealth of a society through processes of (1) exploitation; (2) expropriation; and (3) expulsion of "racialized others"—where exploitation commodifies labor and its "free" exchange for income and expropriation confiscates, devalues, and often depletes without restoring natural and human resources (Gonzalez and Mutua 2022). Taken together, exploitation and expropriation can result in expulsion, the process by which capital accumulation is achieved through discarding some people and places as being expendable.

These processes of exploitation, expropriation, and exclusion are often sustained and stabilized by racism. Indeed, racial capitalism relies on, is structured by, and deploys race-making to authorize and naturalize the domination of certain populations and the confiscation of their lands, labor, and naturally and socially produced wealth through the raw coercive power of state and nonstate actors (including the violence of white settlers and white mobs) (Gonzalez and Mutua 2022). Modern racism was expanded by European colonization (ibid.). Cedric Robinson's study of how precapitalist social differences in feudal Europe that structured the social order became enshrined as racism as capitalism evolved helps to illuminate how differentiation served to legitimate discrimination (Robinson 2000; Kelley 2017; Go 2021, 40). Robinson argues that the hierarchal social relations that defined feudalism continued in capitalism and became transformed into racial categories. According to Robinson, at the emergence of modern capitalism European civilizations not only differentiated but exaggerated "regional, subcultural, and dialectical differences into 'racial' ones" (Robinson 2000, 26).

European colonizers translated the differences between conquerors and conquered to superior and inferior races, making race a "fundamental criterion for the distribution of the world population into ranks, places and roles" in a new world power structure (Miapyen and Bozkurt 2022; Quijano and Ennis 2000, 533). A racialized division of labor and a relationship between white supremacy and capitalism emerged as "different people, subject to ongoing racialization, performed different work in different locations, all geared towards the production of commodities for a world market" (Gonzalez and Mutua 2022, 135). Profits from these processes of exploitation, expropriation, and expulsion remain concentrated in Europe, and to this day profits are concentrated in the hands of a predominately white global elite (Taneja et al. 2025; Behar 2025; Boulabiza 2024). However, as Buhari Shehu Miapyen and Umut Bozkurt highlight, benefits can accrue to the neoliberal capitalist class irrespective of their race, ethnicity, or geographic location (Miapyen and Bozkurt 2022).

A commitment (stated or unstated) to a belief (conscious or unconscious) that humanity is made up of different races, some superior and others inferior, serves to justify exclusion and spatial segregation. As Gonzalez and Mutua astutely observe, segregated spaces are all too often converted into sacrifice zones (see Gonzalez and Mutua, 170; Bullard 2011). The environmental injustice inflicted on "frontline communities" living in "sacrifice zones," the "slow violence" of petrochemical industrial pollution in Louisiana's Cancer Alley connected to disease and premature deaths, and the risks to life presented by extreme weather events and disasters exacerbated by climate change are examples of racial capitalism at work (Nixon 2011; Nagra et al. 2021; George 2017). Law structures the work of racial capitalism (Gathii and Tzouvala 2022; Thomas 2021; Gonzalez 2021).

IV. Changing Course: Critical Minerals and Human Rights Risks

We are in a decisive decade for climate action. The 2023 IPCCC Synthesis Report makes clear that the "choices and actions implemented in this decade will have impacts now and for thousands of years" (IPCC 2023, 24). To avoid the most devastating impacts of climate change it is imperative that we reduce greenhouse gases by nearly half by 2030 (Levin et al. 2023). The power sector is estimated to be responsible for 40 percent of global greenhouse gas emissions (Foster and Bedrosyan 2014). Decarbonizing the power sector is key to securing a sustainable, healthy, habitable environment by reducing GHGs. Development and adoption of clean energy technologies that reduce GHG emissions must be accelerated to mitigate the most destructive effects of a changing climate.

A. The Demand for Critical Minerals

Minerals including copper, lithium, cobalt, nickel, and aluminum are essential elements for clean energy technologies such as wind turbines, electricity networks, and electric vehicles (Lundaev et al. 2023, 2; IRENA 2023; Narula et al. 2023, 5). Lithium and cobalt are important for battery life and performance (Kamran et al. 2023, 1). Copper is a "cornerstone" mineral for all electricity-related technologies and enables electricity networks to operate (IEA 2021). Minerals are defined as "critical" when they are used to serve an essential function in one or more energy technologies and when they are at high risk of supply chain disruption. 30 U.S.C. § 1606(a)(2) (2020). The US Geological Survey list of critical minerals includes, among others, cobalt, lithium, copper, and nickel. Notice, 2022 Final List of Critical Minerals, 87 Fed. Reg. 10381 (Feb. 24, 2022).

In 2023, the International Energy Agency (IEA) published its first *Critical Minerals Market Review* and hosted the first ever international summit on the role of critical minerals in clean energy transition (IEA 2023). The IEA has observed that the transition to cleaner energy will present new challenges to energy security (IEA 2021). According to the IEA's assessment of state energy policies already in place or proposed, the world is on track to *double* the overall mineral requirements for clean energy technologies by 2040. The IEA estimates that were global efforts to reach the goals of the Paris Agreement to limit the temperature increase to below 2°C, then a *quadrupling* of mineral requirements for clean energy technologies by 2040 would be needed. According to the IEA, "the rise of low-carbon power generation to meet climate goals also means a tripling of mineral demand from this sector by 2040" (ibid., 8). The IEA has cautioned:

> The prospect of a rapid rise in demand for critical minerals—in most cases well above anything seen previously—poses huge questions about the availability and reliability of supply. In the past, strains on the supply-demand balance for different minerals have prompted additional investment as well as measures to moderate or substitute demand, but these responses have come with time lags and have been accompanied by considerable price volatility. Similar episodes in the future could delay clean energy transitions and push up their cost. Given the urgency of reducing emissions, this is a possibility that the world can ill afford. Looking further ahead in a scenario consistent with climate goals, expected supply from existing mines and projects under construction is estimated to meet only half of projected lithium and cobalt requirements and 80% of copper needs by 2030. (IEA 2021, 11)

The shift to a clean energy system will drive a substantial increase in demand for critical minerals (Kalantzakos 2020; Berahab 2022). Accordingly, the energy sector will become a major force in mineral markets.

As energy transitions gather momentum, clean energy technologies will become the fastest-growing segment of demand. Lithium-ion battery technology will figure prominently in reducing GHGs and strategies to mitigate and slow the negative impacts of climate change, and lithium-ion battery demand is projected to grow by 400–500 percent by 2050 (Hund et al. 2020). Being "cleaner" may not mean being less resource intensive, indeed it may mean more mining (BHRRC, n.d.; World Nuclear Association 2024; Society for Mining, Metallurgy & Exploration 2021). A typical electric vehicle requires six times more mineral inputs than a conventional car (Sobotka 2023).

The IEA has warned that the failure to responsibly manage environmental and social impacts from minerals development will slow clean energy transitions (IEA 2021). However, demand trajectories are subject to large technology and policy uncertainties and will depend on the political will to meet international environmental standards on climate change mitigation and adaptation (ibid.). Rapid increases in global demand for minerals drive the extractive sector to mine more to meet new demands and make profits (Suzuki 2023). The risk of reproducing in the green economy the human rights violations and environmental damage of the fossil fuel extractive economy, an economy built on the abuse of racialized people and destruction of the places they reside, is very real (Thomsen 2023; Global Witness 2020; Stein et al. 2023; Meiners and Morriss 2023).

Accelerating the transition to clean energy and expanding equitable access to clean energy solutions to meet global climate goals could ameliorate conditions contributing to premature deaths and disease in racialized communities due to pollution and emissions from fossil fuels. The global imperative to secure the critical mineral supplies necessary to transition economies to cleaner energy sources has created incentives to rapidly increase the number of mining projects. There is a significant risk that the rush to secure sources of clean energy could perpetuate existing or create new social and environmental injustices inconsistent with the potential promise of realizing the new human right to a clean, healthy, and sustainable environment absent a focused effort to ensure that rights are respected at every stage of an extraction project.

B. Mining Supply Chains and Human Rights Risks

Mineral supply chains are complex, with overlapping and interconnected relationships and multiple intermediaries between each stage.[11] The "upstream" links in a supply chain—miners, traders, and the "point of transformation" where the raw mineral is processed to reach commercial market quality—often present the most serious human rights risks. For example, serious human rights abuses, such as forced labor or forms of torture or cruel, inhuman, or degrading treatment, and work that exposes children to hazardous substances, dangerous machinery, or precarious working conditions, have been documented at or around mining sites around the world (Amnesty International 2016; Human Rights Watch 2010; 2013; Above Ground and Justiça Global 2017; Diouf et al. 2014). Security forces hired to protect mines have used violent force against local communities, labor organizers, and environmental and human rights defenders (Human Rights Watch 2019; Becerril 2017; Downey et al. 2010; Voluntary Principles on Security, n.d.; US DOJ 2022).

Traders and transporters have reportedly engaged in money laundering, bribery, and fraud (OECD 2021; Transparency International 2022). While more removed from the worst abuses, actors in the "downstream" links of a supply chain—manufacturers, retailers, and end users—can do harm by failing to conduct adequate due diligence contributing to the continuation of rights abuses upstream (OECD 2016).[12] These types of human rights abuses associated with extractive industries around the world have been well documented with some of the most egregious abuses occurring in Africa and

[11] The term "supply chain" here refers to the organizations, actors, technology, information, resources, and services involved in the process of moving the upstream mineral from the extraction site downstream to its incorporation in the final product for end consumers.

[12] See John Doe 1 v. Apple Inc. et al, No. 21-7135 (D.C. Cir. 2024) (describing allegations contained in complaint by International Rights Advocates that technology companies--Apple, Alphabet, Dell Technologies, Microsoft and Tesla participate in a global supply chain that relies on forced labor and child labor).

South America, where there are rich deposits of critical minerals (Global Witness 2023; Human Rights Watch 2013).

Mining has been connected to multiple adverse human rights impacts. Because all human rights are interrelated, interdependent, and indivisible,[13] human rights violations can have wide-ranging and disproportionate impacts on vulnerable, disadvantaged, and disfavored communities already subject to discrimination. Mining companies can impact a range of human rights from civil and political rights to socioeconomic and cultural rights. Frequently documented violations include failure to respect labor rights, disrespect for the cultural rights of Indigenous peoples, adverse impacts on health and access to food and water due to pollution, illegal land occupation, and forced displacement (Amnesty International 2016; Human Rights Watch 1999). There have also been documented instances of gender-based violence in proximity to mining sites (Simons and Seck 2019; Oxfam International 2017; Okoye and Osuteye 2018). Some governments in collusion with industry have worked to criminalize, repress, or deter human rights and environmental activists (Raftopoulos 2017, 387).

Too often mining projects turn the places where vulnerable populations live into blighted wastelands. Extractivist economies make mine sites and surrounding communities "sacrifice zones," often causing irreversible damage to the natural environment and creating social tensions while converting nature into a commodity and people into cheap sources of labor (Gómez-Barris 2017). Mining disproportionately adversely impacts vulnerable populations. In the case of Indigenous peoples, the negative impacts of mining on their traditional lands evokes an earlier colonial era of expulsion.

The human rights of predominantly racialized people in previously colonized places are especially at risk of being compromised in the rush to secure critical minerals and develop renewable energy projects in the absence of a regulatory framework that prioritizes respect for human rights and the political will to protect the environment (Columbia Center on Sustainable Investment 2023; Church and Crawford 2020, 279–304). The Chilean experience illustrates some of these challenges.

C. Impediments to Racial Equity in the Just Transition: Corruption and International Investment Law

Reforms to reduce the human rights risks connected to the extractives industry sector often face obstacles due to an international legal regime that favors capital over social and environmental concerns. Where state revenues rely heavily on resource concessions and contracts, international economic law creates incentives for governments to favor corporations and capital over protecting rights of citizens or preserving civic space for policymaking (Miles 2010, 20; Symington 2023, 73). The historical relationship of imperialists and investors with the natural resources of colonized regions—exploitation, expropriation, and expulsion of racialized others—continues to influence the structure of modern relationships between foreign investors and host states (Miles 2010, 20; Gonzalez and Mutua 2022, 129). The current international investment system is asymmetrical, "creating enforceable rights for foreign investors without any enforceable responsibilities" and perpetuating "extractivism and economic colonialism" (Boyd 2023a, 5–6). The following provides a brief overview of the colonial origins of legal doctrines in international investment law that serve to protect investors at the expense of other interests and explains how increasing investor overreach presents an obstacle to progress on realizing respect for environmental and human rights.

[13] Vienna Declaration and Programme of Action, World Conference on Human Rights, UN Doc. A/CONF.157/23 (July 12, 1993) (clarifying the relationship between civil and political rights and social, economic, and cultural rights).

While well-managed mineral extraction can promote sustainable development (Church and Crawford 2020, 7; George 2019), paradoxically a country's mineral wealth can have an adverse effect on economic development and respect for human rights (Buhmann 2023; Symington 2023, 73; Owen and Kemp 2013, 11–23). Political science and economic literature on this phenomenon attribute the prevalence of corruption in Global South countries that are abundant in natural resource wealth to poor governance practices; this is frequently referred to as the "paradox of plenty" or the "resource curse" (Papyrakis 2017; Humphreys et al. 2007, 11; Sachs and Warner 2001, 837). Racial capitalism problematizes this framing by revealing the incentives and constraints that can influence state action or inaction on issues in the public interest.

The present-day disincentive for promoting environmental protection and the public interest can be traced to control over natural resources by European colonial powers and legal principles developed by capital-exporting states to secure commercial advantage through repression and rights violations (Miles 2010, 10). Law structured the work of racial capitalism in the past to justify conquest and continues to allow racial justice disparities in the present to protect capital (Gathii and Tzouvala 2022; Thomas 2021, 1865; Gonzalez 2021). By exporting and imposing European legal doctrines of contract and property to other regions, European colonizers created the legal conditions to facilitate capitalist exploitation, extraction, and expulsion in occupied lands (Anghie 2005; Gonzalez and Mutua 2022, 134). The ability to impose power and exert control was at the center of disputes over property rights in occupied lands during the imperial period (Benton 2002, 10–11). Jurists of the era justified colonial control over resources as consistent with a natural right to trade (Miles 2010, 4).

Racism was used to justify control over people characterized as "savages" in occupied lands, with racialization serving to establish and maintain structures of power and control (N. Saito 2020, 26). The doctrinal distinction made between "civilized" and "uncivilized" peoples and nations supported the creation and imposition of different and unequal international legal standards to otherize non-Europeans and to legitimate exploitation, extraction, and expulsion (Anghie 2005, 3–12).

The liberation movements of former colonies succeeded in ending European territorial rule, but international law remained structured to ensure continued Western control over the resource wealth of newly independent nations (Sornarajah 2019, 175). During decolonization former colonies advocated for a New International Economic Order (NIEO) and asserted sovereignty over their natural resources (Sornarajah 2019; Cassese 1995; Brownlie 1979, 255). The legal and policy debates over the NIEO effort were largely divided along colonial and racialized lines (Anghie 2015, 145; Van Ho 2022, 361). Leaders in newly independent nations framed sovereignty over natural resources as central and focused on the right to development as delayed justice due to them for the wrongs of colonial rule. Western leaders, reluctant to relinquish their control over the wealth of former colonies, opposed the NIEO and the nationalization of natural resources by newly independent countries (Gilman 2015, 2).

Muthucumaraswamy Sornarajah has traced how decolonization efforts by poorer countries to attain a meaningful sovereignty including the right to manage their natural resources were undermined by rich capital-exporting countries and multinational corporations between 1947 and 1974 (Sornarajah 2019, 177). Newly independent states were poor, but rich in natural resources. Many new nations viewed foreign investment as a means to alleviate poverty and promote economic development. When colonial rule ended, the need for a stable supply of natural resources remained and resource-rich countries entered into concession agreements permitting private corporations to extract natural

resources (Miles 2010, 8). The rights investors obtained through concession agreements were usually extensive and allowed private companies to control land and natural resources in exchange for paying royalties to the host state (ibid.). Often concession agreements were procured through political pressure with rights held by the host state transferred to the holder of the concession agreement (ibid.).

Investors maintained that because contracts with newly independent state entities would involve significant political and economic risks, their investments and citizens abroad would need special heightened protection. Latin American states rejected this rationale and countered that equality, not priority, would be the appropriate level of protection for all—a position that later came to be known as the Calvo Doctrine (Van Ho 2022, 359; Eslava 2019; Linarelli et al. 2018, 154–55).

Rich capital-exporting states ultimately secured legal recognition for foreign investment contracts that prioritized long-term stability of the value of the investment and provided remedies for foreign investors should a dispute arise between the investor and the host country that received the investment. This practice of protecting the stability of an investment came to take the form of "stabilization clauses" in international investment instruments. This logic assumed that the politics and economics of a host country must remain forever fixed in favor of capital. While the neutral terminology of international investment law obscures its colonial origins in "otherness," the racialized inequities of the investment system are increasingly apparent.

In her examination of the historical evolution of core international investment law principles, Kate Miles finds that the rules serve to reproduce economic imperialism (Miles 2010). She points to the intensification of "commercial diplomacy" and the expansive interpretation of investor protection guarantees by arbitral panels as evidence of strategic efforts to maintain access to resources in the jurisdictions of the host states to satisfy the preferences of investors without regard to the social and cultural needs of communities in the host states (Miles 2010, 38, 41–42). Laws were designed to restore an investor to the position enjoyed prior to the dispute and entitled the investor to payment for damages on the lost value of an investment (Sornarajah 2019, 182). Requiring stability guarantees and damage payments to foreign investors served to deter governments of resource-rich but poor countries not only from contractual interference with investments but also from instituting any significant legal or policy initiatives to that could be seen as adverse to the interests of investors (ibid.). The resulting postcolonial international investment treaty regime entrenched a system protecting the economic interests of former imperial states while still exploiting the poverty of newly independent states.

The rights of foreign investors are heavily protected to the present day. Currently foreign investors are entitled to seek remedies through the investor-state dispute settlement (ISDS) process pursuant to international investment agreements (Boyd 2023a, 3). ISDS was established to protect investors from expropriation of their assets without compensation. Fossil fuel companies played a significant role in designing the dispute settlement system (ibid. at 5). Researchers have documented how fossil fuel companies have deployed ISDS claims or threatened to file claims in order to stop efforts to address climate change or to seek excessive amounts of compensation (15). ISDS allows foreign investors to bypass independent judges in domestic courts and be heard by arbitral tribunals primarily composed of arbitration lawyers who usually work for law firms that represent investors and commercial enterprise (3). Often, in investment disputes, investors prevail.

Fossil fuel industry investors have been active litigants in arbitral tribunals claiming that host state government policies intended to address climate change have caused the value of investments to

decrease (Boyd 2023a, 40). The average value of a claim in an arbitration involving fossil fuels is double the average arbitral claim that does not involve the industry (ibid.). Fossil fuel investors have won 72 percent of cases at the merits stage of arbitral proceedings and governments have paid $77 billion in investor compensation as of 2023 (ibid.). The average award to fossil fuel investors is five times the average amount awarded in arbitrations that do not involve fossil fuels (ibid.). The majority of fossil fuel and mining ISDS claims are brought by investors from only five countries—Australia, Canada, the Netherlands, the United Kingdom, and the United States (ibid. at 5).

While theoretically designed to be reciprocal, international investment laws have in practice usually been deployed by investors from the Global North to demand restitution from developing states in the Global South when investments lose value (Van Ho 2022, 360). Tara Van Ho documented some of the difficulties associated with power asymmetries that persist in the ISDS mechanism for enforcing international investment law in 2022: "White, Western investors take advantage of ISDS at far greater rates than their racialised counterparts." According to Van Ho, only 27 percent of treaty-based investment claims have been against members of the EU or the United Nations designated "Western Europe and Other" regional group (WEOG) and only 15 percent of claims are filed by investors who are outside of the European regional group (ibid. at 360). As Van Ho's findings make plain, "given the racialized disparity between which States house investors benefiting from ISDS and which States are facing ISDS claims, the extension of ISDS has a racialised impact" (ibid. at 366).

Today, despite racialized disparities, investment law is often promoted as important for improving governance in countries with weak institutional capacity. Insufficient attention has been given to the racialized power asymmetry of governments entering into investment agreements. However, some commentators have raised salient concerns. Celine Tan has highlighted how the logic underlying international investment law doctrines such as stabilization clauses and "survival clauses" relies on an assumption that an external authority from Europe or the Global North is needed to discipline nations in the Global South and mitigate "political risks" for investors (Tan 2015; Linarelli et al. 2018, 149).

Commentators have been especially critical of the impacts the ISDS system can have on the legal systems and political economy of developing countries. For example, Anil Yilmaz Vastardis argues that the ISDS system serves to make inequality worse because it creates "special paths of investor protection enhancing privileges already enjoyed by wealthy litigants, thus widening pre-existing gaps in domestic legal systems" (Vastardis 2020, 296). Similarly, Van Ho's reading of international investment law is especially illuminating: She explains that while "most investment agreements reference some variation of 'fair and equitable treatment,' 'full protection and security,' and a prohibition on expropriation without compensation," these provisions have been expanded in ways that raise serious questions as to whether regulatory reforms are impeded (Van Ho 2022, 364). Enrique Prietos-Ríos and Daniel Rivas-Ramírez argue that arbitrators are using a neoliberal ideology to interpret treaties when presented with conflicts between foreign investors and Indigenous peoples in Latin America over water, prior consultation, ancestral lands, and traditional heritage to the advantage of economic interests (Prietos-Ríos and Rivas-Ramírez 2020, 107).

While my research did not find currently pending ISDS claims against Chile for engaging in efforts to protect the environment, an action has been threatened and at least one claim concerning lithium mining has been settled. In 2022, a Chinese-Taiwanese mining venture was reportedly considering a claim against Chile to challenge the country's plans to give a state-owned entity exclusive rights over a lithium deposit as an unlawful expropriation (Fisher 2022). In 2024, Chile's economic development agency, CORFO, reached an agreement with US-based Albemarle Corporation to resolve a complaint

CORFO filed with the International Chamber of Commerce over the firm's failure to pay commissions to the state. As part of the arbitration settlement, Chile granted Albemarle an option to increase production by nearly 50 percent if the company uses sustainable technologies in extraction, consults with local Indigenous communities, and obtains the required environmental permits (Rana 2024, 2). The number of known ISDS claims is difficult to quantify due to the lack of transparency in the international investment system, so it not possible to know with certainty how many cases exist or how many threats have pressured host states "to weaken existing or withdraw proposed environmental and climate laws, regulations, taxes or other policies" (Boyd 2023a, 9).

Governments of developing countries are correct to be concerned about potential liability and significant losses under existing investment agreements. Indeed, "gigantic" arbitral awards won by investors have created a strong incentive for venture capital firms to finance ISDS claims that might not have been brought otherwise (Boyd 2023a, 13). The practice of third-party financing has reduced the risks and costs of bringing claims against host states, contributing to a sharp increase in the number of claims related to mining and fossil fuels (ibid.). Foreign investors have the right to submit claims against host countries to arbitration (UNECA 2016) but host countries cannot directly bring claims against foreign investors (Boyd 2023a, 6). Arbitral tribunals rarely consider human rights–based arguments from communities adversely affected by a foreign investor's actions (ibid. at 7).

Lyuba Zarsky argues that the international investment system is "fundamentally off kilter" with the balance tilted to favor foreign firms over domestic interests to the detriment of domestic companies and communities (Zarsky 2004, 26). Surya Deva and Tara Van Ho argue that the current investor-state dispute system is incompatible with the international human rights obligations that states have to regulate business enterprises (Deva and Van Ho 2023). The imbalances that exist between private rights and public goods and between investor rights and investor responsibilities make for weak governance in resource-rich regions, placing the environment and a range of human rights at risk. Funds used to defend claims or pay settlements to foreign investors come from public budgets at the expense of other public priorities such as education, health care, sanitation, environmental protection, and climate action, further weakening host states (Boyd 2023a, 12). It is in this context that the "paradox of plenty" occurs.

Understanding the "resource curse" as rooted in racial capitalism shaped by colonial legacies of extractive logics can offer insight into how economic relations might be better structured to ensure that the green economy of the future does not repeat abusive patterns of the past (Brisbois et al. 2021; Burton 2014; Human Rights Watch 2004). Today, legal reforms structuring the mining sector in countries that are central to securing minerals needed to advance the transition do not do enough to end subjugation and account for eventual depletion of resources (Voskoboynik and Andreucci 2022, 790; Gudynas 2018, 61; Acosta 2013, 61).

Indeed, even when resource-rich states in the Global South are willing to protect environmental human rights, the ability to regulate in the public interest remains significantly compromised by an international economic system balanced in favor of global business enterprises and foreign investors. David Boyd, a former United Nations Special Rapporteur on Human Rights and the Environment, has documented instances of fossil fuel companies "weaponizing" investor-state dispute settlement provisions in investment treaties to seek compensation when governments introduce regulations intended to address climate change or ensure accountability for human rights abuses and damage to the environment (Boyd and Keene 2024, 6; Boyd 2023a, 15). The mere threat of an ISDS claim is

often sufficient to chill regulation given the size of arbitral awards and the record of investor success (Boyd 2023a, 16). Boyd argues:

> The ISDS system, with its roots in colonialism and extractivism, is not fit for purpose in the twenty-first century because it prioritizes the interests of foreign investors over the rights of States, human rights and the environment. ISDS claims and their crippling costs have already had an enormous impact by deterring, delaying and watering down States' climate and environmental policy decisions. As concerning as the astronomical costs associated with ISDS arbitration are the chilling effects that threats of such proceedings have on climate and environmental action. (Boyd 2023a, 22–23)

Even if host states were to terminate investment agreements, "survival clauses" in agreements continue to protect investments for a term of years post-termination, in some instances locking states into obligations to investors for up to twenty years (Boyd 2023a, 13–14). This is racial capitalism at its most rapacious.

V. Racial Justice and Just Transition: Strategies to Increase Accountability and Reduce Human Rights Risks

Postdictatorship democratic Chile has embraced the language of human rights. Chile's constitution recognizes "respect for essential rights which derive from human nature." Specifically, Article 5 of the Chilean Constitution states that the "exercise of sovereignty recognizes as a limitation the respect for the essential rights which emanate from human nature." It also emphasizes that it is the duty of the state's bodies to respect and promote rights guaranteed by the Constitution and by international treaties ratified by Chile.[14]

Although the Constitution directly references international law and Chile has ratified several international human rights instruments, Philip Alston, UN Special Rapporteur on Extreme Poverty and Human Rights, in his statement following his state visit to Chile called the country "a paradox," commenting on its "extraordinary progress in terms of economic growth, overall development, and poverty reduction" while "extreme poverty persists" (Alston 2015, n.p.). UN Special Rapporteur on Human Rights and the Environment David Boyd also commented on Chile's "staggering levels of inequality" (Boyd 2023b, n.p.). Boyd commended Chile for taking steps to address its environmental challenges but cautioned that the scale and pace of implementation was too slow and funding too insufficient to fulfill the country's human rights obligations (ibid.).

A. Domestic Courts

Chilean courts are proving to be an important source for advancing human rights due diligence, environmental impact assessments, and social protections in the mining sector. Challenges brought by affected Indigenous communities to the government's failure to meet public participation requirements and to adequately assess the impacts of projects on natural resources have been successful. Recently, courts in Chile have imposed requirements that grantors of mining permits consider impacts on climate and consult with Indigenous communities.

[14] Chile Const. art. 5 (1980) ("The exercise of sovereignty recognizes as a limitation the respect for the essential rights which emanate from human nature. It is the duty of the organs of the State to respect and promote those rights, guaranteed by this Constitution, as well as by the international treaties ratified by Chile and which are in force.").

The successes of the Consejo de Pueblos Atacameños or Atacama Indigenous Council (CPA) in environmental litigation contesting the practices of business operations in the area are illustrative. The CPA represents the Indigenous Aymara and Atacama communities in northern Chile (Montoya 2025).[15] The Council has won key decisions in the Chilean Supreme Court establishing recognition of the right of Indigenous communities to a clean and healthy environment under both domestic laws and international standards.

In 2009, the Chilean Supreme Court recognized the ancestral water rights of the Aymara and Atacama communities of Chusmiza and Usmagama in the Andean foothills of northern Chile (BHRC 2013). The plaintiffs alleged that Agua Mineral Chusmiza, a company with a private license to extract, bottle, and sell water, had violated their rights to land and water as guaranteed by the Chilean Indigenous Peoples Act (Ley Indígena) and International Labour Organization (ILO) Convention 169 (Indigenous and Tribal Peoples Convention) because it was taking water from a source under their ancestral lands (Montoya 2025). The company countered that the water in dispute was not the plaintiff's land. The company maintained that it owned the land and that any community access to water was at the company's discretion, not an entitlement (ibid.). Relying on ILO Convention 169 and the Ley Indígena, the Court ruled in favor of the plaintiffs and granted a portion of the water flow to the communities on the basis that their ancestral rights preceded rights later granted to the company (ibid.).

In 2019, a Chilean environmental court found in favor of Indigenous communities that challenged a mining firm's water use remediation plan (Reuters 2019; Sherwood 2020; 2021; IIED 2020; Shemas 2020; Greenfield 2022). Sociedad Química y Minera de Chile (SQM), the world's second largest producer of lithium, entered into an agreement with the Chilean government in 2018 to expand operations in the Atacama (Sherwood 2021). The company pledged to devote $15 million "to promote sustainable development" in the local community (ibid.). Members of the Indigenous communities rejected the funds as "a distraction from ensuring the environment is protected" and sued to have the expansion revoked because the communities were not consulted (ibid.). The company had also come under scrutiny by the Chilean government for "over extraction" and the court ordered SQM to revise its remediation plan (ibid.).

In 2021, the Chilean Supreme Court ordered the Antofagasta Environmental Assessment Service to include environmental variations caused by climate change in the review process of the environmental authorization for a thermoelectric power plant project (Rodríguez-Luna et al. 2022; Burger and Antonia Tigre 2023).[16] Plaintiffs, the Mejillones Tourist Services Association, and local community organizations, sued alleging constitutional violations of their rights to life, equality, and property, as well as the right to live in an environment free of pollution. The Court's judgment expressly mentions the country's obligations under the United Nations Framework Convention on Climate Change.

[15] The Council of Atacameño Peoples (CPA) was founded in 1994 to protect the land of Atacama communities and the well-being of their people. It is an official governance body of elected representatives from the communities.

[16] Corte Suprema de Justicia [C.S.J.] [Supreme Court], April 19, 2022, Mejillones Tourist Service Association et al. v. Environmental Evaluation Service of Antofagasta, Case No. 71.628-2021 (Chile), https://climatecasechart.com/non-us-case/mejillones-tourist-service-association-and-others-with-the-environmental-evaluation-service-sea-of-antofagasta/.

In *Jara Alarcon Luis v. Environmental Assessment Service*,[17] a Chilean court reviewed and rejected the environmental impact assessment process of a mining project that failed to consider the country's international obligations under the UNFCCC and the Paris Agreement. Plaintiffs challenged the continuation of a mining project for its potential impact on groundwater and area ecosystems and failure to consider citizen comments. Although the tribunal did not remedy the claims concerning the lack of citizen consultation on the mining project's impact, it did impose additional mitigation assessment requirements consistent with international legal obligations holding that impact assessments must consider the country's international commitments under the UNFCCC and the Paris Agreement and incorporate different climate change scenarios. To that end, the court ordered the reassessment of mitigation measures to address the extraction of groundwater and water resources in the area.

In 2021, when Chile sought to commercialize 400,000 tons of lithium, the Ministry of Mining approved new exploration and extraction in the Atacama region and issued a call for applications for concessions to accelerate the entry of national and foreign companies into the lithium market. In *Regional Government of Atacama v. Ministry of Mining*,[18] the Supreme Court revoked contracts awarded by the Ministry as unconstitutional, upholding an appeals court suspension of mining concession contracts. The regional government of Atacama sued to challenge the Ministry of Mining's policies related to lithium exploitation as contrary to national mining laws and the Constitution. The complaint questioned the Ministry's bidding process, alleging that it was carried out without public participation. The complaint also alleged that the Ministry failed to assess potential environmental impacts on the Atacama Salt Flats, including risks to biodiversity, ecosystems, and water. The regional government also noted the destruction of cultural heritage and the importance of tourism interest in the Salt Flats.

In addition to their recent vindication of the rights of Indigenous peoples, Chilean courts have recognized the rights of workers in the mining sector and the importance of environmental impact assessment. In *Company Workers Union of Maritima & Commercial Somarco Limited v. Ministry of Energy*,[19] the Chilean Supreme Court considered a claim brought by three union workers against the Chilean Ministry of Energy. Plaintiffs argued that they were not consulted in the energy decarbonization agreements made between the government and the energy companies, violating their due process rights. The Court noted that Chile's statutory commitment to achieving carbon neutrality by 2050 requires the performance of a just transition strategy, both for the workers harmed by the loss of their direct and indirect source of employment and for the communities affected by the loss of services linked to the development of the declining thermoelectric activity. Failure to consult labor groups during the planning process was found to be in violation of the government's obligation to ensure a just transition. The Court ordered the government authorities to implement a plan for reintegrating the workers affected by the decarbonization process back into the labor market and consulting them in that process as well as adopting the control measures to ensure compliance. In 2021, the Chilean government released a just transition strategy to show compliance with the Court's decision. The plan

[17] Segundo Tribunal Ambiental [Second Environmental Court], February 8, 2019, Jara Alarcon Luis v. Environmental Assessment Service, No. 142-2017 (Chile), https://climatecasechart.com/non-us-case/jara-alarcon-luis-environmental-assessment-service.

[18] Corte de Apelaciones de Copiapó [Court of Appeals of Copiapo], filed January 10, 2022, withdrawn July 8, 2022, Regional Government of Atacama v. Ministry of Mining, No. 9-2022 (Chile), https://climatecasechart.com/non-us-case/regional-government-of-atacama-v-ministry-of-mining-and-other.

[19] Corte Suprema de Justicia [C.S.J.] [Supreme Court], August 9, 2021, Company Workers Union of Maritima & Commercial Somarco Limited v. Ministry of Energy, No. 25 530-2021, https://climatecasechart.com/non-us-case/company-workers-union-of-maritima-commercial-somarco-limited-and-others-with-ministry-of-energy.

includes remediation for sites affected by coal mining operations, replacement of coal with renewables, and an inclusive governance that engages local stakeholders.

In 2024, Modatima (Movimiento de Defensa por el Acceso al Agua) filed an administrative invalidation claim that challenged a copper mining project, alleging that the environmental assessment failed to consider impacts on human rights and the environment (Sabin Center Climate Litigation Database 2024). Modatima contests the continuation of a project owned by Anglo American S.A. because it poses a threat to glaciers and contributes to water scarcity and air pollution. They also allege that the project will put human rights at risk, including the right to health, the right to life, the right to food and water, and the right to live in a healthy environment. Their claims also invoked the Escazú Agreement, a binding regional environmental treaty.

Chile's environmental and mining laws are uniquely colored by the country's fascist past. Racialized and vulnerable populations in resource-rich regions will face unique problems going forward as pressures mount to produce minerals for the global market absent a strong commitment to respect for international human rights. When examined from the vantage point of racial capitalism, current legal approaches in Chile are not likely to bring about a transformative just transition, as they remain essentially extractive.

This could change if the needs of people living in sacrifice zones are taken seriously. As the UN Special Rapporteur on Human Rights and the Environment, David Boyd, expressed, "Chile can no longer permit the creation of sacrifice zones, nor allow existing sacrifice zones to persist" (Boyd 2023b, n.p.). Recent Chilean court decisions upholding procedural rights to contest and challenge problematic mining projects have provided pathways to advocate for a more transformative transformation. When rights are being violated, rights can be vindicated. Access to remedy through a fair and impartial system of justice is fundamental for moving forward.

Presently, the Chilean government appears to be taking climate and environmental issues seriously, as reflected by recent legislative changes. At the conclusion of his 2023 country visit to Chile, the UN Special Rapporteur on Human Rights and the Environment praised the government for having "an ambitious goal of achieving a just social and ecological transition, moving away from the traditional extractive approach that exploits both people and nature," and counseling that centering human rights in every law, policy, and program intended to accelerate climate and environmental progress, including Chile's National Lithium Strategy, would be the only way to succeed in reaching stated goals (Boyd 2023b).

To be sure, there is much more the country must do. For example, water privatization has proven problematic and corporate accountability remains relatively rare. Still, in 2022 Chile enacted climate change legislation. The Climate Change Framework Law, Ley Marco de Cambio Climático,[20] recognizes the country's Paris Agreement commitment and makes the 2050 carbon-neutrality goal legally binding (Tigre 2024, 97). Chile's Climate Change Framework Law incorporates its Paris Agreement commitments into domestic law as binding obligations, including reaching net-zero carbon emissions by 2050 with mandated five-year reviews and the creation of a long-term climate strategy,

[20] Ley Marco de Cambio Climático, Ley No. 21.455, May 30, 2022, *Diario Oficial* [D.O.] (Chile), https://www.bcn.cl/leychile/navegar?idNorma=1172603.

with sectoral plans and citizen-participation mechanisms.[21] At COP 26 Chile became the first country in Latin America to submit a climate strategy. According to Climate Action Tracker, the Chilean government policies are "almost sufficient" to meet Chile's 2020 updated Nationally Determined Contributions and its legal obligations under the Paris Agreement (Climate Action Tracker 2024). Chile has committed to reducing emissions and aims to source 80 percent of the nation's energy from renewable sources by 2030 (Tigre 2024, 98). To meet these goals Chile must not ignore the adverse human rights impacts of the mining sector.

B. International Law and Policy

The international human rights system reinforces the procedural protections that Chilean courts have upheld in environmental justice cases. Standards that are core to the protection of environmental human rights in regional and international instruments, including public participation, access to information, and access to justice, find expression in domestic and constitutional law in Chile. While the most constructive path to progress for affected communities has been through domestic procedures, the more that national and international standards protecting environmental human rights are mutually reinforced to recognize racial inequity, the better positioned affected communities and advocates will become to bring about a more transformative just transition. Chile's obligations under international human rights law are described below.

1. The International Environmental and Human Rights Legal Obligations of Chile

Chile signed the Paris Agreement in 2016 and ratified it in February 2017 via Supreme Decree No. 30 under Michelle Bachelet (Ministero de Hacienda n.d.). Chile has also ratified International Labour Organization Convention 169, which recognizes the rights of Indigenous peoples to maintain control over their own institutions and identities, ways of life and languages, and economic development within the framework of the states in which they live. Critically, ILO Convention 169 also recognizes participation and consultation rights.

a. The ICJ Advisory Opinion on the Obligations of States Concerning the Climate

In its July 23, 2025 advisory opinion, the International Court of Justice (ICJ) clarified the obligations all countries have with respect to addressing the climate crisis. The Court interprets the three legally binding instruments executed by states to address the problem of climate change due to anthropogenic GHG emissions: the UNFCCC, the Kyoto Protocol, and the Paris Agreement. Obligations of States in Respect of Climate Change, Advisory Opinion, I.C.J. Rep. 2025 (July 23), para. 174. The Court outlines the obligations that states have under the different climate change treaty framework instruments. States that are parties to the UNFCCC have obligations to mitigate, adapt, and cooperate. Under the Kyoto Protocol, states set quantified emissions limits and reduction commitment periods. Pursuant to the Paris Agreement, in order to meet their mitigation obligations states must prepare,

[21] "One of the most recent and significant legislative achievements on climate change was the ratification of the Framework Law on Climate Change (LMCC) in June 2022. The Climate Change Framework Law creates a legal framework for the country to address climate change in terms of mitigation and adaptation from a long-term perspective and thus fulfill its international commitments under the Paris Agreement, which seeks to limit the rise in global temperature" (Ministerio del Medio Ambiente, n.d.) (translated to English).

communicate, and maintain Nationally Determined Contributions and implement domestic mitigation measures. To meet their cooperation obligations under the Paris Agreement, states should be proactive in the provision of financial assistance and technology development and transfer as well as capacity building. Even states that have not ratified instruments in the climate change treaty framework have obligations under customary international law to prevent ecosystem harms, according to the Court. All states have a duty to prevent significant harm to the environment and climate system (ibid., paras. 272–300).

The Court identifies core principles of the climate change treaty framework including "common but differentiated responsibilities," the precautionary approach, sustainable development, equity and intergenerational equity, the duty to cooperate, and the duty of polluters to pay. Obligations of States in Respect of Climate Change, Advisory Opinion, I.C.J. Rep. 2025 (July 23), paras. 179–183. To prevent harms, due diligence is the required minimum standard of conduct for every state. Due diligence involves scientific and technical information, conduct consistent with relevant international rules and standards, different capabilities, precautionary approach and respective measures, risk assessment and environmental impact assessment, and notification and consultation (ibid., paras. 283–89, 293–99).

The Court also clarifies the legal consequences for state actions or omissions that cause harm to the environment and climate system. States have a duty of performance. Obligations of States in Respect of Climate Change, Advisory Opinion, I.C.J. Rep. 2025 (July 23), para. 446. States have a duty of cessation and guarantees of nonrepetition (ibid., paras. 447–48). States have a duty to repair, through restitution, compensation, and satisfaction (paras. 449–55). Notably, the Court also explains how international human rights laws are relevant to interpreting the climate change treaty framework.

b. The Inter-American Court of Human Rights Advisory Opinion on the Climate Emergency

The Inter-American Court of Human Rights (IACtHR) also issued an Advisory Opinion on the Climate Emergency and Human Rights at the request of Chile and Colombia in 2025. The advisory opinion is legally binding on all member states of the Organization of American States that have accepted the jurisdiction of the IACtHR and provides an authoritative interpretation of the American Convention on Human Rights. The advisory opinion clarifies the scope of obligations that states have to respect, protect, and fulfill both substantive and procedural rights to a healthy environment in the context of climate emergency under the American Convention on Human Rights and the San Salvador Protocol on Economic, Social and Cultural Rights, as well as "other instruments forming international human rights law." I/A Court H.R., Advisory Opinion on the Climate Emergency and Human Rights, AO-32/25 of May 29, 2025, para. 36. The IACtHR also clarifies the specific obligations states have to protect particularly vulnerable groups including Indigenous peoples, Afro-descendant peoples, rural communities, women, children, and environmental defenders (ibid., para. 596). In doing so the advisory opinion provides a cogent analysis of inequality in the climate crisis by highlighting structural vulnerabilities and historical asymmetries in historical responsibility for environmental harms (Auz 2025). The advisory opinion is an example of antiracist and ecocentric jurisprudence that provides states with strong grounds for reforming international investment agreements that constrain or undermine efforts to address the climate emergency.

The advisory opinion recognizes an individual and collective right to a safe climate for present and future generations as inseparable from other protected human rights including the human rights to a healthy environment, health, housing, food, water, and life. I/A Court H.R., Advisory Opinion on the Climate Emergency and Human Rights, AO-32/25 of May 29, 2025, paras. 298–304. The IACtHR also announces "Recognition of Nature's right to conserve its essential ecological processes," explaining that "making progress towards a paradigm that recognizes rights inherent in ecosystems is fundamental for the protection of their long-term integrity and functionality" (ibid., para. 279). Recognizing nature's rights is intended to "transcend inherited legal concepts that conceived Nature exclusively as an object of ownership or an exploitable resource" (para. 280). Moreover, the IACtHR elevates causing "massive and irreversible damage to the environment" to the same normative level as slavery or genocide, making the protection of ecological integrity a *jus cogens* norm that is universal and nonderogable (paras. 292–94). The advisory opinion's ecocentric framing grounded in human rights and antiracism is a strong counter to the logic of racial capitalism, which requires exploitation, expulsion, and exclusion to sustain itself (Gonzalez and Mutua 2022).

The IACtHR considers the adverse impacts business enterprises can have on the climate system and calls on states to strengthen legal frameworks necessary to prevent human rights violations committed by public and private enterprises. I/A Court H.R., Advisory Opinion on the Climate Emergency and Human Rights, AO-32/25 of May 29, 2025, para. 345. Referencing the United Nations Guiding Principles on Business and Human Rights, the IACtHR makes clear that states must adopt administrative, regulatory, and legislative measures to ensure that business enterprises establish effective due-diligence processes concerning environmental and human rights risks to identify, prevent, mitigate, and where needed remedy adverse impacts of business activities (para. 348). Consistent with existing IACtHR jurisprudence as well as the Inter-American Standards on Business and Human Rights, the advisory opinion reaffirms that businesses have independent obligations and responsibilities regardless of whether a state regulates or not (ibid., para. 346; Dorman et al. 2025).

The IACtHR recognizes the risk of a "regulatory chilling effect" of international investment agreements due to the risk of compensation awards to foreign investors and calls for a better "balance" that would allow states to implement measures to address the climate crisis "without undermining the legal certainty and predictability that international investment agreements seek to provide as essential incentives for foreign direct investment." I/A Court H.R., Advisory Opinion on the Climate Emergency and Human Rights, AO-32/25 of May 29, 2025, para. 163. To that end, the advisory opinion proposes that "States should revise their trade and investment agreements, as well as Investor-State Dispute Systems, to guarantee that they neither limit nor restrict efforts in the area of climate change and human rights" (ibid., para. 351). Taking seriously the declaration of a *jus cogens* norm against massive and irreversible environmental harms, conflicting laws must be aligned or abandoned. The advisory opinion calls for a critical review of how international investment treaties have enabled capitalists to curb state efforts to regulate to protect the environment and human rights (Ostřanský 2025).

Reaffirming the logic of its judgment in *La Oroya v. Peru*, Judgment of November 27, 2023, Series C, No. 511, the IACtHR emphasizes that when polices or procedures adopted by either states or private actors may impact the rights of a particular group, that group must be granted the procedural right to be heard and to participate in decision-making processes. I/A Court H.R., Advisory Opinion on the Climate Emergency and Human Rights, AO-32/25 of May 29, 2025, paras. 537–38. The advisory opinion clarifies that the participation of Indigenous and Afro-descendant peoples must be actively

promoted and guaranteed from the start of a project and throughout the project lifecycle (ibid., para. 349).

By centering the procedural rights to information and participation and linking the right to a healthy environment to the protection of democratic rule, the IACtHR also builds on the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (the Escazú Agreement). Appropriately, the advisory opinion was informed by an extensive and inclusive participatory process with a diverse range of stakeholders participating in hearings and providing submissions (Celorio 2025).

c. The Escazú Agreement

Chile is a state party to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement).[22] The Escazú Agreement is a regional environmental treaty establishing legal standards for "environmental democracy," and emphasizes that environmental policy developments should be grounded in a democratic process. The agreement provides mechanisms for public access to scientific findings, information, and decision-making systems. It has fifteen member countries including Chile, Argentina, Mexico, and Colombia (IISD 2021). Chile opted out of binding interstate dispute resolution through the ICJ and has reserved its right not to be subject to compulsory procedures without consent.[23]

The agreement was developed under the United Nations Economic Commission for Latin America and the Caribbean, with the goal of expanding and strengthening Principle 10 of the 1992 Rio Declaration on Environment and Development,[24] and enshrines the basic "access rights" fundamental to sound environmental legislation: (1) access to information, (2) access to public participation, and (3) access to justice (Escazú Agreement, art 2).

The Escazú Agreement is the first environmental treaty in the Americas to provide protection for environmental rights defenders. Protection for environmental defenders is especially important for the social movements and movement lawyering necessary to bring about a transformative just transition. Also, the Americas region has the unfortunate distinction of being one of the most dangerous for environmental defenders (Nixon 2011). It provides an important tool for addressing the climate crisis and strengthening environmental democracy through protecting and promoting inclusive and participatory sustainable development for future generations.

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[22] Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean, March 4, 2018, 3388 U.N.T.S. 195.2018 (entered into force April 22, 2021).

[23] Rio Declaration on Environment and Development, principle 10, U.N. Doc. A/CONF.151/26/Vol. I (Aug. 12, 1992). Interpretative Declaration of Chile, Concerning Article 19.2, June 13, 2022, UN Doc. https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=xxvii-18&chapter=27&clang=_en#EndDec

[24] Rio Declaration on Environment and Development, UN Doc. A/CONF.151/26/Vol. I (August 12, 1992), principle 10. The declaration states:

> Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided. (Principle 10)

To satisfy the obligation of access to environmental information obligation under the Escazú Agreement (arts. 5–6), governments must proactively and responsibly disclose environmental data in accessible, timely formats. This includes environmental impact assessments, pollution levels, status of resource extraction permits, and so on (ibid.). To satisfy the requirement for public participation in environmental decision-making, the Escazú Agreement (art. 7) mandates inclusive and timely participation by the public, especially Indigenous or vulnerable groups, in environmental policy planning. This includes public comment periods for planning, licensing, and development projects (ibid.). Providing access to justice in environmental matters requires states to provide fair, affordable, and transparent judicial and administrative procedures to challenge violations of environmental law or access rights to courts or legal proceedings (ibid., art. 8). Escazú makes clear that violence, threats, criminalization, or coercion are inconsistent with the protection of environmental human rights defenders and that states must recognize their important role in environmental issues and provide protective measures (ibid., art. 13).

2. Global Business and Human Rights

a. The UN Guiding Principles on Business and Human Rights

In 2011, the United Nations Human Rights Council unanimously endorsed the United Nations Guiding Principles on Business and Human Rights (UNGPs) to operationalize a framework outlining the respective obligations of states and of private commercial actors when business enterprises are implicated in human rights violations. The three-pillar framework provides that states have the primary responsibility to ensure that human rights are protected while corporations are responsible for respecting human rights. Victims of violations are entitled to access to remedy either through a country's courts, or through a dispute resolution process or a private grievance mechanism provided by a business as appropriate.

The obligation to respect human rights means that businesses should "avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved" under the UNGPs (UNGPs, principle 11). At a minimum, the International Bill of Rights and those rights in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work must be respected (ibid.). Despite size or geographic location "the responsibility to respect human rights applies fully and equally to all business enterprises" (ibid., principle 14).

The responsibility to respect requires that business enterprises "[a]void causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur" (UNGPs, principle 13, 12). Because corporations may be involved with human rights abuses through their own activities or as a result of relationships with others, business enterprises should "[s]eek to prevent or mitigate adverse impacts that are directly linked to their operations, products, or services by their business relationships, even if they have not contributed to those impacts" (ibid., principles 13, 14). The UNGPs recognize the leverage and influence commercial actors can have on other market or government actors.

The term "activities" in the UNGPs also extends to omissions. A corporation's "business relationships" refers to its relationships with partners whether those partners represent private industry, nongovernmental organizations, public institutions, or government agencies. There are three

actions a business must undertake to meet the responsibility to respect under the UNGPs. Business enterprises must ensure that they have:

> (a) A policy commitment to meet their responsibility to respect human rights;
> (b) A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
> (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute. (UNGPs, principle 15)

A human rights due-diligence process consistent with the UNGPs is one that "assesses actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed" (UNGPS, principle 17). A due-diligence process should extend to consideration of human rights violations that the business enterprise "may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships" (ibid., principle 17, 16). The UNGPs counsel that a company's due-diligence process should be ongoing, as human rights risks evolve and business operations are subject to change.

The first step in due diligence is to conduct a human rights impact assessment. To assess human rights risks, the UNGPs advise that business enterprises have a process to identify and evaluate the actual and potential harm that may result from their own activities or business relationships (UNGPs, principle 18). This process should "[i]nvolve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation" (ibid., principle 18, 17).

Human rights impact assessments can be incorporated within other existing processes, such as environmental impact assessments, while using human rights recognized in international law as a point of reference. The information gathered for impact assessments should then be used to guide actions to prevent or mitigate human rights abuses. Where a business enterprise is taking action to address abuses, it should track whether the effort is effective by drawing on feedback from affected stakeholders (UNGPs, principle 20). In sum, a company should be able to "*know and show* that they respect human rights" (ibid., principle 21, 20).

b. The Organization for Economic Cooperation and Development Guidelines

Chile joined the OECD in 2010, becoming the organization's thirty-first member country and its first from South America (OECD, n.d.). The OECD Guidelines are a set of voluntary principles and standards for responsible business conduct in a global context. The Guidelines call for corporate conduct to be consistent with both applicable laws and internationally recognized standards (OECD 2023). The Guidelines are addressed to businesses that operate from or in OECD countries and those non-OECD countries that adhere to the OECD Declaration on International Investment and Multinational Enterprises and Related Decisions. Like the UNGPs, the OECD Guidelines are a nonbinding code of conduct that OECD member countries and other "adhering" nations have consented to promote as best practice in the business community.

The OECD Guidelines were founded on the premise that international investment contributes to development and international cooperation. Development and international cooperation can in turn improve the investment climate by maximizing how businesses can contribute to progress while minimizing operational challenges (OECD 2023). The Guidelines are implemented through a system of National Contact Points established by OECD member governments (Bernaz 2017, 196–203).

In 2011, the OECD Guidelines were updated to include direct reference to human rights (OECD 2011). Governments of the forty-two OECD and non-OECD countries adhering to the OECD Declaration on International Investment and Multinational Enterprises updated the guidelines "to reflect changes in the landscape for international investment" and "to ensure the continued role of the Guidelines as a leading international instrument for the promotion of responsible business conduct" (ibid., 3). The human rights update was informed by regional consultations with stakeholders and partners in Asia, Africa, Latin America, and the Middle East and North Africa. References in the OECD Guidelines to human rights reiterate the obligations set forth in the UN Guiding Principles that all nations must protect human rights and all business enterprises must respect human rights. The updated OECD Guidelines now provide that, consistent with the framework of international human rights law, the human rights obligations of the countries in which they operate, and domestic laws and regulations, business enterprises should:

> 1. Respect human rights, which means they should avoid infringing on the human rights of others and should address human rights violations with which they are involved.
> 2. Within the context of their own activities, avoid causing or contributing to human rights abuse and address it when it occurs.
> 3. Seek ways to prevent or mitigate human rights abuses that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those abuses.
> 4. Have a policy to respect human rights.
> 5. Carry out human rights due diligence as appropriate to the size, nature and context of their operations and the severity of the risks of human rights violations.
> 6. Provide for or help in the remediation of human rights violations when they identify that they have caused or contributed to these violations. (OECD 2011, 31)

Between the UNGPs, Chile's National Action Plan on Business and Human Rights (NAP), and its participation in OECD, as well as the comprehensive regional standards on business and human rights developed by the Inter-American Commission on Human Rights (Inter-American Commission on Human Rights and Special Rapporteur for Economic, Social, Cultural and Environmental Rights 2019), advocates for racial and environmental justice in Chile have tools to advocate for reforms. Notably, in the cases decided by the Chilean Supreme Court, failure to consult and communicate with affected communities and stakeholders was sufficient to stall or stop projects. These projects did not conduct business in a manner consistent with UNGP guidance on the responsibility to respect human rights. Community mobilization and organization have an impact on company decisions and actions (Aspinwall 2025, 227–48). Chile announced its NAP in 2017. Chile's updated NAP identifies specific government institutions to oversee implementation of each commitment contained in the plan.[25]

[25] National Action Plans on Business and Human Rights (2024). Chile's first National Action Plan was in force from 2017 to 2020. The country published a second NAP in 2022.

C. Toward a Transformative Transition: Reforming Regulatory Protections and Policy to Detect and Dismantle Racial Capitalism

Chile is engaged in "neo-extractivism"—its mining laws are organized around ensuring continued exploitation of natural resources (Burchardt and Dietz 2014). Former UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance E. Tendayi Achiume has pointed out the persistence of extractive logics even for governments that reject privatization and intend to use proceeds from resource wealth to alleviate poverty (Achiume 2019, para. 10; 2022). Overreliance on natural resource extraction and the exploitation of nature as the primary mode of securing economic development continues to risk creating conflict and dispossession (Gregoire and Hatcher 2022). In the end, when countries eventually deplete resources the result will be a net reduction in wealth (Achiume 2019, para. 10).

Racialized structures of global economic governance and the global economy are inherited from the colonial era and entrenched to such an extent that the transition to a carbon-neutral economy risks replicating the racialized patterns of the fossil fuel economy unless human rights–based procedural protections that have enabled affected communities to challenge mining projects and to change the course of how sustainable development is done are strengthened. Dismantling racial inequity will require conscious acknowledgment of and attention to racial disparities.

More human rights advocacy that recognizes the roots and the reach of racial inequity and how racism is repurposed in different contexts will be required to counter the worst impacts of racial capitalism that drive environmental injustice. To be sure, as Ntina Tzouvala has observed, there are conceptual and historical synergies between neoliberal economic governance and human rights laws—prioritizing individualism and defending free markets as a precondition for freedom (Tzouvala 2025). Tzouvala compares human rights law to an "unreliable friend" that "can offer valuable tools, create dangerous traps, or be useless at times" (ibid., 381). While the success of efforts to incorporate respect for human rights in into industry, international investment, and trade law has varied, the ability to consistently rely on human rights protections depends in large part on political will and societal commitment.

Explaining the significance of the UN General Assembly resolution recognizing environmental rights, before it was referenced in the International Court of Justice advisory opinion, then UN High Commissioner for Human Rights Michelle Bachelet (former Chilean president) observed that environmental actions based on human rights obligations could serve as important guardrails for economic policies and business models (*UN News* 2022). New stronger expressions of environmental human rights in instruments like the Escazú Agreement have the potential to contribute to a transformative economic transition because they provide protection for human rights defenders and pay attention to equity in addition to protecting access to information and participation rights. In the meantime, it is critical to protect all of the rights that will enable humanity to create conditions for alternatives to racial capitalism to emerge.

There are sound proposals to reform the impediments that exist in international investment law. There are recommendations for reforming mining laws to better protect fragile ecosystems and ensure public participation. There are measures that the mining industry could take to reduce inequity. There are ways that concerned stakeholders can continue to press for change and change patterns of consumption.

Proposed reforms to the international investment regime seek to create more room for host countries to regulate business enterprises (Olabode 2023). Jola Gjuzi has advocated for a reconceptualization of stabilization clauses to enable host countries to narrow the scope of the application of stabilization (Gjuzi 2018, 482–83). Given the growing demand for minerals, it could be that resource-rich states have more space than originally thought, as new evidence suggests that the concessions made in agreeing to stabilization clauses may not serve to attract foreign direct investment as previously believed with increased competition between investors for access to resources (Frank 2015). Countries could renegotiate treaties to preserve their sovereign regulatory authority to require respect for human rights; free, prior, and informed consent; and sustainable development. Countries would be able to regulate to better protect the environment and human rights without the threat of retaliation by foreign investors if the dispute settlement system were not so easy for industry to abuse. Countries could eliminate exposure to future ISDS claims by withdrawing consent to arbitration and negotiating the termination of survival clauses (Boyd 2023a, 23). Ultimately, what is needed is an antiracist reimagining of the international investment system to encourage investment in sustainable and rights-respecting solutions to the climate crisis.

Specifically, to avoid additional risks to environmental and human rights in the Atacama region of Chile, business actors involved in mining should respect free, prior, and informed consent for Indigenous and affected communities. The Chilean government should strengthen environmental and social standards and monitor mining activities more closely and in a manner that respects the history and wisdom of the local community. Industry and government should increase transparency into the water resource use related to mining activity.

Mining laws could be updated to better reflect the reality of water scarcity in Chile. Brine is not classified as water under the Chilean Water and Mining Code. Because brine is not treated as water, the government is not required to monitor the amount of brine extracted from salt flats and companies do not have to disclose information about extraction. The Observatorio Plurinacional de Salares Adnios and the National Resources Defense Council have called for brine to be reclassified to allow for better monitoring or for a moratorium on brine extraction (Blair et al. 2022).

Finally, global patterns of production and consumption could be made more sustainable. Obtaining lithium in less environmentally damaging ways could limit damage to ecosystems and affected communities. Extending battery life and recycling old batteries could reduce the need for new mining. Coming to a consensus on international targets for global minerals protection, monitoring and improving coordination of mineral exploration, and developing maps and inventories of recyclable metals are among other measures the United Nations Environment Program has proposed to ensure an ecologically viable global minerals supply chain to meet demand (Ayuk et al. 2020; United Nations Development Program 2018). Some scholars working on issues of resource extraction maintain that current levels of energy consumption are not due to meeting human needs but rather due to greed and the endless imperative of growth in a capitalist system (K. Saito 2024; Riofrancos et al. 2019). Reducing the need for mining by reducing energy consumption and improving rates of recycling could protect the human rights of racialized peoples living in natural resource-rich regions prime for extractive industry activity (Riofrancos et al. 2023).

There are policy choices governments could make to incentivize changes. There are choices investors could make to minimize the risk of rights violations. Consumers could make more sustainable choices. The climate is changing, and we must change as well.

VI. Conclusion

This paper aims to contribute the growing literature on Law and Political Economy by showing how international investment instruments and mining laws are often more responsive to the interests of capital than the interests of racialized communities affected by destructive forms of extraction. In the tradition of Law and Political Economy research that offers an "emancipatory critique" informed by outsider approaches to understanding jurisprudence, this paper has explained that the logic of racial capitalism is deeply rooted and reinforced when international investment law is elevated over environmental imperatives.

Viewing the transition to a cleaner energy supply chain through the lens of racial capitalism illuminates the risks of a political economic system that does not value the environment. Lani Guinier and Gerald Torres invoke the metaphor of a miner's canary to illustrate how the conditions that racialized communities experience can reveal problems with the way power and privilege are structured. Miners brought canaries into mines because the small birds were sensitive to the presence of dangerous gases in a mine shaft before humans could detect danger. A distressed canary served as a warning to leave the mine because the air was becoming too dangerous to breathe. As Guinier and Torres explain, "[T]he metaphor of the miner's canary captures the association between those who are left out and social justice deficiencies in the larger community" (Guinier and Torres 2002, 1–2).

A transformative reading of the protective provisions of the human rights regime will be necessary to meet the challenge of the seeming insatiable growth imperative of racial capitalism. Angela Harris describes a "law beyond law" that treats economic interests as primary, and environmental and all other interests as secondary, while economics analysis has ignored ecological imperatives (Harris 2021). It is increasingly difficult to ignore the impacts of climate change. Recognition of a human right to a clean, sustainable, and healthy environment must invite a reassessment of humanity's relationship with the natural world in the face of neoextractivism and a warming world.

REFERENCES

Above Ground and Justiça Global. 2017. *Swept Aside: An Investigation into Human Rights Abuse at Kinross Gold's Morro do Ouro Mine*. https://aboveground.ngo/wp-content/uploads/2017/12/Swept-Aside-Kinross-Morro-do-Ouro-report.pdf.

Achiume, Tendayi. 2019. *Report of the Special Rapporteur on Contemporary Forms of Racism, Global Extractivism and Racial Equality*. UN Doc. A/HRC/41/54, May 14. https://www.ohchr.org/en/documents/thematic-reports/ahrc4154-global-extractivism-and-racial-equality-report-special.

Achiume, Tendayi. 2022. *Report of Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance on Ecological Crisis, Climate Justice and Racial Justice*. UN Doc. A/77/2990, October 25. https://www.ohchr.org/en/documents/thematic-reports/a77549-report-special-rapporteur-contemporary-forms-racism-racial.

Acosta, Alberto. 2013. "Extractivism and Neoextractivism: Two Sides of the Same Curse." In *Beyond Development*, edited by M. Lang & D. Mokrani, 61. Transnational Institute.

Adkins, Lesley, and Roy Adkins. 2025. "Navigating Nitrate: The Hazards and Historical Significance of Chilean Cargoes." Lloyd's Register Foundation Heritage & Education Centre. April 28. https://hec.lrfoundation.org.uk/whats-on/stories/navigating-nitrate-the-hazards-and-historical-significance-of-chilean-cargoes.

Al-Bulushi, Yousuf. 2020. "Thinking Racial Capitalism and Black Radicalism from Africa: An Intellectual Geography of Cedric Robinson's World-System." 132 *Geoforum* 252.

Alston, Philip. 2015. "End of Mission Statement of the Special Rapporteur on Extreme Poverty and Human Rights: Visit to Chile." United Nations Office of the High Commissioner for Human Rights. March 24. https://ohchr.org/en/statements-and-speeches-2015/03/end-mission-statement-special-rapporteur-extreme-poverty-and-human.

Amnesty International. 2008. "The Case Against Augusto Pinochet." Amnesty International. October 16. https://www.amnesty.org/en/wp-content/uploads/2021/06/amr220042008en.pdf.

Amnesty International. 2016. *"This Is What We Die For": Human Rights Abuses in the Democratic Republic of the Congo Power the Global Trade in Cobalt*. https://www.amnesty.org/en/documents/afr62/3183/2016/en.

Anghie, Antony. 2005. *Imperialism: Sovereignty and the Making of International Law*. Cambridge University Press.

Anghie, Antony. 2015. "Legal Aspects of the New International Economic Order." 6 *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 145.

Anglophone Chile. n.d. "Settler Colonialism: Occupation of the Araucanía." https://www.anglophonechile.org/copy-of-maritime-history.

Ashiagbor, Diamond. 2021. "Race and Colonialism in the Construction of Labour Markets and Precarity." 50 *Industrial Law Journal* 506. https://doi.org/10.1093/indlaw/dwab020.

Aspinwall, Mark. 2025. "Human Rights, Social Resistance and Mining Firm Behaviour in Latin America." 10 *Business and Human Rights Journal* 227. https://doi.org/10.1017/bhj.2025.4.

Auz, Juan. 2025. "The Inter-American Court of Human Rights' Advisory Opinion on the Climate Emergency: A Global South Contribution to Climate Governance." *EJIL: Talk!* (blog). July 18. https://ejiltalk.org/the-inter-american-court-of-human-rights-advisory-opinion-on-the-climate-emergency-a-global-south-contribution-to-climate-governance.

Ayuk, Elias T., Antonio M. Pedro, and Paul Ekins. 2020. *Mineral Resource Governance in the 21st Century: Gearing Extractive Industries Towards Sustainable Development*. United Nations Environment Programme. https://www.greenpolicyplatform.org/sites/default/files/downloads/resource/irp-mineral_resource_governance-full_report-feb2020_compressed_compressed%20(1).pdf.

Babidge, Sally. 2016. "Contested Value and an Ethics of Resources: Water, Mining, and Indigenous People in the Atacama Desert, Chile." 27 *Australian Journal of Anthropology* 84.

BBC News. 2021. "Leftist Gabriel Boric to Become Chile's Youngest Ever President." December 20. https://www.bbc.com/news/world-latin-america-59715941.

BBC News. 2023. "Chile Country Profile." December 11. https://www.bbc.com/news/world-latin-america-19357497.

Becerril, Michael S.W. 2018. "Mining Conflicts in Peru: Civil Resistance and Corporate Counterinsurgency." 4 *Journal of Resistance Studies* 99.

Behar, Amitabh. 2025. "How Extreme Inequality Is Rooted in the Colonial Past and in Today's Modern-Day Colonial Systems." *World Economic Forum*.

Benton, Lauren, 2002. *Law and Colonial Cultures: Legal Regimes in World History 1400–1900*. Cambridge University Press.

Berahab, Rim. 2022. "The Energy Transition Amidst Global Uncertainties: A Focus on Critical Minerals." Policy Center for the New South Policy Brief 37/22. May 18. https://policycenter.ma/publications/energy-transition-amidst-global-uncertainties-focus-critical-minerals.

Bernaz, Nadia. 2017. *Business and Human Rights: History, Law and Policy—Bridging the Accountability Gap*. Routledge.

Bethell, Leslie, ed. 1993. *Chile Since Independence*. Collection of select chapters from *Cambridge History of Latin America*, edited by Leslie Bethell. Cambridge University Press.

Beuter, Emily. 2020. "Occupation of the Araucanía (1860–1883)—An Editorial from El Mercurio." *College of Wooster Latin America* (blog). March 3. https://cowlatinamerica.voices.wooster.edu/archive-item/occupation-of-the-araucania-1860-1883-an-editorial-from-el-mercurio/.

BHRC (Business & Human Rights Centre). n.d. "Transition Minerals Tracker." https://www.business-humanrights.org/en/from-us/transition-minerals-tracker/.

BHRC (Business & Human Rights Centre). 2013. "Agua Mineral Chusmiza Lawsuit (re Chile)." April 25. https://business-humanrights.org/en/latest-news/agua-mineral-chusmiza-lawsuit-re-chile.

Blair, James, Ramón M. Balcázar, Javiera Barandiarán, and Amanda Maxwell. 2022. *Exhausted: How We Can Stop Lithium Mining from Depleting Water Resources, Draining Wetlands, and Harming Communities in South America*. Natural Resources Defense Council. https://www.nrdc.org/resources/exhausted-how-we-can-stop-lithium-mining-depleting-water-resources-draining-wetlands-and.

Bohoslavsky, Juan Pablo. 2021 *Pinochet's Economic Accomplices: An Unequal Country by Force*. Bloomsbury.

Boulabiza, Madga-Sarah. 2024. *Europe's Original Sin: White Supremacy, Colonialism, and Contemporary Racial Wealth Gap*. European Network Against Racism. https://www.enar-eu.org/wp-content/uploads/Europes-Original-Sin-ENAR-Report.pdf.

Boyd, David. 2023a. *Paying Polluters: The Catastropic 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.

Boyd, David. 2023b. "Statement at the Conclusion of Country Visit to Chile by United Nations Special Rapporteur on Human Rights and the Environment." May 3–12. https://www.ohchr.org/sites/default/files/documents/issues/environment/srenvironment/eom-statement-Chile-12-May-2023-EN.pdf.

Boyd, David, and Stephanie Keene. 2024. "Prioritizing Profits over People and Planet: The Devastating Impacts of Large Businesses on the Right to a Clean, Healthy and Sustainable Environment." Policy Brief #6, United Nations Special Rapporteur on Human Rights and the Environment. https://www.ohchr.org/sites/default/files/documents/issues/environment/srenvironment/activities/policy-brief-no-6-devastating-impacts-businesses-r2he-20240131.pdf.

Brisbois, Ben, Mathieu Fagan, Bjorn Stime, et al. 2021. "Mining, Colonial Legacies, and Neoliberalism: A Political Ecology of Health Knowledge." 31 *Journal of Environmental & Occupational Health Policy* 48. https://doi.org/10.1177/10482911211001051.

Brown, J. R. 1963. "Nitrate Crises, Combinations, and the Chilean Government in the Nitrate Age." 43 *Hispanic American Historical Review* 230. https://doi.org/10.1215/00182168-43.2.230.

Brownlie, Ian. 1979. "Legal Status of Natural Resources in International Law." In *The Hague Academy Collected Courses Online*, 245. Brill.

Buhmann, Karin. 2023. "Addressing a Human Rights Paradox in the Green Transition: Guidance for Invested Mining Operations to Benefit Local Communities." 419 *Journal of Cleaner Production* 137903. https://doi.org/10.1016/j.jclepro.2023.137903.

Bullard, Robert D. 1996. "Environmental Justice: It's More Than Waste Facility Siting." 77*Social Science Quarterly* 493. http://www.jstor.org/stable/42863495.

Bullard, Robert D. 1999. "Dismantling Environmental Racism in the USA." 4 *Local Environment* 5. https://doi.org/10.1080/13549839908725577.

Bullard, Robert. 2005. "Environmental Justice in the Twenty-First Century." In *The Quest for Environmental Justice: Human Rights and the Politics of Pollution*, edited by Robert Bullard, 19. Counterpoint.

Bullard, Robert D. 2011. Review of *Sacrifice Zones: The Front Lines of Toxic Chemical Exposure in the United States*, by Steve Lerner. 119 *Environmental Health Perspectives* A266. https://pmc.ncbi.nlm.nih.gov/articles/PMC3114843/.

Burchardt, Hans-Jürgen, and Kristina Dietz. 2014. "(Neo-)extractivism—A New Challenge for Development Theory from Latin America." 35 *Third World Quarterly* 468.

Burger, Michael, and Antonia Tigre, Maria. 2023. *Global Climate Litigation Report: 2023 Status Review*. Sabin Center For Climate Change Law. https://scholarship.law.columbia.edu/cgi/viewcontent.cgi?article=1203&context=sabin_climate_change.

Burton, Eli G. 2014. "Reverse the Curse: Creating a Framework to Mitigate the Resource Curse and Promote Human Rights in Mineral Extraction Industries in Africa." 28 *Emory International Law Review* 425. https://scholarlycommons.law.emory.edu/eilr/vol28/iss1/10.

Bury, Jeffrey, and Anthony Bebbington. 2013. "New Geographies of Extractive Industries in Latin America." *Subterranean Struggles: New Dynamics of Mining, Oil, and Gas in Latin America*. University of Texas Press.

Carrasco, Anita. 2011. "One World, Many Ethics: The Politics of Mining and Indigenous Peoples in Atacama, Chile." PhD diss., University of Arizona. https://repository.arizona.edu/handle/10150/145451.

Carrell, Severin, and Chris Oshu. 2025. "Edinburgh University Had 'Outsized' Role in Creating Racist Scientific Theories, Inquiry Finds." *Guardian*, July 27. https://theguardian.com/education/2025/jul/27/edinburgh-university-outsized-role-creating-racist-scientific-theories-inquiry.

Cassese, Antonio. 1979. *Self-Determination of Peoples: A Legal Reappraisal*. Cambridge University Press.

Celorio, Rosa. 2025. "Advisory Opinion 32/25 on the Climate Emergency and Human Rights: The Inter-American Court of Human Rights Meets the Moment." *ASIL Insights*, October 29. https://asil.org/insights/volume/29/issue/14.

Church, Clare, and Alec Crawford. 2020. "Minerals and the Metals for the Energy Transition: Exploring the Conflict Implications for Mineral-Rich, Fragile States." In *The Geopolitics of the Global Energy Transition*, edited by Manfred Hafner and Simone Tagliapietra, 279. Springer.

CIA (Central Intelligence Agency). 2025. "Chile." The World Factbook. https://www.cia.gov/the-world-factbook/countries/chile/.

Climate Action Tracker. 2024. "Country Summary: Chile." October 7. https://climateactiontracker.org/countries/chile/.

Collier, Simon, and William Sater. 1996. *A History of Chile, 1808–1994*. Cambridge University Press.

Columbia Center on Sustainable Investment. 2023. "Enabling a Just Transition: Protecting Human Rights in Renewable Energy Projects." https://ccsi.columbia.edu/content/enabling-just-transition-protecting-human-rights-renewable-energy-projects.

Couso, Javier. 2011. "Trying Democracy in the Shadow of an Authoritarian Legality: Chile's Transition to Democracy and Pinochet's Constitution of 1980." 29 *Wisconsin International Law Journal* 393. https://wilj.law.wisc.edu/wp-content/uploads/sites/1270/2013/01/Couso.pdf.

Dal Pra, Amelia. 2022. "The Resource Curse, Colonialism, and the Hypocrisy of Western 'Climate Leadership.'" *Georgetown Security Studies Review*, April 2. https://gssr.georgetown.edu/the-forum/regions/africa/the-resource-curse-colonialism-and-the-hypocrisy-of-western-climate-leadership/.

Deva, Surya, and Tara Van Ho. 2023. "Addressing (In)equality in Redress: Human Rights-Led Reform of the Investor-State Dispute Settlement Mechanism." 24 *Journal of World Investment and Trade* 398. https://brill.com/view/journals/jwit/24/3/article-p398_3.xml.

De Waal, Shaun. 2016. "Historian Who Lit Intellectual Veld Fires." *Mail & Guardian*, March 10. https://mg.co.za/article/2016-03-10-historian-who-lit-intellectual-veld-fires/.

Diouf, Aliou, Joseph Kibugu, Nokukhanha (Khanya) Mncwabe, and Gregory Regaignon. 2014. "Business & Human Rights in Africa: Time for a Responsibility Revolution." Business & Human Rights Resource Centre. September. https://media.business-humanrights.org/media/documents/23310ec5977cce6fa96a61c86756cc08c83e8c5d.pdf.

Donaghy, Timothy Q., Noel Healy, Charles Y. Jiang, and Colette Pichon Battle. 2023. "Fossil Fuel Racism in the United States: How Phasing Out Coal, Oil and Gas Can Protect Communities." 100 *Energy Research & Social Science* 103104. https://doi.org/10.1016/j.erss.2023.103104.

Dorman, Sarah, Monica Iyer, and Kelsey Jost-Creegan. 2025: "Corporations, Climate, and the Court: New Directions for Business and Human Rights in AO-32/25." *VerfBlog*. July 24, 2025. https://verfassungsblog.de/business-and-human-rights-in-ao-32-25.

Doubek, James. 2023. "The US Set the Stage for a Coup in Chile. It Had Unintended Consequences at Home." *NPR*, September 10. https://www.npr.org/2023/09/10/1193755188/chile-coup-50-years-pinochet-kissinger-human-rights-allende.

Downey, Liam, Eric Bonds, and Katherine Clark. 2010. "Natural Resource Extraction, Armed Violence, and Environmental Degradation." 23 *Organization & Environment* 417. https://doi.org/10.1177/1086026610385903.

Edwards, Sebastian. 2023. *The Chile Project: The Story of the Chicago Boys and the Downfall of Neoliberalism*. Princeton University Press.

Elliot, J. H. 2002. *Imperial Spain, 1268–1716*. Penguin Books.

EPA (Environmental Protection Agency). 2021. "Study Finds Exposure to Air Pollution Higher for People of Color Regardless of Region or Income." https://www.epa.gov/sciencematters/study-finds-exposure-air-pollution-higher-people-color-regardless-region-or-income.

EPA (Environmental Protection Agency). 2025. "Climate Change Impacts." https://epa.gov/climateimpacts/climate-change-impacts-sector.

Escalante, Edwar. 2022. "The Influence of Pinochet on the Chilean Miracle." 57 *Latin American Research Review* 831. https://doi.org/10.1017/lar.2022.54.

Eslava, Luis. 2019. "The Developmental State: Independence, Dependency, and the History of the South." In *The Battle for International Law: South-North Perspectives on the Decolonization Era*, edited by Jochen von Bernstorff and Philipp Dann, 71. Oxford University Press.

Faron, Louis C. 1960. *Effects of Conquest on the Araucanian Picunche During the Spanish Colonization of Chile, 1536–1635*. Duke University Press.

Feliko [Luis E. Feliú Hurtado]. 1921. *A Short History of Chile*. Valparaiso.

Finn, Brandon Marc, and Patrick Brandful Cobbinah. 2025. "Decarbonization Reproduces Colonial Inequalities." *African Review of Political Economy Blog.* April 16. https://roape.net/2025/04/16/decarbonization-reproduces-colonial-inequalities.

Fisher, Toby. 2022. "Lithium Miner Threatens Treaty Claim Against Chile." *Global Arbitration Review*, November 25.

Foster, Vivien, and Daron Bedrosyan. 2014. *Understanding CO2 Emissions from the Global Energy Sector*. World Bank Group. https://documents.worldbank.org/en/publication/documents-reports/documentdetail/873091468155720710/understanding-co2-emissions-from-the-global-energy-sector.

Franceschet, Susan. 2006. "El Triunfo de Bachelet y el Ascenco Politico de las Mujeres." 202 *Nueva Sociedad* 13. https://nuso.org/articulo/el-triunfo-de-bachelet-y-el-ascenso-politico-de-las-mujeres.

Frank, Sotony. 2015. "Stabilisation Clauses and Foreign Direct Investment: Presumptions Versus Realities." 16 *Journal of World Investment & Trade* 88.

Fraser, Nancy. 2019. "Is Capitalism Necessarily Racist?" *Politics / Letters*, May 20. http://quarterly.politicsslashletters.org/is-capitalism-necessarily-racist.

Garcia, Diego, and Juan F. Guiterrez. 2023. "Chile's New Mining Royalty Lacks Clarity that Investors Need." *Bloomberg Tax*. November 8.

Gathii, James Thuo. 2010. *War, Commerce, and International Law*. Oxford University Press.

Gathii, James Thuo, and Ntina Tzouvala. 2022. "Racial Capitalism and International Economic Law: Introduction." 25 *Journal of International Economic Law* 199. https://doi.org/10.1093/jiel/jgac025.

George, Erika. 2017. "The Story of Environmental Justice and Race in the United States: International Human Rights and Equal Environmental Protection." In *Human Rights and Legal Judgments: The American Story*, edited by Austin Sarat, 46. Cambridge University Press.

George, Erika. 2019. "Shareholder Activism and Stakeholder Engagement Strategies: Promoting Environmental Justice, Human Rights and Sustainable Development Goals." 36 *Wisconsin International Law Journal* 298. https://scholarship.law.bu.edu/faculty_scholarship/3831.

Gilman, Nils. 2015. "The New International Economic Order: A Reintroduction." 6 *Humanity: An International Journal of Human Rights, Humanitarianism, and Development* 1. https://humanityjournal.org/issue6-1/the-new-international-economic-order-a-reintroduction.

Ginsburg, Tom, and Isabel Álvarez. 2024. "It's the Procedures, Stupid: The Success and Failures of Chile's Constitutional Convention." 13 *Global Constitutionalism* 182. https://doi.org/10.1017/S2045381723000242.

Gjuzi, Jola. 2018. *Stabilization Clauses in International Investment Law: A Sustainable Development Approach*. Springer.

Global Witness. 2020. *Defending Tomorrow: The Climate Crisis and Threats Against Land and Environmental Defenders*. July. https://globalwitness.org/en/campaigns/land-and-environmental-defenders/defending-tomorrow/.

Global Witness. 2023. "A Rush for Lithium in Africa Risks Fueling Corruption and Failing Citizens." November 14. https://globalwitness.org/en/campaigns/transition-minerals/a-rush-for-lithium-in-africa-risks-fuelling-corruption-and-failing-citizens.

Go, Julian. 2021. "Three Tensions in the Theory of Racial Capitalism." 39 *Sociological Theory* 38.

Gómez-Barris, Macarena. 2017. *The Extractive Zone*. Duke University Press.

Gonzalez, Carmen. 2021. "Racial Capitalism and the Anthropocene." In *The Cambridge Handbook of Environmental Justice and Sustainable Development*, edited by Sumudu A. Atapattu, Carmen Gonzalez, and Sara Seck, 72. Cambridge University Press.

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

Greenfield, Nicole. 2022. "Lithium Mining Is Leaving Chile's Indigenous Communities High and Dry (Literally)." Natural Resources Defense Council. April 26. https://www.nrdc.org/stories/lithium-mining-leaving-chiles-Indigenous-communities-high-and-dry-literally.

Gregoire, Etienne Roy, and Pascal Hatcher. 2022. "Global Extractivism and Inequality." In *The Routledge Handbook of Global Development*, edited by Kearrin Sims, Nicola Banks, Susan Engel, et al., 341.

Guardiola-Rivera, Oscar. 2013. *Story of a Death Foretold: The Coup Against Salvador Allende, September 11, 1973*. Bloomsbury.

Gudynas, Eduardo. 2018. "Extractivisms: Tendencies and Consequences." In *Reframing Latin American Development*, edited by Ronaldo Munck and Raúl Delgado Wise, 61. Routledge.

Guinier, Lani, and Gerald Torres. 2002. "Excerpt from the Miner's Canary: Enlisting Race, Resisting Power, Transforming Democracy." 27 *NYU Review of Law & Social Change* 1. https://socialchangenyu.com/review/excerpt-from-the-miners-canary-enlisting-race-resisting-power-transforming-democracy/.

Harris, Angela P. 2021. "Toward a Law and Political Economy Approach to Environmental Justice." In *The Cambridge Handbook of Environmental Justice and Sustainable Development*, edited by Sumudu A. Atapattu, Carmen Gonzalez, and Sara Seck, 453. Cambridge University Press.

Human Rights Watch. 1999. *The Price of Oil*. https://www.hrw.org/reports/1999/nigeria.

Human Rights Watch. 2004. *Democratic Republic of Congo: The Curse of Gold*. https://www.hrw.org/report/2005/06/01/curse-gold.

Human Rights Watch. 2010. *Gold's Costly Dividend: Human Rights Impacts of Papua New Guinea's Porgera Gold Mine*. https://www.hrw.org/report/2011/02/01/golds-costly-dividend/human-rights-impacts-papua-new-guineas-porgera-gold-mine.

Human Rights Watch. 2013. *Hear No Evil: Forced Labor and Corporate Responsibility in Eritrea's Mining Sector*. https://www.hrw.org/report/2013/01/15/hear-no-evil/forced-labor-and-corporate-responsibility-eritreas-mining-sector.

Human Rights Watch. 2019. "'We Know Our Lives Are in Danger': Environment of Fear in South Africa's Mining-Affected Communities." https://www.hrw.org/report/2019/04/16/we-know-our-lives-are-danger/environment-fear-south-africas-mining-affected.

Humphreys, Macartan, Jeffrey D. Sachs, and Joseph E. Stiglitz. 2007. "Introduction: What Is the Problem with Natural Resource Wealth?" In *Escaping the Resource Curse*, edited by Macartan Humphreys, Jeffrey D. Sachs, and Joseph E. Siglitz, 1. Columbia University Press.

Hund, Kirsten, Daniele La Porta, Thao P. Fabregas, Tim Laing, and John Drexhage. 2020. "Minerals for Climate Action: The Mineral Intensity of the Clean Energy Transition." World Bank Group. http://documents.worldbank.org/curated/en/099052423172525564.

ICLG (International Comparative Legal Guides). 2025. *Mining Laws and Regulations*. Global Legal Group. https://iclg.com/practice-areas/mining-laws-and-regulations.

IEA (International Energy Agency). 2021. "The Role of Critical Minerals in Clean Energy Transition." https://www.iea.org/reports/the-role-of-critical-minerals-in-clean-energy-transitions/executive-summary.

IEA (International Energy Agency). 2023. "IEA Summit on Critical Minerals and Clean Energy: Key Takeaways." https://www.iea.org/news/iea-summit-on-critical-minerals-and-clean-energy-key-takeaways.

IIED (International Institute for Environment and Development). 2020. "Protecting Indigenous Lands: Lessons from Chile." Institute for Environment and Development. November 17. https://www.iied.org/protecting-Indigenous-lands-lessons-chile.

IISD (International Institute for Sustainable Development). 2021. "Escazú Agreement Takes Effect, Enshrining Right to Sustainable Development." SDG Knowledge Hub. April 26. https://sdg.iisd.org/news/escazu-agreement-takes-effect-enshrining-right-to-sustainable-development.

Inter-American Commission on Human Rights and Special Rapporteur for Economic, Social, Cultural and Environmental Rights. 2019. *Business and Human Rights: Inter-American Standards*. November 1. https://oas.org/en/iachr/reports/pdfs/Business_Human_Rights_Inte_American_Standards.pdf.

InvestChile and Ernst & Young. 2025. "Chile's Mining and Metals Investment Guide." https://www.ey.com/content/dam/ey-unified-site/ey-com/es-cl/about-us/documents/informe-minero-2025.pdf.

IPCC (Intergovernmental Panel on Climate Change). 2022a. *Climate Change 2022: Impacts, Adaptation and Vulnerability*. Working Group II Contribution to the IPCC Sixth Assessment Report. https://ipcc.ch/report/ar6/wg2.

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

IPCC (Intergovernmental Panel on Climate Change). 2023. *Climate Change 2023 Synthesis Report: Summary for Policymakers*. https://ipcc.ch/report/ar6/syr.

IRENA (International Renewable Energy Agency). 2023. *Geopolitics of the Energy Transition: Critical Materials*. https://www.irena.org/Publications/2023/Jul/Geopolitics-of-the-Energy-Transition-Critical-Materials.

Jackson, Jean. 2009. "Neoliberal Multiculturalism and Indigenous Movements." 44 *Latin America Research Review* 200. https://cambridge.org/core/journals/latin-american-research-review/article/neoliberal-multiculturalism-and-indigenous-movements/D1B94398F224323EEC0EA7EC7198A11E.

Johnson, Walter. 2017. "To Remake the World: Slavery, Racial Capitalism, and Justice." *Boston Review*, February 1. https://www.bostonreview.net/forum/walter-johnson-to-remake-the-world.

Kalantzakos, Sophia. 2020. "The Race for Critical Minerals in an Era of Geopolitical Realignments." 55 *International Spectator* 1.

Kamran, Mashael, Marco Raugei, and Allan Hutchinson. 2023. "Critical Elements for a Successful Energy Transition: A Systematic Review." 4 *Renewable and Sustainable Energy Transition* 100068. https://doi.org/10.1016/j.rset.2023.100068.

Kandler, Patrick. 2022. "International Criticism and the Legitimation of Chile's Authoritarian Democracy." 33 *Estudios Interdisciplinarios de America Latina* 47. https://doi.org/10.61490/eial.v33i2.1769.

Kataria, Krishna. 2024. "Mapping Global Distribution of Critical Minerals." July 16. https://storymaps.arcgis.com/stories/6ab7a194cda7476d8211eb2845ba3974.

Kelley, Robin D. G. 2017. "What Did Cedric Robinson Mean by Racial Capitalism?" *Boston Review*, January 12. https://www.bostonreview.net/articles/robin-d-g-kelley-introduction-race-capitalism-justice.

Kendi, Ibram X. 2017. *Stamped from the Beginning*. Bold Type Books.

Klein, Naomi. 2008. *The Shock Doctrine: The Rise of Disaster Capitalism*. Knopf Canada.

Kornbluh, Peter. 2004. *The Pinochet File: A Declassified Dossier on Atrocity and Accountability*. New Press.

Landrigan, Philip J., Richard Fuller, Howard Hu, et al. 2018. "Pollution and Global Health—An Agenda for Prevention." 126 *Environmental Health Perspectives* 084501. http://pmc.ncbi.nlm.nih.gov/articles/PMC6108842.

Legassick, Martin, and David Hemson. 1976. "Foreign Investment and the Reproduction of Racial Capitalism in South Africa." Foreign Investment in South Africa: A Discussion Series, No. 2. Anti-Apartheid Movement. https://sahistory.org.za/archive/foreign-investment-and-reproduction-racial-capitalism-south-africa-martin-legassick-and.

Lemann, Nicholas. 2020. "Is Capitalism Racist?" New Yorker, May 25. https://www.newyorker.com/magazine/2020/05/25/is-capitalism-racist.

Lester, Gustave. 2023. "Colonial Geology and Being Critical of 'Critical Materials.'" *Panaroma*, August 14. https://thepanorama.shear.org/2023/08/14/colonial-geology-and-being-critical-of-critical-minerals.

Levin, Kelly, Taryn Fransen, Clea Schumer, Chantal Davis, and Sophie Boem. 2023. "What Does 'Net-Zero Emissions' Mean? 8 Common Questions Answered." World Resources Institute. https://www.wri.org/insights/net-zero-ghg-emissions-questions-answered.

Lichtenstein, Alex. 2016. "The Radical Historian." Africa Is a Country. https://africasacountry.com/2016/04/the-radical-historian.

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

Louder, Elena. 2024 "Renewing Injustice: A Multi-Scalar Analysis of Renewable Energy Development in Chile's Atacama Desert." PhD diss., University of Arizona. https://repository.arizona.edu/handle/10150/675490.

Loveman, Brian. 2001. *The Legacy of Hispanic Capitalism*. Oxford University Press.

Lundaev, Vitalii, A. A. Solomon, Tien Le, Alena Lohrmann, and Christian Breyer. 2023. "Review of Critical Materials for the Energy Transition, an Analysis of Global Resource Production Databases and the State of Material Circularity." 203 *Minerals Engineering* 108282. https://doi.org/10.1016/j.mineng.2023.108282.

McCarthy, Michael. 2016. "Silent Compulsion: Capitalist Markets and Race." 97 *Studies in Political Economy* 195.

McCarty, Teresa L., Mary Eunice Romero-Little, Larisa Warhol, and Ofelia Zepeda. 2009. "Indigenous Youth as Language Policy Makers." 8 *Journal of Language, Identity & Education* 291. doi:10.1080/15348450903305098.

Meiners, Roger E., and Andrew P. Morriss. 2023. "Addressing Green Energy's 'Resource Curse.'" 33 *Duke Environmental Law & Policy Forum* 35.

Miapyen, Buhari, and Umut Bozkurt. 2022. "Racial Capitalism and Capitalism in Africa: The Utility and Limits of Cedric Robinson's Perspective." 49 *Review of African Political Economy* 611.

Miles, Kate. 2010. "International Investment Law: Origins, Imperialism and Conceptualizing the Environment." 21 *Colorado Environmental Law Journal* 1.

Ministerio de Hacienda. n.d. "Which Are Chile's NDC Goals? When Is Carbon Neutrality Projected?" Work Areas: Public Debt Office: FAQs: Sustainable Bonds. https://hacienda.cl/english/work-areas/international-finance/public-debt-office/frequently-asked-questions/sustainable-bonds/which-are-chile-s-ndc-goals-when-is-carbon-neutrality-projected-.

Ministerio del Medio Ambiente. n.d. "Ley Marco de Cambio Climático: Descripción del instrumento." Cambio Climático. https://cambioclimatico.mma.gob.cl/ley-marco-de-cambio-climatico/descripcion-del-instrumento.

Montoya, Barinia. 2025. "Chilean Indigenous Association Participates in Key Study for Lawsuit Against Mining." *Mongabay*, October 28. https://news.mongabay.com/2024/10/chilean-indigenous-association-participates-in-key-study-for-lawsuit-against-mining.

Nagra, Ruhan Sidhu, Robert Taylor, Mary Hampton, and Lance Hilderbrand. 2021. "'Waiting to Die': Toxic Emissions and Disease Near the Denka Performance Elastomer Neoprene Facility in Louisiana's Cancer Alley." 14 *Environmental Justice* 14.

Narula, Kapil, Radia Sedaoui, Harikrishnan Tulsidas, et al. 2023. "Ensuring Sustainable Supply of Critical Minerals for a Clean, Just and Inclusive Energy Transition." Global Solutions. May. https://www.global-solutions-initiative.org/publication/supply-of-critical-minerals-for-a-clean-just-and-inclusive-energy-transition-kapil-narula-consultant-united-nations-radia-sedaoui-chief-energy-section-united-nations-economic-and-social-commissi/.

Navia, Patricio, and Rodrigo Osorio. 2017. "'Make the Economy Scream'? Economic, Ideological and Social Determinants of Support for Salvador Allende in Chile, 1970–3." 49 Journal of Latin American Studies 771. https://doi.org/10.1017/S0022216X17000621.

National Action Plans on Business and Human Rights. 2024. "Chile: Available NAPS." https://globalnaps.org/country/chile.

National Intelligence Council. 2008. *Global Trends 2025: A Transformed World.* https://dni.gov/files/documents/Global%20Trends_2025%20Report.pdf.

NAZCA (Non-State Actor Zone for Climate Action). 2025. "Global Climate Action." https://climateaction.unfccc.int.

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

Nkrumah, Kwame. 1966. *Neo-Colonialism: The Last Stage of Imperialism.* International Publishers.

OECD (Organisation for Economic Co-operation and Development). n.d. "Chile and the OECD." https://oecd.org/en/countries/chile.html.

OECD (Organisation for Economic Co-operation and Development). 2011 (updated 2023). "OECD Guidelines for Multinational Enterprises." OECD Publishing. https://www.oecd.org/en/publications/oecd-guidelines-for-multinational-enterprises_9789264115415-en.html.

OECD (Organisation for Economic Co-operation and Development). 2016. *OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas*. 3rd ed. OECD Publishing. https://doi.org/10.1787/9789264252479-en.

OECD (Organisation for Economic Co-operation and Development). 2021. *Typology of Corruption Risks in Commodity Trading Transactions*. Development Policy Tools. June 30. https://doi.org/10.1787/590e80e8-en.

OECD (Organisation for Economic Co-operation and Development). 2023. "OECD Guidelines for Multinational Enterprises." OECD Publishing. https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/06/oecd-guidelines-for-multinational-enterprises-on-responsible-business-conduct_a0b49990/81f92357-en.pdf

Okoye, Adaeze, and Emmanuel Osuteye. 2018. "Ascertaining Corporate Sustainability from 'Below': The Case of the Ghanaian Rural Communities." In *Creating Corporate Sustainability: Gender as an Agent for Change*, edited by Beate Sjåfjell and Irene Lynch Fanon, 67. Cambridge University Press.

Olabode, Olufunmilola. 2023. "A TWAIL Approach to Reforming the International Investment Regime." World Trade Institute Working Paper No. 14/2023. https://www.wti.org/media/filer_public/0d/22/0d2285ec-ba55-4852-85c1-a65b7ece5f76/wti_wp_14_2023.pdf.

Ostřanský, Josef. 2025. "Inter-American Court of Human Rights Urges States to Review Investor-State Dispute Settlement for Climate Action: 10 Takeaways for Investment Policy Makers" International Institute for Sustainable Development Policy Analysis, July 10. https://www.iisd.org/articles/policy-analysis/court-urges-isds-review-climate-action

Oxfam International. 2017. "Position Paper on Gender Justice and the Extractive Industries." March. https://www.oxfam.org.au/wp-content/uploads/2017/04/EI_and_GJ_position_paper_v.15_FINAL_03202017_green_Kenny.pdf.

Owen, John R., and Deanna Kemp. 2013. "Social Licence and Mining: A Critical Perspective." 38 *Resources Policy* 29. https://doi.org/10.1016/j.resourpol.2012.06.016.

Papyrakis, Elissaios. 2017. "The Resource Curse—What Have We Learned from Two Decades of Intensive Research: Introduction to the Special Issue." 53 *Journal of Development Studies* 175.

Payne, Leigh A., Gabriel Pereira, and Laura Bernal-Bermúdez. 2021. "Transitional Justice and Economic Actors: Latin America's Protagonism." In *Pinochet's Economic Accomplices: An Unequal Country by Force*, edited by Juan Pablo Bohoslavsky, Karinna Fernández, and Sebastián Smart, 77. Bloomsbury.

Prietos-Ríos, Enrique, and Daniel Rivas-Ramírez. 2020. "Neocolonialism and the Tension Between International Investment Law and Indigenous Peoples: The Latin American Experience." In *Indigenous Peoples and International Trade: Building Equitable and Inclusive Trade and Investment Agreements*, edited by John Borrows and Risa Schwartz, 85. Cambridge University Press.

Prüss-Ustün, Annette, J. Wolf, and C. Corvalán, et al. 2016. "Preventing Disease Through Healthy Environments: A Global Assessment of the Burden of Disease from Environmental Risks." World Health Organization. https://www.who.int/publications/i/item/9789241565196.

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

Raftopoulos, Malayna. 2017. "Contemporary Debates on Social-Environmental Conflicts, Extractivism and Human Rights in Latin America." 21 *International Journal on Human Rights* 387. http://dx.doi.org/10.1080/13642987.2017.1301035.

Ralph, Michael, and Maya Singhal. 2019. "Racial Capitalism." 48 *Theory and Society* 851.

Rana, Rajat. 2024. "Arbitration Developments in Africa and Chile in Disputes over Lithium Projects." 1 *Selendy Gay Clean Energy Newsletter* 2. https://static.selendygay.com/docs/SelendyGay_CleanEnergy_Newsletter-July%2031%202024.pdf.

Resource Watch. 2025. "Mining Concessions." https://resourcewatch.org/data/explore/com022-Mining-Concessions.

Reuters. 2019. "Chile Lithium Miner SQM Dealt Blow by Environmental Court Ruling." *Al Jazeera*, December 27. https://www.aljazeera.com/economy/2019/12/27/chile-lithium-miner-sqm-dealt-blow-by-environmental-court-ruling.

Riofrancos, Thea. 2019. *A Planet to Win: Why We Need a Green New Deal*. Verso Books.

Riofrancos, Thea, Alissa Kendall, Kristi K. Dayemo, et al. 2023. *Achieving Zero Emissions with More Mobility and Less Mining.* Climate and Community Project. https://climateandcommunity.org/wp-content/uploads/2023/01/23_03_08_ENG-Lithium.pdf.

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

Rodríguez-Luna, Dante, Francisco Encina-Montoya, Francisco Javier Alcalá, and Nuria Vela. 2022. "An Overview of the Environmental Impact Assessment of Mining Projects in Chile." 11 *Land* 2278. https://www.mdpi.com/2073-445X/11/12/2278.

Rojas, Hugo. 2022. *Past Human Rights Violations and the Question of Indifference: The Case of Chile*. Palgrave Macmillan.

Sabin Center for Climate Change Law. 2024. Modatima et al v. Environmental Asessment Agency (SEA).

Sachs, Jeffrey D., and Andrew M. Warner. 2001. "The Curse of Natural Resources." 45 *European Economic Review* 827.

Saini, Angela. 2019. *Superior: The Return of Race Science*. Fourth Estate.

Saito, Kohei. 2024. *Slow Down: The Degrowth Manifesto*. Astra House.

Saito, Natsu Taylor. 2020. *Settler Colonialism, Race, and the Law: Why Structural Racism Persists*. New York University Press.

Shemas, Sophie. 2020. "Atacama Chile." *Earthworks* (blog). June 25. https://earthworks.org/blog/atacama-chile-lithium.

Sherwood, Dave. 2020. "Indigenous Groups in Chile's Atacama Push to Shut Down Top Lithium Miner SQM." *Reuters*, August 14. https://www.reuters.com/article/us-chile-lithium-sqm/Indigenous-groups-in-chiles-atacama-push-to-shut-down-top-lithium-miner-sqm-idUSKCN25A2PB.

Sherwood, Dave. 2021. "Inside Lithium Giant SQM's Struggle to Win over Indigenous Communities in Chile's Atacama." *Reuters*, January 15. https://www.reuters.com/article/us-chile-lithium-sqm-focus/inside-lithium-giant-sqms-struggle-to-win-over-Indigenous-communities-in-chiles-atacama-idUSKBN29K1DB/.

Simons, Penelope, and Seck, Sara. 2019. "Resource Extraction and the Human Rights of Women and Girls." 31 *Canadian Journal of Women and the Law* i.

Sobotka, Benedikt. 2023. "The Great Minerals Scramble: How Can We Provide the Materials Needed for the Energy Transition?" World Economic Forum Annual Meeting. January 18. https://www.weforum.org/stories/2023/01/minerals-metals-energy-transition-davos2023/.

Society for Mining, Metallurgy & Exploration. 2021. "Clean Energy Technologies Require Minerals." August. https://www.smenet.org/What-We-Do/Technical-Briefings/Meeting-the-U-S-Minerals-and-Metals-Needs-for-Ene.

Sornarajah, Muthucumaraswamy. 2019. "The Battle Continues: Rebuilding Empire Through Internationalization of State Contracts." In *The Battle for International Law: South-North Perspectives on the Decolonization Era*, edited by Jochen von Bernstorff and Philipp Dann, 175. Oxford Academic.

Stanton, Kimberly. 1997. "The Transformation of a Political Regime: Chile's 1925 Constitution." Paper presented at the Latin American Studies Association Meeting, Guadalajara, Mexico, April 17-19. https://bibliotecavirtual.clacso.org.ar/ar/libros/lasa97/stanton.pdf.

Statista. 2025. "Mining in Chile: Statistics and Facts." https://www.statista.com/topics/6550/mining-in-chile/?srsltid=AfmBOoqbdywSkVqYAnlsYNjK5cVJbOmf3DVTxofHqo6MxYhJo8UUuhXL

Stein, Tracy, Carl Bruch, and Jordan Dieni. 2023. "Addressing the 'Green Resource Curse' in Sub-Saharan Africa." 53 *Environmental Law Reporter* 10212. https://www.eli.org/sites/default/files/files-pdf/53.10212.pdf.

Sustainability Directory. 2025. "Unstable Consumption Patterns." January 25.

Suzuki, Yu. 2023. "Managing Mineral Demand for the Clean Energy Transition: A National and International Issue." *Yale Environment Review*, August 13. https://environment-review.yale.edu/managing-mineral-demand-clean-energy-transition-national-and-international-issue.

Symington, Andy. 2023. "Landscapes of Transition: State, Company, and Indigenous Community Human Rights Dynamics in South America's Lithium Triangle." PhD diss., University of New South Wales. https://doi.org/10.26190/unsworks/24861.

Tan, Celine. 2015. "Reviving the Emperor's Old Clothes: The Good Governance Agenda, Development and International Investment Law." In *International Investment Law and Development: Bridging the Gap*, edited by Stephan W. Schill, Christian J. Tams, and Rainer Hofmann, 147. Oxford Academic.

Taneja, Anjela, Anthony Kamade, Chandreyi Guharay Gomez, Dana Abed, Max Lawson, and Neelanjana Mukhia. 2025. *Takers Not Makers: The Unjust Poverty and Unearned Wealth of Colonialism*. Oxfam International. https://policy-practice.oxfam.org/resources/takers-not-makers-621668/.

Téllez Chávez, Luciana, and Felix Horne. 2022. "Millions Dying Globally Because of Unabated Pollution." Human Rights Watch. May 18. https://www.hrw.org/news/2022/05/18/millions-dying-globally-because-unabated-pollution.

Tessum, Christopher W., David A. Paoella, Sarah E. Chambliss, Joshua S. Apte, Jason D. Hill, and Julian D. Marshall. 2021. "PM2.5 Polluters Disproportionately and Systematically Affect People of Color in the United States." 7 *Science Advances* abf4491. https://doi.org/10.1126/sciadv.abf4491.

Thomas, Chantal. 2021. "Race as a Technology of Global Economic Governance." 67 *UCLA Law Review* 1860. https://www.uclalawreview.org/race-as-a-technology-of-global-economic-governance/.

Thomas, Gwynn. 2016. "Promoting Gender Equality: Michelle Bachelet and Formal and Informal Institutional Change within the Chilean Presidency." In *Gender, Institutions, and Change in Bachelet's Chile*, edited by Georgina Waylen, 95. Palgrave Macmillan. https://doi.org/10.1057/9781137501981_5.

Thomsen, Jorgen. 2023. "Time to Be Honest About Clean Energy's Land Use." Macarthur Foundation. January 18. https://www.macfound.org/press/perspectives/time-to-be-honest-about-clean-energy's-land-use.

Tigre, Maria. 2024. *Climate Litigation in the Global South: Mapping Report*. Columbia Law School Sabin Center for Climate Change Law. https://climate.law.columbia.edu/content/climate-litigation-global-south-mapping-report.

Transparency International. 2022. *Exporting Corruption 2022: Assessing Enforcement of the OECD Anti-Bribery Convention*. October 11. https://www.transparency.org/en/publications/exporting-corruption-2022.

Tzouvala, Ntina. 2025. "An Unreliable Friend: Human Rights and the Struggle Against Racial Capitalism." In *Race, Racism and International Law*, edited by Devon W. Carbado, Kimberlé Williams Crenshaw, Justin Desautels-Stein, and Chantal Thomas, 365. Stanford University Press.

UNCTAD (United Nations Trade and Development). 2021. "Smallest Footprint, Largest Impacts: Least Developed Countries Need a Just Sustainable Transition." https://unctad.org/topic/least-developed-countries/chart-october-2021.

UNECA (United Nations Economic Commission for Africa). 2016. *Investment Policies and Bilateral Investment Treaties in Africa: Implications for Regional Integration*. https://archive.uneca.org/sites/default/files/PublicationFiles/eng_investment_landscaping_study.pdf.

UN News. 2022. "UN General Assembly Declares Access to Clean and Healthy Environment a Universal Human Right." July 28. https://news.un.org/en/story/2022/07/1123482.

United Nations Development Program. 2018. *Extracting Good Practices: A Guide for Governments and Partners to Integrate Environment and Human Rights into the Governance of the Mining Sector*. United Nations Development Programme. https://www.undp.org/sites/g/files/zskgke326/files/publications/Extracting_Good_Practices_Report.pdf.

US DOJ (United States Department of Justice). 2022. "Glencore Entered Guilty Pleas to Foreign Bribery and Market Manipulation Schemes." Press release, May 24. https://justice.gov/archives/opa/pr/glencore-entered-guilty-pleas-foreign-bribery-and-market-manipulation-schemes.

USGS (United States Geological Society). 2025. "Lithium Statistics and Information." https://www.usgs.gov/centers/national-minerals-information-center/lithium-statistics-and-information.

USIP (United States Institute of Peace). 1993. *Report of the Chilean National Commission on Truth and Reconciliation*. University of Notre Dame Press.

Valdés, J. G. 1995. *Pinochet's Economists: The Chicago School in Chile*. Cambridge University Press.

Valenzuela, J. Samuel. 1995. "The Origins and Transformations of the Chilean Party System." Working Paper No. 215. Kellogg Institute Keough School of Global Affairs. https://kellogg.nd.edu/sites/default/files/old_files/documents/215_0.pdf.

Van Ho, Tara. 2022. "Angels, Virgins, Demons, Whores: Moving Towards an Antiracist Praxis by Confronting Modern Investment Law Scholarship." 23 *Journal of World Investment & Trade* 347. https://doi.org/10.1163/22119000-12340251.

Vastardis, Anil Yilmaz. 2020. "Investment Treaty Arbitration: A Justice Bubble for the Privileged." In *The Oxford Handbook of International Arbitration*, edited by Thomas Schultz and Federico Ortino, 617. Oxford Academic.

Venn, Couze. 2009. "Neoliberal Political Economy, Biopolitics, and Colonialism: A Transnational Genealogy of Inequality." 26 *Theory Culture Society* 206.

Voluntary Principles on Security and Human Rights. n.d. "The Voluntary Principles on Security and Human Rights." https://www.voluntaryprinciples.org/the-principles/.

Voskoboynik, Daniel Macmillen, and Diego Andreucci. 2022. "Greening Extractivism: Environmental Discourses and Resource Governance in the 'Lithium Triangle.'" 5 *Environment and Planning E: Nature and Space* 787.

Ward, Ken Jr. 2021. "How Black Communities Become 'Sacrifice Zones' for Industrial Air Pollution." *ProPublica*, December 21. https://www.propublica.org/article/how-black-communities-become-sacrifice-zones-for-industrial-air-pollution.

Wekker, Gloria. 2016. *White Innocence: Paradoxes of Colonialism and Race*. Duke University Press.

Winter, Brian. 2023. "Fifty Years On, the 'Chicago Boys' Remain Difficult to Discuss." *Americas Quarterly*, July 25. https://www.americasquarterly.org/article/fifty-years-on-the-chicago-boys-remain-difficult-to-discuss/.

World Bank Group. 2025. "The World Bank in Chile." https://www.worldbank.org/en/country/chile/overview.

World Nuclear Association. 2024. "Mineral Requirements for Energy Generation." https://world-nuclear.org/information-library/energy-and-the-environment/mineral-requirements-for-electricity-generation.

Zarsky, Lyuba. 2004. "Introduction: Balancing Rights and Rewards in Investment Rules." In *International Investment for Sustainable Development: Balancing Rights and Rewards*, edited by Lyuba Zarsky, 1. Routledge.

Zografos, Christopher, 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.