

**“Soft” Colonization: Presentist Effects of Eminent Domain in the Extraction of Resources
in Developing Countries**

Abstract

Despite international recognition of permanent sovereignty over natural resources, postcolonial states often enable land acquisition for private and foreign actors in the name of development, resulting in the displacement of indigenous communities. Drawing on theories of neocolonialism, neoliberal accumulation by dispossession, and presentism, this paper argues that such practices reproduce colonial power asymmetries and prioritize short-term economic gains over intergenerational justice. Emphasis for transparency, participation, and institutional safeguards is needed to protect indigenous land rights and protect democratic capacities for future generations.

Key words: Intergenerational justice; Neocolonialism; Resource exploitation; Indigenous dispossession; Resource sovereignty.

Introduction

Has the doctrine made by the United Nations, intending to return the freedom of resource ownership and acquisition back to formerly colonized countries, proven to completely erode colonial practices today? The global economy has often been argued to display a hierarchal structure embodying neocolonial relations in international trade, apparent in the lingering colonial practices behind the acquisition of land by foreign and private companies through the practice of eminent domain for means of extraction of natural resources. This has posed to become the newest threat that formerly colonized countries must face, a looming practice of colonialism packaged in what is categorized as “soft” to illustrate the creeping effects that mirror the horrors of the colonial period.

Neocolonialism seeks to explain the persistent colonial-like relations and practices apparent between countries in the Global North and their former countries in the Global South, despite clear declaration of formal independence by the latter group of nation states. Colonial overrule has undoubtedly reshaped the links between authority and land, social relations pertaining land, as well as conceptions of property; effects of which remains lingering today. Such lingering effects are prominent in developing countries, as they generally possess economies that rely on the sale of raw materials (Stilz, 2019). By leveraging their ownership and permanent sovereignty as a primary product producing states, developing countries sought to wield this to their advantage by negotiating durably higher prices for export goods. Imbalances between countries that produce different types of resources perpetuates economic issues in the global world.

The high oil prices that are demanded by the Organization of Petroleum Exporting Countries (OPEC) poses severe impact on the economies of non-oil developing countries (Stilz, 2019). The debts these states contracted in order to pay for oil imports lead to a sovereign debt

crisis requiring significant economic restructuring, allowing the Western lenders and the IMF power over postcolonial countries' economic policies, paving the way to the Washington Consensus that led the era of late 20th century globalization. This phenomenon is closely linked to the thesis of the resource curse, in which countries with high dependence over natural resources seemingly suffer from negative macroeconomic as well as macro-political effects (Frynas et al., 2017, p.234).

The phenomenon of resource extraction and “land grabbing” from the displacement of communities and lands in developing countries often raise issues closely related to historical colonialism (Ferguson and Veneziani, 2020). Laws and practices circulating resource extraction is a clear form of presentism being applied by nation states that has proven to not consider later effects that might arise. Drawing parallels to historical colonialism, it is important to understand how such practices affect both the people of today and the people of tomorrow in developing countries. Although scholars have debated and agreed over common views pertaining eminent domain, resource curse, and the dispossession of indigenous land, the literature shows that there exists a gap in discussing the effects of “soft” colonialism or neocolonialism that arises from the acquisition and dispossession of land. Such indirect forms of colonialism are most prominent in the extraction of resources; as such, practices have proven to oppress, dispossess, and exploit from indigenous communities, in almost exactly the same manner of practices applied during the colonial period. Among colonizers there exist a group of elites—in this case, the roles of elites will be applied to the influential government actors that are involved in the exploitation of their own indigenous communities.

Through presentist laws, the future of indigenous populations is not guaranteed. Dennis Thompson claims that democracy is government *pro tempore*, and rulers exercise power only for

a limited period of time, after which they stand for reappointment and reelection, or the retirement from office (Thompson, 2010, p.19). Thus, political power in nearly all actual democracies is subject to temporal limits. Democracy itself affirms that citizens that are bound by laws should retain a voice in making them, yet future citizens who will be bound by such laws do not possess such voice, as they are yet to exist. This virtue of democracy becomes a vice when the goods and rights of future citizens are at stake.

Thompson argues that presentism manifests itself in the laws that neglect the consequences of genetic engineering, long-term environmental risks, problems of population growth, and the development and preservation of the democratic process. Such presentist effects are also perpetuated by the tendency of most modern democracies to favor the older age group, as this group is vaster in number. Decisions to favor the older generation is a form of presentism, wherein some laws, such as creating tax obligations to provide for the older age group, do not guarantee that the younger age group can expect to receive proportionate return for the benefits that they provide for the current elderly generation.

Presentist consequences of eminent domain for resource extraction that prod and threaten future generations will be the focal point of this paper, along with the parallels drawn to compare with the previously disadvantaged generations in various countries. This paper will argue that presentist effects behind the implementation of eminent domain by nation states in developing countries for means of extracting resources have colonial roots embedded in them. This paper will also propose possible solutions that can help advance the study and solve the issue of presentist laws of eminent domain that seems to prioritize private companies over indigenous communities and people, supported by neocolonialism and neoliberalism theories that unpacks the typical guise—the illusion of propelling a nation’s economic development forward.

Practices of Resource Exploitation Resulting in Eminent Domain

The United Nations' Declaration on the Rights of Indigenous Peoples state that "indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories, and resources" (Ferguson and Veneziani, 2020). In response to the horrors faced during the colonial period, the United Nations General Assembly Resolution 1803 (XII) in 1962 declared the Doctrine of Permanent Sovereignty over Natural Resources which recognizes the "inalienable right of all states to freely dispose of their natural wealth and resources... in the interest of their national development and of the well-being of the people of the State concerned." The doctrine was created in an attempt to resolve the structural hierarchies that exist in the global economy, giving developing countries more control in their relations with foreign investors and corporations by way of negotiations that could benefit and boost their economic development. Over the past decade, acquisition of land by foreign corporations, governments, and investments has risen in formerly colonized countries, dubbed "developing countries"—a term illustrating the attempt to gain footing in development, specifically in economic terms. Such acquisitions are done for means of production of biofuels and oil, both of which have grown scarce with time, as well as production of food crops and exploitation of land-based resources of minerals and timber (Peters, 2013, p.556).

By definition, eminent domain refers to the "inalienable power of a sovereign state to take possession of the privately or communally-owned property in the interests of its citizens" (Moshood et al., 2020, p.1). The main purpose of eminent domain is to distribute and redistribute material benefits, which can bridge the gap of scarcity for resources by countries who have no access to naturally extract from their own land. A "resource" can be defined as an object that is

viewed as instrumentally valuable even if others dissent (Stilz, 2019). Stilz (2019) defines natural resources specifically as raw materials that are available from the natural environment and thus not manufactured by humans, that which is useful or can become useful under conceivable economic, technological, or social circumstances to satisfy human needs and wants.

Before possession of eminent domain can occur, two fundamental conditions must be met: public use requirement and compensation (Moshood et al., 2020, p.1). Both conditions imply that the property of any group or citizen can be sacrificed to serve the greater good, so long as there is just compensation to be paid to the owner of the property. While growth may be spurred by public use projects, such projects still may not necessarily benefit the employment prospects of people whose businesses, homes, and lands were displaced or affected as a result of eminent domain (Chen and Yeh, 2014, p.5). In Uganda, for example, the state expropriated communal land for the means of exploiting oil. In response to this, the government provided multiple justifications for its actions, including the increase of electricity supply, the improvements in education, the development of road networks, the revenue for the government, and the generation of employment opportunities (Moshood et al., 2020, p.6). Most African governments seeking foreign investors claim that they do so for the “development” or the “public interest” of the country, which invokes the need to facilitate large-scale agricultural production (Peters, 2013, p.557). Using development to justify the acquisition of land can be misguided and misleading as promises of tax revenue and job creation are based on probability, which may never materialize (Bower, 2009, p.59).

Eminent domain has been traced back to neo-liberal economics that encourage the privatization of natural resources and land for economic development (Moshood et al., 2020, p.6). Such neoliberal practices come in the form of states utilizing eminent domain in order to facilitate economic development by acquiring communally or individually owned land for private

corporations. Eminent domain is wielded as a veritable instrument of accumulation by dispossession, closely facilitated by the neo-liberal age. Thus, accumulation by dispossession has been successfully facilitated by neo-liberalism, where land is seen as a commodity to be utilized for enhancing a country's GDP; increasing exports, growth, and overall economic development. Phillips and Sillah agree that eminent domain serves the interest of private corporations instead of the interest of the public, despite championing projects under the banner of public purpose (Phillips and Sillah, 2009, p.121).

The failure of the nation state to differentiate the exploitation and expropriation of land for critical public purposes and public benefits raise ethical questions that must be direly met in order to ensure that indigenous peoples in developing countries are not worse off than they were during the colonial period. Accumulations of expropriation disadvantages local people and reduce their access to a decent life, as they are robbed of land for the purposes of subsistence (Nathan, 2015, p.3). Arable land that belongs to indigenous people was dispossessed by force, which deliberately drove them into poor, confined regions with no means of intensifying and modernizing their farming (Amin, 1976, p.327-328). Contrary to this, the ownership of property by an individual can be equated to the lack of control or ownership by another. Additionally, the ownership of a property by a singular community also equates to the lack of ownership and control by another community. This imbalance and lopsidedness in property propels unevenness in development. Allowing singular individual ownership of key mineral resources might cause crises and fractions among members of communities that are rich in minerals.

Mineral resource exploitation oftentimes involves immense capital outlay, of which neither individuals nor an entire community could afford to extract themselves (Moshood et al., 2020, p.3). They are subject to massive displacement often accompanying the development of mineral

resources, which makes large-scale mineral resource exploitation most detrimental to the local inhabitants of the area. Scholars have argued that the rapid reform for mineral policy has taken place in numerous developing countries, propelling the attraction for significant foreign investment which largely excludes the interests of local communities (Moshood et al., 2020, p.2). Furthermore, mining operations have pauperized communities that are resource-rich through the redistribution of resources. The state regards opposition to the acquisition of communally and privately owned property as a major hindrance to the objectives of economic development.

To secure investors' ability for extraction, large private corporations frequently sponsor political candidates of the nation states and influence winners to formulate and apply legislation or policy frameworks that are favorable to the objectives and against the interests of the local citizens (Moshood et al., 2020, p.7). Potential benefits of large-scale land production and acquisition in Africa, for example, are more likely to devolve the international and national investors rather than the millions of people who are currently using the land that sustains much of their livelihoods, and which acts as a source to their social identity as citizens. The challenges that arise from the investment of new farmland through land acquisition traces to the "weak" recognition by states of poor or absent consultation, customary land rights, and low capacity in compensation to process and manage risky and large-scale land investments (Peters, 2013, p.561). The intensifying class formation within countries further facilitates those with the necessary power to accumulate resources such as land at the expense of the vulnerable and the poor (Peters, 2013, p.557).

Peters supplies examples of land acquisition in Africa that yielded detrimental effects (Peters, 2013, p.558-561). Land acquisition often deprives local citizens of their rights without providing compensation that are appropriate. Research in Mozambique, Ghana, Tanzania,

Madagascar, Ethiopia, and Mali showed that even if the consultations did take place, it was dominated by a few chiefs or elders which were exempted from the ability to make key decisions. In the world, African farmland prices situate itself at the lowest due to customary rights over the vast majority of cultivable lands—including grazing, common, and wooded—that are not deemed to be full property.

The clear reason for nation states' tendency to set aside the interests of millions of residents as well as small to medium scale producers is the eagerness of governments at national and sub-national levels to claim that they have furthered considerable economic development in subsequent areas. One such example is the state in Nigeria where South African farmers and white Zimbabwean were allocated land for livestock and crop production in the means of promoting agricultural development. However, after analyzing available evidence, it has shown that vast investments to make production viable through infrastructure were overwhelmingly by the state and state-influenced banks. Out of the large loans advanced toward the farmers, as of 2011 not “a penny of these loans has been repaid” (Peters, 2013, p.558).

The implications for rural populations and small farmers of such land appropriation by both nationals and foreigners are highly negative, as recent land transfers across the continent have already revealed vulnerability and displacement of rural people in favor of profitable deals brought by foreign investors to governments (Peters, 2013, p.560). The new rush by foreigners to acquire land in the name of investment in African countries are due to outsiders regarding Africa with possessing “weak” land rights, which further spur to displace people under the guise of spurious public interest. It is common for private corporations to exploit resources by circumventing the due process in the acquisition of land (Moshood et al., 2020, p.5). This is done by convincing the state or the local government to expropriate the land, promising that it would be used in the interest

of the public. They acquire properties through cheap means by the instrumentality of the government without fulfilling the promises they made as they contract the land. Furthermore, the frailty of land rights held by customary land holders propel the dispossession as states' claim over land under customary tenure further facilitates the acquisition of land by private individuals who possess the necessary clout to claim the requisite authority (Peters, 2013, p.559). The role of land policies, whether considered successful or failed, requires further analysis.

Peters outlines how representatives of African states set these aside in the name of public interest and development though more often private individuals and groups are the beneficiaries with the clout to arrange these deals (Peters, 2013, p.557-560). African governments are in competition against other states to attract mobile capital, offering up their territories and populations up profitably as factors that are deemed exploitable. Countries where there have been deals for extensive land acquisition are amongst them Ethiopia, Kenya, Sudan, Tanzania, Mozambique, Ghana, and Madagascar. The interests of governments and national players in facilitating such land deals include aid and loan packages that often come with the leasing of land, private returns in the form of fees and more indirect benefits from political gains and foreign investments for different authority figures who claim the right to allocate land. Policy determinations are used as a guise championing for progress in agriculture such as food production, which depends on a sharp increase in large-scale production if it were to prove fruitful.

Dispossession of Land and the Roots to Colonialism

Resource sovereignty is the right of self-determining people to have the freedom to dispose of its resources and natural wealth. The World Bank has estimated that there are between 445 million and 1.7 billion hectares for potentially "suitable" land that are assumed to be "underutilized,"

“marginal,” or “available” and “empty” worldwide (Peters, 2013, p.557). These are lands that have been classified as public, though the potential for widespread displacement of people and their subsequent livelihoods is clear (Peters, 2013, p.558). Certain extractive techniques like mountaintop removal and open-pit mining possess very significant effects on the community, to the extent that extraction would involve harmful transformations (Stilz, 2019), thus the community has a moral claim to control it. Despite rhetorical acknowledgment to incorporating existing users of land (of which almost all of them are small to medium scale producers), most reports document displacement and the loss of valuable resources for the majority (Peters, 2013, p.557).

Such foreign take-overs have been compared to the application of European powers that have previously carved up continents in the late 19th century. Models of customary law of land tenure were utilized significantly as instruments of colonial land policies, which are produced in the circumstances following initial confinement and dispossession, serving both the colonial government as a justification for apparent defense against further land loss (Peters, 2013, p.544). Just as colonial administrations seek to control land by demarcating areas labeled native or customary, state, or crown and claiming authority over all land, post-colonial African government has utilized administrative, legislative, and other means to exert authority over territories and its inhabitants (Peters, 2013, p.549). According to Stilz (2019), they take a fundamentally presentist view in which they consider historical wrongs and historical entitlements to be morally secondary and only matter as long as they possess bearing on the current societal structure.

Permanent sovereignty constitutes “the status quo of the contemporary world order” that grants the individuals of nation states an “extensive and often exclusive set of rights over the resources within their territories” (Armstrong, 2017, p.133). Western states, however, oppose the principle of permanent sovereignty. Anticolonial leaders perceive permanent sovereignty over

resources as a way to “end the systematic plundering that had characterized their economic life since the age of empire” (Dietrich, 2017, p.3). Control over resources by postcolonial states should be restricted as part of the duties to respect other states’ lack and need for access to raw materials in order to contribute to expanding the world economy (Stilz, 2019).

This view is closely linked to that of cosmopolitanism. Cosmopolitans claim that natural resources are the common heritage belonging to all the people of the earth (Kutz, 2021, p.122). One of the criticism is that any national claim to oil revenues where the per capita share claimed for its domestic population is so far in excess of that of the global population. A strict cosmopolitan further insists that natural resources must be globally controlled. Cosmopolitanism in natural resources amount to all resources being extended to the common heritage regime, whether found in zones of nation-states or international. Their logic falls upon the moral claims that being equal among all persons is equated to how benefits of windfall resources should be universalized.

According to cosmopolitans, there is nothing distinguishing the moral claims to oil wealth of Nigeria from those of a citizen of Burkina Faso, except for the accidents of colonial borders at birth (Kutz, 2021, p.128). Their reasoning is that there is no rational basis in preferring the principle of national resource ownership to international ownership, “at least for resources whose existence predates the state and in no way depend on it for their maintenance” (Kutz, 2021, p.122). Numerous mineral resources that exist below lands are valued by indigenous communities by its integrity, not just the appearance of that territory itself. Any defensible view regarding claims and rights of indigenous populations should put great weight on the claims that seek to resist extraction, independent to the preferences of the larger stage (Kutz, 2021, p.123). Lea Ypi defends a reciprocity and equality-based account, claiming that what made the colonialism practiced by European states particularly detestable was its violations of standards of equality, including the

departure of a certain ideal of social, economic, and political association (Ferguson and Veneziani, 2020). The cosmopolitan ideal accordingly proposed by Kant requires the establishment of political institutions that allow people to refer and relate to each other as equals in the face of the world, with the guarantee that their voices will be heard and that their claims will be accounted for when decisions affecting both are made (Ferguson and Veneziani, 2020).

Another worry is that it might expose their corporations as uncompensated expropriation of assets that require payment of prompt, adequate, and effective compensation in response to nationalization of any kind (Stilz, 2019). As part of a more general program of economic independence, anticolonial leaders sought control over their natural resources. A key concern of the Western states is the ability of postcolonial countries to alter or cancel exploitative concession agreements which dates back to the colonial period, under sources of which western corporations had won rights to develop (Stilz, 2019). Such arrangements gave foreign investors and corporations—for example the “Seven Sisters” group of oil companies—such extraordinary control over the resources of a host state, conferring on it the right to receive only modest taxes and royalties. Postcolonial states, however, generally regarded these arguments as a shield that sought to continue neocolonial domination (Stilz, 2019).

It can be argued that actors implementing the practices of eminent domain are applying practices previously applied by former colonizers towards their own people. First, they deny political communities authority over the rules that govern the use, management, and alienation of resources in their territory. This significantly restricts their ability in determining the social world in which they live in. A state is morally justified in exercising political power over a territory and population, thus enjoying territorial rights when it performs a number of functions that are morally relevant (Ferguson and Veneziani, 2020). A state is morally justified in exercising its political

power if it provides the protection through policies, processes, and actions that which respects human rights (Buchanan, 2004, p.247). The state must also do a credible job of protecting at least the most basic human rights of all those under its power to rule. Thus, a state only possesses a claim to a territory if it meets the relevant criteria for taking the role of legitimate representative of its people by appropriately serving their interests. Local governments' actions are traced back to the colonial practices previously applied to them.

The most common view of colonialism was its wrongness for violating the territorial rights of indigenous persons. The territorial claims and rights of indigenous people have been central in the analysis of claims for redress, the wrongfulness of colonialism, and in institutional and legal settings (Ferguson and Veneziani, 2020). Osterhammel defines colonialism to be the relationship of domination wherein fundamental decisions affecting the lives of the colonized people are created and implemented by colonial rulers (Osterhammel, 1997, p.16-17). Balandier perceives colonialism to be the domination imposed by a foreign minority leveraging for material means (Balandier, 2009, p.54).

According to Stilz (2019), to gain the right to rule a state, including the right to resource sovereignty, a regime must reflect the shared will of its populations as by whom and to how they should be ruled. There must also be protections of essential private rights for all subjects and these rights must be respected by outsiders. To have a right to rule a territory or population, a state must represent the shared political will of its subjects (Stilz, 2019). Such political will is shared by a group when they are “jointly committed to a common political enterprise and to certain values and procedures by which they believe their enterprise should be structured” (Stilz, 2019).

Second, they have utilized and shown oppressive natures that benefit their own private gains through concurrent practices of corruption. Recurrent cases of inefficient projects and

corruption in the exercise of eminent domain points to the lack of good faith in eminent domain projects (Oswald, 2008, p.65). Apparent in the haste of expropriating land for resource exploitation, the central issue facing resource-rich countries are that various individuals attempt to divert as much of the endowment of resources as possible for their own private benefit. The “tragedy of the commons” principle state that participants compete to get resources out as fast as possible, before others do, which inevitably leads to overproduction and damage to the area of exploitation, such as oil fields and mining areas (Shaxson, 2007, p.1128). Politicians who are uncertain about their hold on power spend as fast as possible, as much as possible, leaving little on the table for future opponents to grab. It is precisely the revenues of large extractive industries that allow the ruling elites to keep the military and security apparatus happy, repress moves toward greater political participation, buy control, and preclude a decent distribution of resources (McFerson, 2010, p.336).

The political decisions of whether or not an extraction will and must be made in a territory should fall on the inhabitants of the territory where the resources are located, by levying the relation to the conception of the benefits and costs of the extraction. Wear (2017, p.22) argues that a country’s resources belong to its “people”, emphasizing the matter of citizen control of resources through mechanisms of democratic accountability. In a Rawlsian approach, the primary driver of allocative justice lies on the conception of a society as both morally and economically unified (Kutz, 2021, p.128). Members of the society must see one another as equal and free, extending cooperations in life on terms that are reasonably acceptable to all, notwithstanding inherent diversity in their individual values, aims, and goals.

Avoiding the effects of presentism: what should be done?

Social and Environmental Aspects

To avoid the imposition of practices rooted in the colonial period, states should relay the full information for members of the affected communities of any likely harmful consequences that could arise from the proposed developmental projects and the expected benefits that could be expected, as accurately as possible. This includes social and environmental considerations that must be undertaken and informed appropriately. The social aspects of consequences that arise must be considered, most importantly the relationship that indigenous populations possess with the land. The relationship between indigenous populations and the land that they inhabit is central to indigenous knowledge systems, including their ways of knowing, doing, and being, as well as their culture and survival (Ninomiya et al., 2023, p.513). Their land is part of their collective livelihoods, wellbeing, identity, and the basis of all of social relationships between indigenous individuals. States must be careful not to allow the incidents of land dispossession towards indigenous communities.

Such dispossession contributes to a loss of culture and language, interrupting the transmission of generations of knowledge, and becoming the automatic source of intergenerational trauma. According to the study published by Ninomiya and peers (2023), indigenous populations who have been displaced generally feel loss, loneliness, depression, and anxiety. Racism due to displacement seemingly follow them as they relocate to urban centers. In cases of which dispossession does not occur, there seems to still be a detrimental consequence that comes with the use of their land, such as increased vehicle traffic, food contamination, food insecurity, and uncertainty for future generations.

Major transformations of their land bring about consequences that shift environmental communities, including landscape transformations due to construction by clearing forests, thus

leading to flooding and contamination of land, water, and wildlife. Most importantly, how will the developmental project affect the community's harmony with nature? What proactive measures will be taken to improve or restore natural resources, as well as its impacted surrounding areas? In order to preserve the surrounding environment, the habitat of wildlife must be protected and preserved by ensuring that resource extraction allows for forestry and sea life to flourish. Furthermore, air quality must be monitored and governments need to ensure that alternatives to fuel are utilized to minimize pollution when operating vehicles.

Building Good Faith Between Governments and Citizens

Honesty and trust must be maintained by the state should it continue to exercise eminent domain for public good. McFerson claims that corruption can be limited with good governance through the implementation of accountability, transparency, rule of law, and participation (McFerson, 2010, p.347). This paper proposes three steps to maintain good faith. First, accountability involves the capacity for communities to be able to call after public officials and inquire regarding actions taken for developmental projects, especially for public revenues and how they are spent and mobilized. Governments must open access for citizens to contact officials to ensure that smooth, clear, and honest communication can be guaranteed. Such communication must be opened both virtually and in person, whichever citizens choose to pursue.

Second, transparency entails the honesty for citizens, including low-cost access for citizens to relevant information, particularly on mobilization of revenue, public service access and quality, as well as access to the allocation of government expenditure. Reports of public revenues, including the inflow of revenue and the specific ways in which they are spent, must be accessible

down to every accurate detail. Governments can display reports on a government official site for easy access of the public. Furthermore, such reports should be directly presented to indigenous communities and populations, opening the ground to any questions and concerns that might arise. All decisions affecting the allocation of government expenditure should be monitored by an independent third party to ensure that there is minimized leeway for corruption by political actors.

Third, the rule of law means incorporating formal laws, administrative provisions, and regulations that provide society and the private economic sector with predictability to its most accurate and appropriate account. Such predictability should be based on existing research and reports of similar developmental projects that have been undertaken, specifically economic results that were yielded from those cases. Parallels should be appropriately drawn to illustrate accuracy. The creation of regulations and formal laws, furthermore, should involve indigenous communities in an open and transparent space where inhabitants of the land can freely express themselves.

Fourth, participation warrants the utilization of government employees, services, citizens at large, and other relevant stakeholders, which are necessary in designing effective programs for the government, supplying the government with information that is reliable, and provide the government with the appropriate reality check that it requires. Most importantly, the involvement of academic experts is crucial in order to levy into account existing research and studies.

McFerson also outlines four failures that weaken the pillars of good governance (McFerson, 2010, p.338). In response to these four failures, this paper will propose necessary steps that governments must take to avoid them. First, the failure to make a clear separation between what is private and public, for there exists the tendency to divert resources that are public for private gain, for example through corruption by government officials and the clout that surrounds them. Second, the failure to establish a clear and efficient framework of rules and law or

arbitrariness in their application. Governments have made the mistake of establishing frameworks that are overly ambitious and less grounded to realistic expectations in order to attract public support and foreign investments, all to propel the gears of actualizing developmental projects. States should instead ensure that such projects are built upon realistic grounds and appropriately strive to meet them. Realistic expectations lead to realistic results, and such results could strengthen the trust between states and the public, as well as trust between states and investors.

Third, the failure to set appropriate priorities in development, eventually resulting in the misallocation of resources. Priorities should be based on the readiness of available economic commodities, including commodities such as time, labor, and technology factored into the realization of developmental projects. By assessing the readiness and availability of economic commodities, governments can better avoid misallocation of resources. Fourth, the failure to establish decision-making processes that are transparent. Lack of transparency occurs when governments prioritize private benefits over public gains. The involvement of the public, especially indigenous populations and the inhabitants of surrounding areas, is thus crucial. Their concerns and well-beings should be strongly considered during decision-making processes.

Bringing unity to a state can be done by utilizing the stock in natural resources (Kutz, 2021, p.137). The stock in natural resources is in itself a chief means for people to realize their collective political goals. Together, indigenous populations should be given the freedom to decide the ways in which they could convert resource stock into national income. Furthermore, indigenous populations should also be free to make decisions about how the conversion provides the occasion for them to work out conceptions of competing values, including the values of resource extraction and environmental preservation. Most importantly, indigenous populations should be able to decide by considering the claims of current and future generations.

One of the crucial dimensions in which political communities might differ is how to allocate benefits over time, with two considerations. First, future generations should not be less well off than the present generation. Second, that future generations should be left resources that are adequate to ensure basic justice in their institution. Contrary to presentist views, decisions being made now about the rate of exploitation must be outlined following evaluative and empirical judgements about future economic growth, alternative emerging technologies, and appropriate discounting under uncertainty.

Preserving Indigenous Democratic Capacities Through Trusteeship

Dennis Thompson (2010) argues that favoring the current generation is a particular feature of democracy (Thompson, 2010, p.17). Most citizens possess the tendency to discount the future, and democratic processes responds to the demands made by current generations, and the laws it produces tend to neglect future generations. There should be a distinguish between presentism from the short-sightedness that affects the same individuals over time. The destruction of indigenous land is only one of the many environmental harms that always certainly cannot be reversed. Even if we do assume that technological progress can compensate future generations in coping with the harm of the destruction, there is no guarantee that they should regard the accumulated knowledge they receive as reasonable compensation for the massive damage done.

The most common reason for discounting or neglecting future generations is uncertainty. It is very difficult, if not impossible, to trace the causes of harms that present states impose upon future states and no less difficult to create predictions that are reliable about the policies intended to remedy these harms. Thompson argues that we can assume that future generations will require

a way of collectively deciding how they wish to cope with these harms, and what goods and rights they aim to pursue or forgo under the conditions (Thompson, 2010, p.17). The very uncertainty that sanction doubts regarding what the needs will be supports an obligation for the current generation to try and ensure that they have a process for deciding together, as a collective, what their needs are and how they should be met.

Thompson's argument emphasizes how present generations can represent future generations through "acting as trustees of the democratic process" (Thompson, 2010, p.26). This can be done by ensuring that present generations act to protect the democratic process itself over time. Such acts entail the guarantee of citizens to continue to have competent control over their decision-making as a collective. This capacity relies on the continuing existence of robust political and social institutions adequate to support at least a minimum form of democratic government. Thus, citizens or their representatives in democratic states should sought to preserve democratic processes that allow for future citizens to at least as much capacity for collective decision-making as present citizens possess. Thompson points to how this is a form of political adaptation of the Lockean principle regarding property which grants rights to appropriate land; present democratic sovereigns should leave their descendants enough and as good democratic sovereignty comparable to what they themselves enjoy.

In the case of eminent domain, governments should ensure that there is a clear record of generational lineage of indigenous populations so that governments could continue to involve the indigenous populations in decision-making processes. Rules and regulations, furthermore, must be erected in favor of protecting indigenous communities and their right to democracy, allowing them to freely express and utilize their voices in the preserved democratic processes. The establishment of trustees to guarantee the preservation of democracy is crucial. Such example of trustee

establishment is the Tribune of the Plebs in the Roman Republic, which exemplifies the kind of institution that could supply representation for succeeding generations. The tribunes or members of the trusteeship themselves should be made up of public figures with no political strings of ambitions. An office of trusteeship, Thompson states, could be established not only at the national but also at the international level (Thompson, 2010, p.31).

Thompson recommends that some of the proposals to establish a “guardian” protecting the democratic rights for future generations under the auspices of the United Nations would generate an office that could, in effect, serve as a trustee (Thompson, 2010, p.32). Whether at the national or international level, and whether in the form of an assembly or a commission, trustees should have specific powers that allow them to champion the interest of future generations in sustaining a robust democratic process. Specific powers, Thompson outlines, include “suspensive interventions” (Thompson, 2010, p.32), one that allows the trustees to have the authority to stop actions by an executive or legislature that could be shown to seriously impair the democratic process in the future in terms of capacity. Another specific power is the “posterity impact statements” (Thompson, 2010, p.32) wherein trustees would require governments to issue statements that justifies any adverse effects their actions might bring on the democratic capacities of future generations. In the case of preserving the democratic capacities of indigenous populations specifically, states should create trusteeships that solely represent the interests of indigenous populations.

Trusteeships must be openly supported by the state itself and are given the right of expression to full capacity, just as any other citizen of the state. The establishment of this trusteeship for indigenous populations alone is crucial because of the status of indigenous populations being regarded as marginalized and thus disadvantaged. Establishing a trusteeship that

focuses solely to protect their future generations show that states place great emphasis and care towards indigenous populations, both of current and future generations, strengthening the trust that states have with these communities. Furthermore, existing modern forms of trusteeships should also create stronger and more tight-knit laws protecting the involvement of indigenous populations in public spaces to ensure that democratic capacities are entrusted to indigenous populations to their fullest extent, both for current and future generations of the population.

Conclusion

This paper argues that the contemporary use of eminent domain for resource extraction in developing countries constitutes a form of “soft” colonialism or neocolonialism, deeply rooted in both historical colonial practices and presentist democratic governance. Despite formal independence and international recognition of permanent sovereignty over natural resources, postcolonial states often reproduce colonial logics by prioritizing economic development, private investment, and elite interests over the rights, wellbeing, and democratic agency of indigenous communities. Through the lens of neocolonialism, neoliberal accumulation by dispossession, and presentism, the analysis has shown that land acquisition and resource exploitation today mirror the dispossession, domination, and marginalization characteristic of the colonial era.

By foregrounding the concept of presentism, this paper has demonstrated how decisions justified in the name of development systematically neglect the interests of future generations, particularly indigenous populations whose cultural, social, and political identities are inseparable from their land. Democratic systems, while grounded in popular participation, become morally deficient when they fail to represent those who will bear the long-term consequences of

environmental degradation, land dispossession, and weaken democratic capacities. Eminent domain, when exercised without genuine consent, transparency, and accountability, undermines the very legitimacy of state authority.

The proposed pathways forward emphasize informed participation, environmental stewardship, good governance, and the institutional representation of future generations through trusteeship models. Protecting indigenous land rights and democratic capacities is not merely a matter of rectifying historical injustice, but of preventing its reproduction in new forms. Ultimately, resisting the presentist and neocolonial use of eminent domain requires re-centering development around justice, democratic inclusion, and intergenerational responsibility. Only then can postcolonial states move beyond the shadows of colonialism and toward a genuinely equitable and sustainable political and economic order.

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