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THE COLONIALITY OF INVESTMENT LAW

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Did colonialism end with decolonization? Might it, instead, have taken on new and variable forms, including legal forms? Have narratives of European supremacy been institutionalized via methods of legal rule, in particular, rule under international investment law? This paper explores such questions, inquiring into whether international legal rule continues to be in the pursuit of protecting the economic interests of metropolitan interests. The paper draws upon descriptions of colonial rule by, among others, the Tunisian writer Albert Memmi. By pulling on these narrative threads, one discovers connections between historic colonialism and the contemporary regime for the protection of foreign investment. Continuities concern such things as (i) profitability and privilege, (ii) a discourse of improvement, (iii) distrust of local self-rule, and (iv) construction of legal enclaves. Each of these features of colonial rule, I argue, are inscribed in the discourse and practices of investment treaty law and arbitration.