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THE COLONIALITY OF THE COLOMBIA CASE BEFORE THE ISDS AND THE DISPUTES OVER NATURAL RESOURCES

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Foreign investors have filed more than eleven investment disputes against the Colombian State since 2016, claiming damages in the amount of about US $22,000 million, an amount equivalent to 8 times the tax revenue collected by the Colombian state in any given year. At least seven of these claims concern the preservation of Colombian natural resources. These investor-state disputes have been filed pursuant to some of the almost 25 International Investment Agreements ratified by Colombia over the last two decades. Fearing the threat of multi-million dollar awards, the rise in investor claims has resulted in "regulatory chill," causing Colombian authorities to refrain from acting in accordance with their constitutional obligations in addition to other international obligations, such as those arising out of international human rights treaties. The aim of this paper is to problematize from a (post) colonial perspective the tension between the constitutional law and the investment law by examining the Colombian case and, specifically, the investor disputes launched in reaction to natural resource protections. The paper aims on one hand, to identify the colonial legacies at work that are embedded in the investment law and that continue to shape global North-South relations, and on the other hand, to examine the scope and limits of the constitutional responds facing these (neo)colonial threats through the legal paths.