Accumulation by Dispossession: Neoliberal Loans and BITs Conditioning Bolivia and South Africa to Privatize Water

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Abstract — This paper reviews the negative socioeconomic consequences of neoliberal debt-repayment loan policies and bilateral investment treaties (BITs) proceeding financial downfalls in postcolonial nations. Amidst this era of globalization, many corporations residing in Western, capital-exporting nations have taken advantage of flexible borders and financially weakened nations to capitalize on natural resources, such as water. In tandem, as climate change strengthens its grip on scarce natural resources in many developing nations, so do western corporations privatizing dwindling supplies in the face of high demand.

Bolivia and South Africa, the case studies in this paper, represent two of many postcolonial nations enduring the pressures to repay loans and to implement neoliberal policies, resulting in a cut to social spending and the privatization of water.

In response to the neoliberal policies, Bolivian and South African opposition groups organized a series of protests disrupting the accumulation of water and the functioning of corporate activities.

This paper concludes with the future role of grass roots resistance movements as a response to neoliberal and corporate pressure and the need to reorganize the current governing bodies of globalization.

Keywords: Neoliberalism, dispossession, postcolonialism, water, privatization, globalization, loan policies, IMF, apartheid, economics

Résumé — Cet article explore les conséquences socioéconomiques négatives des politiques de prêts de remboursement néolibérales et des traités bilatéraux d'investissement (TBI) suite à des difficultés financières dans les pays postcoloniaux. A l'ère de la mondialisation, de nombreuses entreprises résidant dans des pays occidentaux exportateurs de capitaux ont profité des frontières flexibles et des pays financièrement affaiblis pour tirer parti des ressources naturelles, telles que l'eau. Parallèlement, tandis que le changement climatique renforce la rareté des ressources naturelles dans de nombreux pays en développement, les sociétés occidentales privatisent ces ressources en déclin, malgré la forte demande.

La Bolivie et l'Afrique du Sud, les études de cas présentées dans cet article, représentent deux des nombreuses nations postcoloniales qui subissent des pressions pour rembourser leurs prêts et pour mettre en œuvre des politiques néolibérales, entraînant une réduction des dépenses sociales et la privatisation de l'eau.

En réponse aux politiques néolibérales, les groupes d'opposition boliviens et sud-africains ont organisé une série de manifestations perturbant l'accumulation d'eau et le fonctionnement des activités des entreprises.

Cet article conclut avec une discussion sur le rôle futur des mouvements de résistance populaires comme réponse à la pression néolibérale et à la nécessité de réorganiser les organes directeurs actuels de la mondialisation.

Mots-clés : Néolibéralisme, dépossession, postcolonialisme, eau, privatisation, mondialisation, politiques de prêts, FMI, apartheid, économie

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Introduction

As climate change progresses, so do crises rendered by disappearing natural resources, creating a gap filled by private corporations predominantly rooted in capital-exporting nations, such as the United States and France. Ecological degradation within this anthropogenic era has disproportionately impacted developing nations. Once faced with imperialism and neoliberalism, this inequality has been furthered via privatization of natural resources. The problem this paper aims to address is how neoliberalism and privatization have increased water inaccessibility in postcolonial nations.

Developing in the postcolonial era of the 1970s, neoliberalism concentrates political economic power in the hands of the few while dispossessing goods and services from the many. Under this umbrella of neoliberalism exists trade and investment treaties that enable neoliberal policies to be fulfilled and protected in an era of globalization. These protections garnered investors access to the natural resources of host nations via various forms of consent, such as constructed implied consent entailing the acceptance of neoliberalism by the civilian population, and general treaties on legal consent allowing investors to bring host nations to private arbitration under public international law.

Neocolonial actions, exemplified by the financial and ideological control of formerly colonized nations by former colonizers, coupled with the implementation of neoliberal macroeconomic policies in developing nations facing resource scarcities has resulted in the practice of accumulation by dispossession of these resources.

To address my argument for the active role played by neoliberal macroeconomic policies in water inaccessibility, this paper seeks to answer the following questions: what role does accumulation by dispossession play in water inaccessibility under neoliberal macroeconomic policies? What is the relationship between globalization and the perpetuation of neoliberal actions? How do bilateral investment treaties protect corporations and neoliberal economies? What role do former union workers and citizen groups play in the anti-privatization/anti-globalization resistance movements? What is the future for developing nations threatened by neocolonial actions of neoliberal corporations, nations, and institutions?

Divided into four sections, this paper will first examine the theory of accumulation by dispossession and the rise of neoliberalism in a postcolonial world. The second section examines bilateral investment treaties and the importance of general consent in strengthening these treaties. These theories are followed two case studies. The first will focus on Bolivia and the neoliberal macroeconomic policies that resulted in the implementation of structural adjustment programs to address the debt crisis, resulting in the privatization of water in the city of Cochabamba. This section will also examine the role played by the Netherlands–Bolivia BIT in securing investor protection over water sources. The BIT (bilateral investment treaty), to be discussed further, enabled foreign bodies to possess decision-making power in host nations.

A second case study on South Africa outlines the neoliberal policies put in place by Nelson Mandela's government, known as GEAR (Growth, Employment, and Redistribution), shortly after the democratic election of the African National Congress (ANC) in 1994. This economic change to the post-apartheid economy introduced prepaid water metres into the township of Alexandria and the city of Johannesburg. As well, this section examines the impact that the construction of the Lesotho Highlands Water Project had on water scarcity, implemented shortly after GEAR. Lastly, although South Africa was not involved in a BIT with France during the privatization of water (which was carried out by Suez, the French corporation), trade policies in place at the time were still able to control South African resources.

My paper will conclude with a discussion on the future for natural resource extraction dispossessing citizens in postcolonial nations, the need for the notion of globalization to distance itself from the neoliberal ideology and practices, and the power of grassroots movements to reclaim their resources.

Accumulation by Dispossession

According to David Harvey, accumulation by dispossession has been demonstrated in "the core regions of capitalism" and consists of "colonial, neocolonial, and imperial processes of appropriation of assets (including natural resources)"; the act of taking a resource, good, or service from one group for the positive accumulation of another group. Examples include the privatization and commodification of natural resources, and the transfer of public property and social services into the private sector.

Accumulation by dispossession is an expansion of Marx's (1973) concept of primitive accumulation. For Marx, primitive accumulation was the shift from feudalism to capitalism wherein capitalists pushed the peasantry off their land, forcing peasants to rely on the capitalist system for subsistence. Marx believed this process to have only taken place during the pre-capitalist era, as feudalism was being dismantled. However, Harvey and Rosa Luxemburg, socialist critics, note that primitive accumulation continued throughout the development of capitalism by way of different types of accumulation, and will persist for as long as capitalism exists.

For Luxemburg, an expansion of primitive accumulation was evident with imperialism. Capitalism and its need to acquire a surplus eventually led capitalists to expand beyond national borders, thus taking part in imperialism and the colonization of foreign markets. What's more, this expansion of capitalist power and accumulation of capital resulted in foreign powers dismantling the traditional systems (many in the form of natural economies) to make way for capitalism.

For a natural economy, demands are internal, land is communal, and there is no need for a surplus. These characteristics evoke all the components that have resulted in capitalism targeting and diminishing natural economies. Colonization was the weapon used by old capitalist nations, such as France and Great Britain, for securing foreign markets and dispossessing the land and resources from the "native" populations.

For example, during the British colonization of India, the peasant economies were dismantled and Hindu landownership traditions were sacrificed for capitalist methods of accumulation. This resulted in large swathes of former peasant land being turned into private estates, forcing peasants to rely on short-term land leases, with many falling into poverty.

Foreign Loans during the Imperial Era

During the era of imperialism, the building of railroads was considered a turning point for capital accumulation, with railroads providing the possibilities of industrialization, market competition, and further dispossession of land. For example, in 1872, the Bolivian government took out its first loan from the British government to build a national railway. This loan of GBP1.7 million was the largest monetary exchange at the time, and was the beginning of Bolivia's years of debt accumulation. Unfortunately, the railway was left incomplete due to engineering complications and lack of skilled workers. Regardless of the project's failure, Bolivia remained contractually obliged to repay their British loan. Later neoliberalism paved the way for neocolonial relations to develop between western corporations and the colonized.

Neoliberalism

Neoliberal policies promote and reflect the interests of multinational corporations, the accumulation of capital, and the owners of private property. Neoliberalism as a theory moved beyond academic borders and into practice in the public sphere with the awarding of the Nobel Prize in Economics to Friedrich Hayek in 1974 and Milton Friedman in 1976, both economists establishing their research on neoliberal economic practices (Hayek focusing on free competition and economics in relation to society, and Friedman on stabilization policy). The election of Margaret Thatcher in 1979 signalled a further shift in favour of neoliberal practice, as Thatcher insisted on shrinking the British government, which dismantled unions, decreased taxes and social programs, privatized state assets, and promoted foreign investments via more flexible trade and economic policies.

This shift continued with the election of President Ronald Reagan in 1980, which marked the beginning of Reaganomics, also referred to as "trickle-down economics," rooted in neoliberal thinking. These policies focused on decreased taxes, restricted the power of unions, diminished government spending on social programs, and encouraged capital accumulation.

The first major test for the power of neoliberalism in securing postcolonial control in the developing world was Mexico defaulting on its debt in 1982 to 1984. The United States Treasury Department and the IMF opted to formulate debt repayment plans that would pressure recipient nations into adopting neoliberal economic approaches. Labelled as "free market fundamentalism," these methods of debt repayment pushed for structural changes and soon became universal components to many repayment programs addressing Third World debt. The control centre of this fundamentalism is located among the major capital-exporting, or G7 states: the United States, the United Kingdom, France, Canada, Germany, Japan, and Italy.

Constructed Consent

Economists and politicians can only adopt neoliberal theory to an extent before these ideologies need to be legitimized by the general population. As Harvey notes, this legitimization, or "constructed consent," can be achieved via media, corporations, institutions (especially universities), and government officials. This consent is constructed in the form of active, passive, explicit, and/or implied. However, the method of consent for accumulation by dispossession is "implied," wherein participants give consent by simply taking part in the activity, as in the case of purchasing privatized water. Harvey posits that the construction of consent takes place as neoliberalism actively frames consent to be "natural" and necessary for a society to thrive, particularly in the sense of capitalist development.

For example, when Thatcher presented her policies to the public, the Prime Minister repeatedly evoked that there was "no alternative" to the systems being put in place to promote competition within the free market and the need to shrink the government. The denial of alternative and the ensuing consent from subordinate classes is necessary for the successful implementation of a political order, such as neoliberalism. Gill outlines that this consent is needed in order for the adequate functioning of neoliberalism "inside" and "outside" a nation.

Upper class consent was easier to obtain, simply due to the wealth that the upper classes would presumably accumulate with the practice of neoliberal theory. For the lower classes, however, consent was obtained via more manipulative practices by governments, institutions, and corporations since many citizens recognized that the results of neoliberal policies would not only negatively impact marginalized populations, but closely resemble practices witnessed during the colonial era.

The Unevenness of Neoliberalism

This consent was gathered from the general population by the government with promises such as lowered taxes and the management of inflation. Although these promises were upheld after the implementation of neoliberalism, the face value of these actions obscured the underlying effects that were detrimental to the poor and minority communities. This unevenness embedded in neoliberalism that favoured the wealthy resulted in an increase in unemployment, environmental degradation, poor labour practices, poor quality public healthcare, and poor quality of life on a global scale.

During Reagan's administration, for example, unemployment rose to 7.5% from 5.6% (1979), and throughout Thatcher's reign, unemployment soared above 10%. For Patrick Bond, neoliberalism coincided with Marx's claims on capitalism, wherein some sectors would flourish as others declined.

The case studies used in this paper of Bolivia and South Africa will further illustrate the repercussions of neoliberalism. What is highlighted with these case studies is the importance that a left-wing government plays in postcolonial nations dependent on the existence of unions, social welfare, and community groups in establishing higher qualities of life. The welfare state assisted those most vulnerable who were otherwise unable to afford an adequate quality of life. Hence, the implementation of neoliberal practices that weakened these welfare and union services also took away the sustenance for most of the nation.

As Harvey illustrates, unions represent collectivity and the perpetuation of 'big government', protecting workers and addressing issues such as increased wages, improved working conditions, and subsidized health care. The resources provided by the 'big government' policies (i.e., infrastructure subsidies and employment) were the targets for neoliberal restructuring, which was demonstrated through the practice of accumulation by dispossession.

The dismantling of these social resources and adoption of neoliberalist practices provides a breeding ground for civilian resistance in developing countries.

For the privatization measures associated with accumulation by dispossession, national governments privatized natural resources and services, which further degraded the environment and widened the gap between the rich and the poor. This unevenness of neoliberalism was directly perpetuated by actions associated with globalization and the universal spread of neoliberal ideologies across time and space.

Neoliberalism and Globalization

For J.A. Scholte, "liberalization" and "westernization" have been used in coordination with neoliberal ideologies to define globalization. Globalization is widely associated with the opening of borders, free trade, deregulation, and privatization practices witnessed under neoliberal economic policies. The onset of globalization marked the liberalization and westernization under neoliberal principles.

The projection of these ideologies, such as liberalization, is systematically encouraged to utilize the power of globalization to instill a "new constitutionalism" and the framework of neoliberalism to be attached to developmentalism. This idea of developmentalism concludes that the development of a nation was bound to economic growth and industrialization. As accumulation by dispossession confirms, this neoliberal framework for globalization benefits and privileges the capital-exporting nations and corporations holding the reins of power in developing and more vulnerable nations. Many anti-globalization movements, according to Scholte, are closely linked to anti-neoliberal and anti-privatization movements, as demonstrated in Bolivia and South Africa in response to the privatization of water.

Scholte makes a similar argument for the "westernization" component to globalization. Presently, westernization has been demonstrated to play a major role in globalization via the influence of Western-ideas and policies in accelerating the spread of market-based capitalism, urbanism, and the replacing of traditional practices (drawing parallels with Luxemburg's claims to the imperial elimination of natural economies). As well, scholars have characterized Westernization-globalization as being closely linked to colonization practices, wherein "development" is discussed in terms of modernizing under the influence and control of western nations and enterprises.

The connection between the rise of neoliberal globalization and accumulation by dispossession is the individualization and privatization of natural resources and state services. As illustrated with the case study of water, after loan conditions were put into place, corporations pressured individuals to pay for water rather than the resource remaining a public good.

Andy Higginbottom draws parallels with both Harvey and Bond, explaining that the development of neoliberalism in Latin American economies with the progression of globalization has resulted in an increase in the expression of dependency theory among these states. The dependency theory outlines that the rich and developed nations (known as the "core") exploited the resources and services of the less developed nations (known as the "periphery") to a point where the periphery became dependent on the core for growth.

The increase in extraction of natural resources by foreign private firms and neoliberal practices adopted by the Latin American governments has left Latin America more dependent on foreign investment. Higginbottom reflects that neoliberal policies are strengthened with protection protocols for corporations provided by bilateral investment treaties, which are enforced by both national and supranational governing bodies.

Bilateral Investment Treaties (BITs)

Bilateral Investment Treaties (BITs) were designed to protect corporate investments in developing, postcolonial nations. As one of the leading experts in the field of BITs, Gus Van Harten (2005) writes that the Geneva Convention of 1927 was the starting point for a winning party to be awarded compensation via arbitration for settling wrongdoing by the host nation under trade agreements, a process that demonstrated the potential for cross-border treaties.

The 1927 Geneva Convention had strict guidelines wherein the winning party was obligated to adhere to the national laws in place by the state involved in the specific case. This requirement was altered, however, with the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards in 1958 (also known as the New York Convention). Awards now only had to be compliant with the state in which arbitration was taking place, rather than compliant to the laws of the host state being required to pay out the awards.

In 1965, under the World Bank, the International Centre for Settlement of Investment Disputes (ICSID) was created to protect the power of BITs by providing guidelines and increased arbitration opportunities for foreign investors. ICSID was created at the same time as independence was being awarded to previously colonized nations, and capital-exporting nations (many of which were former colonizers) developed mistrust for postcolonial nations and wanted treaties put in place to protect western investments.

Schreiber similarly notes that arbitration is detrimental to the recipient state governments that are forced to hire expensive legal representation as well as to pay the awards owed to the investors upon settlement. These actions became possible with the creation of ICSID allowing for the inclusion of "general consent" to be included in the treaties. BITs provide investors with the opportunity to bring public disputes to private arbitrators, which may eventually lead governments to alter legislation and judicial proceedings to meet the claims awarded to the investors. BITs only allow for investors to file claims; host states are not entitled to file a claim against an investor via BITs.

General Consent

This notion of "general consent" is a primary component of the strength and protection attributed to corporations via BITs. General consent is active consent that allows for investors to be guaranteed the opportunity to go to private arbitration and for host states being accused of wrongdoing to be liable for paying awards. Redfern and Hunter refer to general consent as being flexible and convenient, similar to a blank cheque. Nations sign BITs containing a general consent clause as a way to protect the foreign investors were a problem to arise in the host nation.

BITs protect the investors from any action taken at any level of government in the host state, also allowing the home state of the investor to seek compensation for legislation in the host state that may be detrimental to the investment. Also mentioned by Schreiber are "umbrella clauses," which are similar to general consent. With an umbrella clause, an investor can attach various claims to a single BIT case, including unrelated contract disputes, to add further pressure on the state to settle. Furthermore, this forces the government of the host state to succumb to the will of the investors, epitomizing the coercive power of neoliberalism.

A bigger problem with BITs is that many foreign investors have aligned themselves (politically and economically) with capital-exporting nations and institutions to secure positions of power within the developed states. The United States, France, the United Kingdom, and Japan were the most popular capital-exporting states to include BITs within trade agreements with non-capital-exporting states. More importantly, the ICSID (a World Bank subsidiary) regulates BITs and accompanying arbitration practices and is primarily controlled by capital-exporting nations.

The capital-exporting nations mentioned above were among the top donors to the World Bank in 2010. This relationship further demonstrates the unevenness of neoliberalism and its advantage towards benefiting the wealthy, developed nations. The inherent power wielded by these capital-exporting nations against the governments of developing, debt-ridden nations demonstrates institutionalized neocolonial actions via accumulation by dispossession. The case study on Bolivia further examines this unevenness in neoliberalism and trade treaties with the privatization of water in the city of Cochabamba.

Case Study: Bolivia

Bolivian Economic Policies

Bolivia's accumulation of debt and subsequent borrowing from foreign nations and institutions eventually led to one of the most significant national debt crises to arise in the 1980s. At the peak of the crisis, the value of the Bolivian peso dropped by 50% and hyperinflation rose to 14,000%, primarily as a result of President Reagan's War on Drugs, which criminalized Bolivia's primary export: coca. To address the hyperinflation problem, Jeffrey Sachs, an American economist, was commissioned to devise new economic policies that would reduce the size of the Bolivian government and open the economy to foreign investors.

Sachs developed the New Economic Plan, which was labelled as Decree D.S. 21060, or D.S. 21060 for short. This policy included over two hundred economic changes for Bolivia, all ranging from cutting taxes, de-unionizing, dismantling social programs, opening the Bolivian markets to foreign investors, and privatizing natural resources, especially water.

As the years progressed following the implementation of D.S. 21060, many union workers and rural farmers suffered a sharp decline in employment opportunities, with about 350,000 Bolivians eventually turning to the illegal coca industry to acquire a relatively stable income. Due to the ensuing lack of opportunities available under the D.S. 21060 economy, many turned to the drug trade and informal economy. By the later half of the 1980s, the drug trade had amounted to about US$2 billion worth of Bolivian exports, although it is important to note that there are limited available and accurate statistics on this account. Experts theorize that the illegal drug market in Bolivia aided in supporting the nation after the financial damage accrued under the stabilization policy implemented by Sachs. To mitigate these economic losses, the Bolivian government not only continued to implement D.S. 21060, but accepted more IMF/World Bank loans funneled via Structural Adjustment Programs (SAPs).

SAPs and De-Unionization

The World Bank and IMF created SAPs with the distinct intention of providing underdeveloped nations short-term economic support to jump-start their economies, which was meant to enable these nations to continue to repay their loans. Drawing parallels with D.S. 21060, the SAPs were designed via the ideological components of neoliberalism. The SAPs promoted the privatization of resources, shrunk government-funded social programs, decreased taxes, and opened trade borders, and increased the control of capital-exporting nations within underdeveloped nations.

One of the most detrimental results from D.S. 21060 and SAPs was the dismantling of unions and agricultural organizations throughout Bolivia. Unions were one of the major threats to neoliberalism. As the SAPs were implemented in 1985, the unionized labour sectors, particularly shipping, mining and agriculture, began to breakdown. Lake Titicaca, for example, was a major shipping port for minerals from Bolivia to the Latin American and international markets. However, Corporación Minera de Bolivia (COMIBOL), one of the state-owned mines, cut workers' benefits including subsidized education and health care to a point wherein the port was forced to shut-down, playing a detrimental role in the nearby mines reliant on the port for exporting goods.

The closure of the COMIBOL mine resulted in a drop in employees from 27,000 workers to 3,000 workers between 1985 and 1993. The opening of trade barriers resulted in agriculturalists shutting down their farms because of their inability to compete with cheap imported goods. After these major sectors were dismantled, between 1981 and 1993, about 64% of the Bolivian population had to turn to precarious work, mainly in the city centres, as an avenue to obtaining an income. Housing assistance was cut by 77% from the government budget, while education subsidies decreased by 39%, leading to almost two-thirds of the total population falling below the poverty line. By 2003, Bolivian debt had reached an estimated US$5 billion.

Water Privatization in Cochabamba

Prior to the initial privatization of water in Cochabamba, citizen opposition groups created organizations to fight against de-unionization. Fabriles (Federation of Factory Workers in Cochabamba) existed for factory union workers before the implementation of D.S. 21060 and the SAPs in order to provide workers with adequate health care, better working hours, safe working conditions, and standardized wages. As employment protection and unions began to disappear, many members of Fabriles created the Comité de Defensa del Agua y la Economía Familiar (CODAEC; Committee in Defense of Water and the Family Economy) and Pueblo en Marcha (People on the Move).

Oscar Olivera (2004), one of the union leaders who organized the protests, notes that CODAEC was created with the intention of elevating the importance of the protests by indicating that the fight was to defend water as a personified entity while the corporations treated water as a commodity. This difference of ideas existed in large part because of the spiritual components to natural resources present among the Indigenous beliefs of Native Bolivians. In short, the importance of water to the Bolivian population (with the total population to be about 63% self-proclaimed Indigenous) is not solely for sustenance, but spiritual purposes, as well. This valuation of the resource was one of the reasons for opposition groups to go up in arms against the D.S. 21060, and in 1999, on November 4th and 5th, CODAEC initiated protests by way of roadblocks on major transportation arteries.

In the small town of Vinto, outside Cochabamba, protestors caused such a disruption to the highways going in and out of the city that police were dispatched and armed with rubber bullets and tear gas. At the close of 1999, the first privatized water bills were distributed, spurring even more turmoil in Cochabamba and surrounding areas. In February of the following year, protest leaders from CODAEC scheduled a meeting with the Bolivian government to discuss a freeze on water prices until a more affordable solution could be formulated.

In March 2000, CODAEC arranged a city-wide referendum calling for the renationalization of Cochabamba's water. Fifty-thousand citizens voted, with 96% of those citizens demanding for the cancelation of Bechtel's private contract to Cochabamba's water. The Bolivian government ignored the referendum, but eventually cancelled its contract with Bechtel due to the magnitude of social disruption.

Bolivia BIT

At the time of water privatization in Cochabamba by Bechtel, an American company, no United States–Bolivia BIT agreement existed. In order to secure BIT protection, Bechtel divided itself into three Dutch holding companies, since there existed a Netherlands–Bolivia BIT agreement (signed in 1996). The BIT was signed with the existence of the umbrella clause with expressed consent given by the Bolivian government. There were no exceptions provided to address public health and environment degradation or public policy conditions focusing on historical and cultural circumstances.

Among these divisions, Bechtel remained the majority shareholder in the firm and since BIT regulation allowed for corporations to be protected under BITs of different nationalities, this action, known as "forum shopping," was deemed legal. The partition took place shortly after privatization and public protests surged. When Bolivia canceled their contract with Bechtel, this opened the Bolivian government to being taken to private arbitration for wrongdoing under the Netherlands–Bolivia BIT clause. The table in the Appendix at the end of this paper illustrate the proceedings that took place during private arbitration.

As demonstrated in this table, the public uprisings that took place in Cochabamba immediately following the signing of the forty-year water and sewage contract with Bechtel directly resulted in the termination of the contract. Bechtel opted to protect itself from losing its investment in Bolivia by immediately entering in concessions with the Netherlands–Bolivia BIT.

The claim was settled in 2006 and all financial awards were voided due to the Bolivian public uprisings and Cochabamba state of emergency. Bechtel stated in a press release on January 19th, 2006, that the settlement took place in part because of the protests, and "not because of any act done or not done by the international shareholders of Aguas del Tunari…" After the settlement, the Bolivian government officially left the ICSID on May 2, 2007 and terminated the Netherlands–Bolivia BIT in 2009. The neocolonial influences present in Bolivia during the privatization of water share commonalities with South Africa's experience over the privatization of water.

Case Study: South Africa

During apartheid, the racialized population was forced to live in townships. Townships were over-populated subdivisions with little to no access to necessary resources, such as water and sewage services. Of the resources that were available, they were mainly communal and serviced multiple families within a single housing-block, which the government had the power to shut off or subject to a price increase.

During the 1970s, the South African banking sectors witnessed a boom due to the internationalization of the mining sector, with Nedbank and Volkskas Bank entering the international markets with the strong value of gold backing the value of the rand. This economic boom preceded the eventual bullish markets experienced by the Johannesburg Stock Exchange from 1982 to 1984. However, this boom collapsed in 1999 when private debt represented 70% of the GDP. Just before this collapse, in 1998, funds allocated to basic needs redirected from the ANC to address "corporate welfare" via the Department of Trade and Industry. Many experts believe that the new economic policies put in place in 1996 (Growth, Employment, and Redistribution policy; GEAR) were a contributing factor to the collapse of the Johannesburg Stock Exchange.

GEAR

The National Party was the far-right political party that held federal office in South Africa from 1924 until World War II, (and then again from 1948 to 1994) and implemented the apartheid era of racial segregation. During its reign, the National Party government incurred substantial debt from constant borrowing from international institutions to industrialize and develop South Africa. As a result, the new ANC government was left with a mountain of debt when Mandela took office in 1994, at an estimated US$245 billion. In an attempt to address this debt crisis, the Mandela government continued to borrow from the IMF and World Bank, which conditioned South Africa to adhere to neoliberal conditions in order to receive the borrowed funds.

Margaret C. Lee argues that when the ANC adopted the new macroeconomic policy of GEAR in 1996, the South African government made foreign investment a priority over domestic resource accessibility. The development of neoliberalism and globalization furthered the push for financial liberalization in developing countries, especially nations drowning in foreign debt. Though the expansion into foreign markets can be beneficial to developing nations, Lee recommends for nations to develop their social and economic sectors domestically, in order to make them less vulnerable to manipulation and dependence from foreign investors.

In 2001, the United Nations Conference on Trade and Development (UNCTAD) reported that developing nations that extensively liberalized their finances, including opening trade barriers and entering foreign investment treaties, were systemically unstable and susceptible to crises.

From 1993–2001, the number of black South Africans living below the poverty line increased from 50% to 62%. In 1998, the United Nations Panel on Water outlined that the resource should be paid for because it represents a commodity rather than a good that should be free. This notion was echoed by the ANC's water minister at the time, Kader Asmal, who refused to support any actions that would allow access to free water because, "The provision of such free water has financial implication for local government..."

According to Bond, about half of South Africa's water supply is used by the commercial agriculture industry dominated by the white farmers. About 12% of water was dedicated to household use, with more than 6% used for maintaining gardens and pools on properties within predominantly wealthy, white neighbourhoods, with less than a tenth of that 12% being consumed by racialized South Africans.

In the earliest years of GEAR, rather than growing the country's wealth and potential, data demonstrated that the neoliberal economic policy depreciated the South African economy. For example, from 1996 to 1998, annual GDP growth dropped from 3.2% to 1.7% to 0.1%, which went against GEAR projections for GDP to fluctuate from 3.5% to 2.9% to 3.8%, respectively. As for job loss, between the same years, 71,000, 126,000, and 186,000 jobs were lost after GEAR was implemented. This is in comparison to GEAR's estimated gain in employment from 126,000 jobs to 252,000 jobs, to 246,000 jobs.

The 1996 census demonstrated that the wealthiest 10% of the South African population earned 50% of national income, while the poorest 40% of the population earned nearly 3% of the income. The Minister of Social Development at the time, Zola Skweyiya, claimed that the wealthy were inadvertently becoming wealthier as the poor were becoming poorer. Due to budget cuts to the federal welfare program, about 13.8 million citizens were disqualified from the limited social services, leaving these communities reliant on corporate-owned services or to find their own means for survival. These inherent gaps created by GEAR in the welfare state created a crisis that was soon taken advantage of by corporations eager to privatize South Africa's resources.

Prepaid Water Metres

The French company Suez, via its subsidiary "Johannesburg Water," acquired the contract for the water in Johannesburg and surrounding townships under the new privatization policies beginning in 2001. Immediately following the signing of the contract, water prices increased by 55% and those black South Africans living in townships were forced to purchase prepaid water metres in order to access a formerly subsidized resource.

The citizens obligated to rely on the prepaid system were required to purchase a prepaid card or key in order to access the water in their township. Once their card or key ran out of funds, citizens were no longer able to obtain water. The use of prepaid keys allowed the corporation to track where, when, and how much water was being extracted, as well as giving Suez the ability to cut-off services and raise prices at any time.

Antina von Schnitzler finds accumulation by dispossession practices to be directly linked with the privatization of water and the subsequent installation of prepaid water metres. Under neoliberalism, basic needs such as water were turned into commodities that were profitable for corporations. To obtain the consent for the prepaid water metre project, especially following successful protests took place after the pilot project, Johannesburg Water marketed the project to be a measure of water conservation and sustainability.

Johannesburg Water attempted to install eye-catching billboards and taxi advertisements promoting the benefits for the water metres and privatization in general. These methods go hand-in-hand with what was described by Harvey as "constructed consent." To obtain explicit consent for the installation of water metres, Johannesburg Water sent consultants to collect signatures from township residences. Those who refused to give their consent were subjected to poor quality services and more frequent service cut-offs.

Lesotho Highlands Water Project

One of the largest water projects on the continent, the Lesotho Highlands Water Project (LHWP) reroutes water from four major rivers in Lesotho: Senqunyae, Malibamatso, Matsoku, and Senqu; and incorporates the Vaal River in South Africa, which services Johannesburg and surrounding cities and townships. Established in 1998, the project continually experienced criticism from environmentalists, scientists, and human rights activists since the LHWP has destroyed ecosystems and increased water scarcity within villages along the rerouted waterways. Citizens were forced to relinquish their land for the project, while others experienced the negative geographical impacts of the dam via water shortages and soil erosion.

As well, the LHWP officials only provided civilians in the area of the dam with minimal compensation, and neglected to provide jobs within the construction sector of the project. In the early years of the project, household income in the northeastern mountain region dropped by a rate of more than 65%, disproportionately impacting women, children, and the elderly.

Having received a US$110 million loan from the World Bank, the LHWP moves billions of cubic volumes of water, much of which is lost upon entering apartheid-era pipelines that the South African government has failed to maintain. An estimated 40% of water is lost due to pipe leaks.

Township of Alexandria

Just outside Johannesburg, the township of Alexandria was victim to "apartheid-capitalist underdevelopment," lacking education, amenities, and commerce opportunities to raise the standards of living. Municipal water prices in Alexandria rose by 35% from 1995 to 1998, yet amidst this time frame, citizens experienced a record number of water shut-offs. Municipal water prices rose by 35% from 1995 to 1998. For example, in 1997, 8,126 households experienced frequent water shut-offs, with shut-offs continuing into 1998.

South African Resistance to Suez

This surge in water prices resulted in many citizens being unable to afford water, as well as citizens boycotting their water bills out of protest, thus resulting in frequent water shut-offs from January to April 2000 by Suez. Protests in South Africa were founded by different societal groups from those in Bolivia. In the case of Bolivia, former union workers were essential in not only building infrastructure but in organizing the "Water War" protests, since these union workers already had a strong web of communications formed among themselves. Resistance movements in South Africa, on the other hand, were formed by community groups, family units, and church groups, using the same methods of cooperation initially formed in resistance toward Apartheid during colonial times. Those with experience in anti-apartheid protests were able to give valuable insight in the best route for protests but were not necessarily the leaders in forming protest organizations.

Suez proceeded to hire a private security firm, commonly referred to as the "Red Ants," to evict people from their homes due to lack of water payment. By 2007, nearly 2 million people were evicted from their homes in Johannesburg for a combination of not being able to feasibly pay their water bills and not paying their bills out of protest. Johannesburg city councilor, Trevor Ngwane, was at the forefront of leading people to boycott Suez water under his organization called Operation Valumanzi ("Water for All"). Ngwane was eventually asked to relinquish his seat in the ANC.

In 2005, legal action was taken against Johannesburg Water and the City of Johannesburg in the form of a class action lawsuit. The plaintiffs claimed that black South African communities were forced to purchase prepaid water metres and to pay for their water up front, in comparison to the white communities of the city and neighbouring suburbs, who were required to pay for their water services at the end of their billing cycle.

The plaintiffs also noted that black citizens experienced far more water shut-offs than white citizens, even after the pre-purchasing of the service. As well, the ratio of accessible water to households was detrimentally skewed, with dozens of township households relying on a single standpipe, while on the other hand, white communities were entitled to an easily accessible water supply not only to maintain their large homes, but vast landscaping and swimming pools. The case was presented by the citizens to represent post-apartheid unconstitutional racism.

The case was victorious at the South Gauteng High Court, but was overruled at the national Constitutional Court after the crown appealed the ruling by the provincial court. The tribunal claimed that under constitutional policies, it was not the state's responsibility to provide water services on demand to each person. Although the lawsuit was lost at the Constitutional Court, the win at the provincial court coupled with countless protests and boycotts eventually resulted in Suez being evicted from Johannesburg in 2006.

South Africa BIT

The France–South Africa BIT was terminated before Suez secured the contract to privatize Johannesburg's water. According to UNCTAD 2013 data, twenty-six out of forty-nine listed South African BITs have been signed but are not in force, fourteen BITs have been enforced, and nine BITS have been terminated. Interestingly, all nine of the BITs terminated by South Africa were with OECD nations and all were signed during the post-apartheid ANC government.

France–South Africa BIT was signed in 1995 and terminated in 1997, however, non-BIT agreements still existed between France and South Africa for a decade after termination, which was demonstrated through the privatization of water in Johannesburg. The initial agreement was for ten years but was unilaterally terminated after only two years.

In accordance to a WTO seminar in September 2012, as of 2008, the South African government noted the constitutional discrepancies among BITs. According to Deputy Director General of the International Trade and Economic Development department under the Department of Trade and Industry within the South African government, Xavier Carmin, the South African government commissioned independent firms to assess the requirements outlined in BITs. The problematic components such as exploitation, investor power, transferring of funds, unfair treatment, and lack of coherence in arbitration practices all make investments riskier for the host nation.

As a result, in 2010, South Africa opted to not renew preexisting BITs signed at the brink of independence in 1994 and did not sign on to any new BITs; the last BIT to be signed was with Zimbabwe in 2009. As well, South

Africa has made a commitment to create investment treaties that provide more protection for the state and are consistent among all foreign investors.

Conclusion

As this paper demonstrates, the development of neoliberalism and utilization of this economic theory through debt repayment loans and BITs targeted developing economies and furthered imperial attitudes. As outlined by Luxemburg during the imperial era, the colonizing powers dismantled natural economies for the growth of capitalism and left the colonized to struggle to survive in comparison to the small wealthy social strata.

Harvey's concept of accumulation by dispossession was put in practice as natural resources were privatized and placed in control of corporations. The privatization of water then changed the distribution practices so that wealth and resources shifted from being accessible by all to available to the few. The role of BITs strengthened corporate control by protecting foreign direct investments in the volatile economies of developing nations. Although neoliberal macroeconomic policies and BITs gave the capital-exporting nations the ability to advance capital accumulation, the resistance movements carried out by the citizens illustrates the power of the masses when faced with inequality.

The Future

For investment treaties, non-OECD nations have developed trading institutions outside the regulatory scope of IMF/World Bank. BRICSAM, a collection of rapidly developing countries and alliances consisting of Brazil, Russia, China, India, South African, ASEAN, and Mexico, have created mutual and reciprocal trading policies, promoting cooperation rather than monopolization, outlined in ICSID agreements.

However, as Antkiewicz and Whalley outline, a major setback for non-ICSID trade relations include the struggle for the diverse nations under BRICSAM to collectively agree on trade policies. As well, many BRICSAM nations remain heavily dependent on OECD nations for investment and non-ICSID arbitration is still in its infancy and is weakly enforced.

On the micro level, Bond suggests the need for "climate justice," wherein actors work from below to shift the current capitalistic/fossil fuel-reliant system to a more sustainable system known as "eco-socialism." Rather than establishing a climate plan that attempts to "save the earth," climate justice aims to target specific ecological problems within extraction sites, for example, the tar sands in Canada, oil fields in Latin America, coal factories in Russia and the United Kingdom, and mining in South Africa. Similar to Klein's "Blockadia," climate justice puts the power of change in the hands of the citizens being most negatively impacted by extraction practices.

Resistance movements against neoliberalism can be seen as a step towards a more inclusive and equal globalization. Scholte reports that there are different versions of globalization to be considered, other than the "neoliberalized" globalization witnessed today. Western neoliberal institutions promoting globalization under neocolonial practices and accumulation by dispossession have made it difficult for alternative "globalizations" to thrive.

Scholars repeatedly note that this component of globalization is not the only option, but is the option that has been furthered by neoliberal governments and financial institutions that have held both the economic and political power within the international community. For the future, scholars discuss an inclusive globalization that promotes cultural and economic equality, heterogeneity, and preserved traditions.

Resistance movements in Bolivia and South Africa against the privatization of water, as well as climate justice Blockadia practices outlined by Bond and Klein, demonstrates the push for a new globalization, or at least alternative globalizations. Since the control of a neoliberal globalization is in the hands of governments, institutions, and corporations, those who have not and are not benefitting from neoliberalism can be the only ones to carry out change.

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Appendix

Known BIT claims against CAP states
(as at 19 August 2008)

State	*Claim*	*Year initiated*	*Relevant treaty and arbitration rules*	*Claimant and sector*	*Host state measure*	*Resolution*
Bolivia	*Aguas del Tunari*	2002	Neth-Bol BIT Filed under ICSID Rules.	Claimant ADT was Bolivian company, owned by series of Dutch companies, in turn owned by U.S. firm Bechtel. Claim arose from 1999 concession contract between ADT and Bolivia's Superintendant of Water for exclusive delivery of water and sewage services for city of Cochabamba over 40-year period. The city's water system was previously run by the state agency SEMAPA. At time of the concession, 20% of shares in ADT were divided among four Bolivian companies, 25% were owned by Uruguay company Riverstar International, and 55% were owned by Cayman Islands-based International Water which was 100% owned by U.S. firm Bechtel. The concession contract was subject of public controversy and criticism by citizens' groups from at least the time it was signed until its termination in 2000 following a major escalation of public protests. A concern of citizens' groups was that the concession would make illegal the existing communal water systems, previously autonomous of SEMAPA, on which many of the city's inhabitants relied. Great hardship was also caused by substantial increase in rates that were implemented shortly under the concession. ADT was aware of and engaged in the public debate from shortly after the initiation of the concession. Notably, after the concession and controversy began, the Cayman Islands company International Water was 'migrated' to Luxembourg and its ownership was transferred to a Dutch company in turn owned (via other Dutch companies) by Bechtel and (apparently) the UK firm Edison. The insertion of this Dutch holding company into the ownership chain for the concession contract allowed for a claim to be brought under the Netherlands-Bolivia BIT.	Various acts and omissions of Bolivia concerning the concession agreement, alleged to have breached the BIT.	Claim settled in early 2006. Both claimant and Bolivia agreed to drop financial claims against the other and that 'the concession was terminated only because of the civil unrest and the state of emergency in Cochabamba and not because of any act done or not done by the international shareholders of Aguas del Tunari'. The settlement followed the extensive public pressure on Bechtel to withdraw BIT claim. Tribunal: U.S. national David Caron, presiding (appointed by Chair of the ICSID Administrative Council – i.e. the President of the World Bank); Canadian national Henri Alvarez (appointed by investor); Mexican national Jose Alberro-Semerena, (appointed by Bolivia). Tribunal found jurisdiction. Tribunal allowed claim under Netherlands-Bolivia BIT despite forum-shopping by Bechtel via the corporate reorganization that followed mounting public controversy over the concession. It concluded that the corporate re-organization did not breach the concession contract and that it was not necessary to order production of documents regarding alleged misrepresentations by Bechtel. In a detailed analysis, the Tribunal also concluded that there was sufficient control of ADT by the relevant Dutch holding companies to allow the BIT claim. Dissenting opinion by arbitrator Alberro-Semerena would have dismissed the claim on the basis that the corporate reorganization took place after another proposal to insert a Dutch holding company into the corporate structure had been rejected by Bolivian authorities. This indicated deception or misrepresentation on the issue of the nationality of the investors under the concession agreement. Tribunal also rejected a petition by non-governmental organizations to participate in the proceeding on the basis that it had no jurisdiction to do so without the consent of the disputing parties. See awards dated 21 October 2005; Investment Treaty News reports dated 20 January 2006 and 9 May 2007; Bechtel press release dated 19 January 2006.

Source: Gus Van Harten, Policy Impacts for Investment Agreements for the Andean States, Commissioned Reports and Studies (2008): p. 131.