David Schneiderman, *Investment Law's Alibis: Colonialism, Imperialism, Debt and Development* (Cambridge University Press, 2022).

Make no mistake, David Schneiderman's *Investment Law's Alibis: Colonialism, Imperialism, Debt and Development* can be judged by its cover. A female bust draped in pearls and lace wears a gold crown. A coat of arms rests atop the crown. Superimposed on the royal bust is what appears to be an armored soldier. This image, which conjures the spoils of war, conquest, empire, gunboats, and the colonial chartered company, looks like it belongs to a forgotten era. Yet, as Schneiderman shows, this imagery remains very present in the field of international investment law. *Investment Law's Alibis* interrogates four main defenses that have been used to justify the imperatives of international investment law: Colonialism, Imperialism, Debt, and Development. By juxtaposing past usages with contemporary usages of these alibis, he aims to show how international investment law continues to produce oppressive effects on citizens of the global South (5).

All five main chapters are built on analogies between the past and the present: between Memmi's "portrait" of the colonizer in colonial Algeria and investment lawyers, arbitrators, and scholars; between Algerian international lawyer Mohammed Bedjaoui's 1979 *Towards a New International Economic Order* and informal empire; between colonial-era notions of civilization and contemporary arguments for international investment law; between the 1980s debt crisis and the 2019 *Tethyan Copper* arbitral award of $6 billion US against Pakistan for expropriation of an undeveloped mining site;[1] and between settler colonialism and the rights to property of Indigenous people. Here lies the most striking value of *Investment Law's Alibis*: the monograph is about a regime of law built on over 3,300 international investment treaties (2), yet the author is able to weave together within one volume political theory and law, including insights from Michel Foucault, Albert Memmi, Frantz Fanon, and Leonard Cohen.

Investment Law's Alibis is a product of self-reflexivity, and for this reason it is very difficult to find fundamental faults in the main arguments made. Characteristic of his writing style, Schneiderman uses irony to challenge arguments made in support of international investment law, while providing a balanced narrative. *Investment Law's Alibis* is a conversation between an iconoclast and a defender of the international investment regime. Using rhetorical questions and conditional sentences as his tools, Schneiderman succeeds in exposing the folly of mainstream international investment law debates. Two of these mainstream arguments stand out. First is the argument that the past has little to do with contemporary investment law (39). This sounds valid considering the sparse references to colonialism in investment arbitration awards. However, a few investment arbitration awards consider the colonial past of foreign investments, even if only as a corollary. An example is *Bernhard von Pezold v. Republic of Zimbabwe*, an ISCID arbitration between white farmers who had settled in what was British Rhodesia (Zimbabwe).[2] This dispute is discussed by Schneiderman in chapter 5, but in the context of the nonadmission of amicus briefs in investment treaty arbitration. At the beginning of the *Bernhard von Pezold* award, the arbitrators note that even though the dispute concerns expropriation of land in twenty-first-century Zimbabwe under Robert Mugabe's regime, the dispute can only be fully understood by examining Cecil John Rhodes's Southern Rhodesia.[3] References to arbitral awards in which colonialism is discussed would have made the thesis in chapter 1 even stronger.[4]

[1] Tethyan Copper Company Pty Ltd. v. Islamic Republic of Pakistan, ICSID Case No. ARB/12/1, Award (July 12, 2019).

[2] Ntina Tzouvala. 2022. "Invested in Whiteness: Zimbabwe, the von Pezold Arbitration, and the Question of Race in International Law." 2 *Journal of Law and Political Economy* 226.

[3] Bernhard von Pezold v. Republic of Zimbabwe, ICSID Case No. ARB/10/15, Award, ¶ 2 (July 28, 2015).

[4] Grenada Private Power Ltd. v. Grenada, ICSID Case No. ARB/17/13, Award (Mar. 29, 2020).

The second mainstream argument that Schneiderman counters is that the investment regime equally favors states, since in many instances, claims are dismissed in favor of respondent states. As Schneiderman shows, every individual case is distinct and relying strictly on win and loss numbers does not provide an accurate picture of how international investment arbitration can limit the right of a state to regulate for public interest. Two key questions that Schneiderman's counterargument raises are (1) why only a few states have completely renounced the ICSID Convention and (2) why few states have renegotiated their older international investment agreements, supposedly signed under pressure from international actors like UNCTAD (2). The answer to this may be in Schneiderman's admission that even authoritarian states have an interest in "disabling national judicial and legal actors from disturbing the confidence of the foreign investor" (34). As Schneiderman suggests, while investment treaties can lead to significant costs for developing countries, some rogue rent-seeking governments choose to remain part of the system because it allows elected leaders to outsource their state responsibilities of developing strong domestic institutions to international bodies, such as arbitral tribunals and other institutions. This is especially common in high-value investor-state contracts. This dynamic exposes the limitations of state sovereignty in international law and underscores how sovereignty operates at the expense of common citizens.

Overall, the arguments made in *Investment Law's Alibis* are hidden in plain sight. The arguments Schneiderman makes on the relationships between colonialism, debt, development, and international investment law are evident to all experts in the field. However, most stakeholders avoid these uncomfortable conversations as they only delegitimize the field and expose its original sins. Other alibis that do not feature prominently in the monograph include sustainable development, rule of law, and depoliticization.[5] The politics of international investment law and the regime's goal of depoliticization operate as antithetical alibis. *Investment Law's Alibis* is a cautionary tale with sobering implications. Yet there appears to be a glimmer of hope for reimaging a different type of politics, which, as envisioned by Schneiderman, promotes the well-being of the less well-off citizens. In February 2024, to the surprise of many skeptics, an ICSID tribunal dismissed an investment treaty claim instituted by a Canadian mining company against Colombia, holding that measures introduced by Colombia to protect the Páramo ecosystem did not result in a breach of the Canada-Colombia Free Trade Area Agreement (2008).[6] Although Colombia has to reimburse the claimant, Red Eagle Corporation, US$ 461,118.95 for the costs of the arbitration, this investment treaty award is an important victory for Indigenous communities in the Colombian Andes who depend on the Páramo ecosystem for their livelihood.

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[5] M. Nicolás Perrone and David Schneiderman. 2019. "International Economic Law's Wreckage: Depoliticization, Inequality, Precarity." In *Research Handbook in Critical Legal Theory*, edited by Emilios Christodoulidis, Ruth Dukes, and Marco Goldoni, 446. Edward Elgar.

[6] Red Eagle Exploration Ltd. v. Republic of Colombia, ICSID Case No. ARB/18/12, Award (Feb. 28, 2024).