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*Sweet and Salty: Colonial and
Modern Corporate Commodity
Exploitation in Northeastern Brazil*

Flavia Copia Sperandio

Division of Human Rights
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Rhoads
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Abstract

This thesis is a historical comparative analysis of the social and environmental impacts of past colonial exploitation and the modern corporate extraction and exploitation of natural resources and commodities. The thesis examines these issues through the case studies of sugar monoculture in the Northeast region of colonial Brazil (16th and 17th Century) and the sinking of Maceió (also in Northeastern Brazil) due to the corporate exploitation of rock salt mines (1976-2019). The research falls within the scope of larger topics such as extractivism in Latin America, Business and Human Rights, and coloniality/colonial durability. The goal of this study is to reflect on the shift of power in natural resource and commodity exploitation from colonial actors to the private sector. The study's findings identify similarities between the human rights impacts of the exploitation of commodities in different periods of history in the same geographic area by different actors. This historical comparative analysis employs a decolonial theoretical framework that allows for reflections on the history and creation of the international human rights framework. More specifically, the analysis reflects on historical and contemporary matters of accountability for States and non-state actors. The study argues that if colonialism and the social and economic conditions it caused had not been overlooked or ignored in the creation of human rights, perhaps Business and Human Rights would have emerged earlier and been more fully developed today. As it moves forward, the Business and Human Rights field needs to take into account that the modern corporate actor cannot be dissociated from colonial history.

Keywords: modern corporation; sugar cane monoculture; coloniality; rock salt mines; extractivism; Brazil; decolonial theory; business & human rights.

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Glossary & Abbreviations

BHR: Business and Human Rights

ICCPR: International Covenant on Civil and Political Rights

ICESC: International Covenant on Economic, Social and Cultural Rights

IACHR: Inter-American Court of Human Rights

UNGPs: United Nations Guiding Principles for Business and Human Rights

CSR: Corporate Social Responsibility

Engenhos de Açúcar: Sugar Cane Mills

Senhores de Engenho: Sugar Masters

Sal-gema: Rock Salt

Serviço Geológico do Brasil (CPRM): Brazilian Geological Service

Ministério Público Federal (MPF): Federal Public Prosecution Office

Ministério Público do Estado de Alagoas (MPAL): State of Alagoas's Prosecution Office

Ministério de Minas e Energia: Federal Ministry of Mines and Energy

Defensoria Pública da União (DPU): Union's Public Defense Office

Constituição Federal (CF/1988): Brazil's Federal Constitution

Maceió: Capital city of the state of Alagoas

Pinheiro, Mutange, Bebedouro, and Bom Parto: neighborhoods of Maceió

Quilombos: settlements of escaped enslaved Africans

1. Introduction

'Natural resources have traditionally been considered a curse on Latin American societies, from the plundering of the colonial era to the ills of commodity dependency in later years'.¹ H. Haarstad

The previous quote by H. Haarsad encapsulates several aspects and drivers of this research. In particular, the historical ties and continuity of the exploitation of natural resources through different periods and regimes in Latin America; the human sufferings of an entire continent related to the extraction and production of commodities; the blessing of fertile and abundant lands turned into a curse of looting, dependency, and inequality.

The aim of this thesis is to conduct qualitative comparative historical research on the colonial and the current corporate exploitation of commodities in Latin America and its social repercussions on different generations of local populations. Through decolonial theory, the study presents reflections on how the modern corporation compares to colonial powers. In other words, it analyzes the shift from the colonial powers of exploitation for commodity production to the private sector and prolonged human rights impacts on the region's most vulnerable populations.

This research draws on several topics, fields, and disciplines, such as colonialism and post colonialism, Latin America, extractivism, human rights history, and accountability of non-state actors for human rights abuses. However, this thesis is primarily a study on Business and Human Rights, intending to question the flaws and improvements of corporate activities through the lens of human rights.

Business and Human Rights is a field of late development in international human rights law, seeing its first broader discussions in the 1990s but only having actual initiatives in

¹ H. Haarstad, "Extracting Justice? Critical Themes and Challenges in Latin American Natural Resource Governance", in *New Political Spaces in Latin American Natural Resource Governance*, ed. Håvard Haarstad (New York: Palgrave Macmillan US, 2012), pp. 1–16. p.1.

the 2000s and 2010s.² There are multiple reasons for such, but especially the multitude of actors concerned in this equation, including not only powerful multinational corporations and smaller businesses, but also States, civil society organizations, victims of corporate abuses, and global governance actors. Undoubtedly, economic interests play a role in the dynamics between all these actors.³

Due to globalization and information accessibility, corporate abuses have been brought center stage in debates on the protection of human rights by all States equally. Nevertheless, States stand in an unequal world order. The human rights order was conceived as a range of norms and practices to protect individuals from States, attributing the duties of safeguarding human dignity to States. The idea that corporate enterprises might have human rights responsibilities is new and not greatly accepted nor embraced yet.⁴

International human rights law and theory were conceived as state-centered regimes, while non-state actors were given little importance in those spheres. Nonetheless, non-state actors, specifically multinational corporations, have been key actors in the history of colonialism.⁵ Even though human rights did not exist in the colonial historical period, it was a period defined by the social abuses and human atrocities – similar in many ways to the current corporate abuses. Transnational corporations behave in the global order today similarly to the empires of the past, profiteering on natural resources through old colonial power structures.⁶ For this reason, this study proposes to look at colonialism and Business and Human Rights together.

According to John Ruggie, the author of the United Nations Guiding Principles on Business and Human Rights, “the idea of human rights is both simple and powerful. The operation of the global human rights regime is neither.”⁷ Ruggie found a conciliatory path amongst the many interests in the topic, through which he developed a framework where

² J.G. Ruggie, *Just business: Multinational corporations and human rights* (Norton global ethics series, 2013). WW Norton & Company. p.228.

³ Ruggie, *Just business: Multinational corporations and human rights*. p.240.

⁴ Ruggie, *Just business: Multinational corporations and human rights*. p.226.

⁵ J.M. Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto", *Transnational Legal Theory* 3:1 (2012), pp. 1–29, doi:10.5235/TLT.3.1.1. p.14.

⁶ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.15.

⁷ Ruggie, *Just business: Multinational corporations and human rights*. p.270.

States must protect human rights, companies must respect human rights, and human rights abuses must be redressed. His idea was to further push the elaboration of public, civil, and corporate governance instruments to reduce the tendencies of businesses to abuse human rights and to provide remedies for when it occurs.⁸

Even though Ruggie's framework has represented advancement and the beginning of concrete actions in the field of Business and Human rights, many scholars and civil society organizations advocate that more needs to be done in the international sphere to address the challenges corporate activities pose to the fulfillment of human rights worldwide. Some examples of scholars are Surya Deva, David Bilchitz, Andrés Felipe López Latorre, and organizations such as Amnesty International and Human Rights Watch.⁹ These arguments will be further explored in the literature review chapter of this thesis.

Another relevant note in the introductory remarks of this study is the use of the human rights concept for the analysis of a case placed in a historical period where human rights did not formally exist. Namely, the risks of committing anachronism, analyzing historical events from the perspective of contemporary concerns.¹⁰ Visiting the historiography of human rights demands sensitivity and an auto-critical attitude since the author of a historical account also carries personal biases and understandings of such historical past.¹¹

There is no scholarly consensus on the origin of human rights. The narratives presented usually follow one of two stories: that human rights originated in antiquity, through dispersed but linear historical events in ancient Greece, the Roman Empire all the way up to the Enlightenment, and the French and American Revolutions; or that human rights

⁸ Ruggie, *Just business: Multinational corporations and human rights*. p.316.

⁹ A.F. López Latorre, "In Defence of Direct Obligations for Businesses Under International Human Rights Law", *Business and Human Rights Journal* 5:1 (2020), pp. 56–83; D. Bilchitz & S. Deva, "The Human Rights Obligations of Business: a Critical Framework for the Future" in Surya Deva and David Bilchitz (eds), *Human Rights Obligations of Business: Beyond the Corporate Responsibility to Respect?* (Cambridge University Press 2013); Amnesty International, *What We Do: Corporations*, <https://www.amnesty.org/en/what-we-do/corporate-accountability/> (accessed 2022-05-12); Human Rights Watch, *Economic Justice and Rights*, <https://www.hrw.org/topic/economic-justice> (accessed 2022-05-12).

¹⁰ M. Halme-Tuomisaari & P. Slotte, "Revisiting the origins of human rights: introduction", in *Revisiting the Origins of Human Rights*, eds. Pamela Slotte & Miia Halme-Tuomisaari (Cambridge: Cambridge University Press, 2015), pp. 1–36. p.10.

¹¹ Halme-Tuomisaari & Slotte, "Revisiting the origins of human rights: introduction". p.16.

originated in a vacuum of rights claims and initiatives in the inter-war period.¹² Both narratives are problematic, especially for their Eurocentric characteristics, sabotaging the universalism of human rights and disregarding the part played by the colonial past in creating notions of rights (for example, granting rights to native populations as a form of civilizing).¹³ This matter will be regarded more attentively in the theory section in the discussion of decolonizing human rights.

For the moment, it is essential to acknowledge the understanding of human rights history and origins as open-ended, ambiguous, cross-cultural, and dynamic – which fully mirrors the contemporary human rights phenomenon.¹⁴ This research does not attempt to make universal claims or general assumptions on the origins of human rights based on isolated cases or events. It aims to simply draw a hypothesis based on correlations between the impacts of colonial pasts and corporate activities on the current human rights order.¹⁵

As a last introductory remark, this research will explore many colonial terms and aspects. Preeminently, one of the case studies is historical, presenting the case of colonial commodity exploitation of one commodity – sugar – to further develop the analysis. The whole study is guided by a decolonial theory which considers and regards colonialism itself but, most importantly, highlights the coloniality of the current global order. The theoretical framework is orientated around the work of scholars who developed this theory, such as Walter D. Mignolo, Ramón Grosfoguel, Aníbal Quijano, Roland Burke, and José-Manuel Barreto.¹⁶

Other studies will be presented in the literature review that explore this same idea but often use different terminologies. For example, the author Ann Stoler uses the term

¹² Halme-Tuomisaari & Slotte, "Revisiting the origins of human rights: introduction". pp.5-6.

¹³ Halme-Tuomisaari & Slotte, "Revisiting the origins of human rights: introduction". p.7.

¹⁴ Halme-Tuomisaari & Slotte, "Revisiting the origins of human rights: introduction". p.22.

¹⁵ Halme-Tuomisaari & Slotte, "Revisiting the origins of human rights: introduction". p.9.

¹⁶ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto; A. Quijano, "COLONIALITY AND MODERNITY/RATIONALITY", *Cultural Studies* 21:2–3 (2007), pp. 168–178, doi:[10.1080/09502380601164353](https://doi.org/10.1080/09502380601164353); W.D. Mignolo, "Epistemic Disobedience, Independent Thought and Decolonial Freedom", *Theory, Culture & Society* 26:7–8 (2009), pp. 159–181, doi:[10.1177/0263276409349275](https://doi.org/10.1177/0263276409349275); R. Burke, "Decolonization, development, and identity: The evolution of the anticolonial human rights critique, 1948–78", in *The Routledge History of Human Rights* (Routledge, 2019), pp. 222–240; R. Grosfoguel, "Decolonizing Post-Colonial Studies and Paradigms of Political-Economy: Transmodernity, Decolonial Thinking, and Global Coloniality", *TRANSMODERNITY: Journal of Peripheral Cultural Production of the Luso-Hispanic World* 1:1 (2011), doi:[10.5070/T411000004](https://doi.org/10.5070/T411000004).

“colonial durabilities”.¹⁷ All these different terms explore very similar ideas of colonial power structures so rooted in societies and global relations that they have lingered after the formal end of colonialism. With that being mentioned, the terms might be used interchangeably throughout the research, but always with sensitivity to the proximity of the ideas explored by each author who minted the terms.

After briefly introducing the idea and purpose of this research, the research question and objectives, and general introductory remarks, Chapter 2 presents a literature review and study placement within the fields of colonial remains, extractivism, and Business and Human Rights. Chapter 3 focuses on theory and methods, presenting and discussing decolonial theory as well as the selected methods of case study and comparative historical analysis, describing and reflecting upon data collection and the research’s ethical considerations. Chapter 4 focuses on narrating the case studies; therefore, it will be divided into two sections, one for the colonial sugar cane monoculture and the other for the contemporary rock salt mines. Further on, Chapter 5 is the comparative historical analysis, reflecting on and discussing the similarities between the case studies and identified improvements. Finally, Chapter 6 will deduce the few points of conclusion this research allowed.

1.1. Research Question & Objectives

Research question:

How are colonial patterns of exploitation reflected in the contemporary field of Business and Human Rights? What does the analysis of the chosen cases through a decolonial approach reveal about Business and Human Rights?

Research objectives:

- Identify historic social impacts from colonial commodity exploitation - through the case study of sugar monoculture in colonial Northeastern Brazil;

¹⁷ A.L. Stoler, *Duress: imperial durabilities in our times* (Durham: Duke University Press, 2016).

- Identify current human rights impacts of commodity extraction and exploitation in Latin America – through the case study of rock salt mines in Maceió;
- Identify similarities and differences in the social and human rights impacts between the past and present moments of natural resource exploitation;
- Identify the actors of such social and human rights impacts and demonstrate their historic correlation.

2. Literature Review & Study Placement

The relevant literature for this thesis covers a broad array of historical, cultural, and legal research. This chapter will briefly present the previous scholarship conducted on identifying colonial remnants in today's society. Further, it will focus on forms of extraction and exploitation of commodities in different periods of history, under colonialism and late-stage capitalism, particularly in Latin America and Brazil. The chapter will also introduce the developments in the field of Business and Human Rights and aim to identify gaps or weaknesses to which this research might contribute.

2.1. Colonial Remains

The brutalities and inhumane practices of colonialism are contemporary common knowledge. From indigenous genocide to African slavery and the looting of natural resources, colonial regimes involved numerous facets of suffering and exploitation. These impacts and practices continued to reverberate when colonialism ended and continue until today.

Many scholars have dedicated efforts to tracing solid historiography of the colonial atrocities on the different continents. Significant work also identifies and reflects colonial patterns and durabilities in modern societies. Some relevant scholars are Ann Laura Stoler, Ugo Mattei and Laura Nader, Danilo Urzedo, and Pratchi Chatterjee. Such scholarship demonstrates the colonial patterns, processes, and structures that lingered beyond colonialism itself.

2.1.1. Imperial Durabilities

Stoler argues that the most urgent matters of current times are tied to colonial past and present histories – such as dispossession, precarious housing, toxic dumping, and wastelands. Colonial pasts and narratives are so “threaded through the fabric of contemporary life forms they seem indiscernible as distinct effects, as if everywhere and

nowhere at all.”¹⁸ According to the author, the geopolitical distribution of inequalities is the refashioning and reworking of earlier imperial incarnations.¹⁹

The scholar uses the word “duress”, which is also the title of her book, to address the actualized and anticipated violence of colonial durabilities. Most importantly, the author identifies the relevancy of comparisons to determine imperial fields of force. Acts of strategic comparison between colonial practices and visions allow for the confirmation and rational prevention of future violence, in other words, “imperial lessons”.²⁰

2.1.2. Plunder and the Colonial Relationship

Mattei and Nader’s research also reveals close ties between remaining colonial structures and the current global economic order. The authors mainly reflect on how the rule of law played a key role in the justification and maintenance of colonial regimes and plunder while favoring the enrichment of the empires.²¹

The ideas presented by Mattei and Nader concern both old and contemporary powers, where the contemporary plunder and appropriation of resources often is combined with concepts of development, civilization, human rights, the rule of law, and democracy. The expansion of these Euro-American concepts allows nations and multinational corporations to further reproduce colonial practices without explicit political or military intervention. That is, colonialism and present-day corporate-dominated capitalism share many mutualities and patterns of continuity.²²

The authors argue that the current rule of law is one that “justifies looting to the paradoxical point of being itself illegal (...), providing for continuity in oppression rather than interruption of the colonial practice”²³ – they name it “International Imperial Law”.²⁴ Corporatization policies, foreign-imposed privatization, and open markets have

¹⁸ A.L. Stoler, *Duress: imperial durabilities in our times* (Durham: Duke University Press, 2016). p. 5.

¹⁹ Stoler, *Duress: imperial durabilities in our times*. p. 5.

²⁰ Stoler, *Duress: imperial durabilities in our times*. p. 15.

²¹ U. Mattei & L. Nader, *Plunder: when the rule of law is illegal* (Malden, Mass: Blackwell Pub, 2008). p.1.

²² Mattei & Nader, *Plunder: when the rule of law is illegal*. p.2.

²³ Mattei & Nader, *Plunder: when the rule of law is illegal*. p.3.

²⁴ Mattei & Nader, *Plunder: when the rule of law is illegal*. p.137.

represented the unsolvable continuity between colonial and post-colonial times.²⁵ Most importantly, Mattei and Nader highlight how the progressive decline in the role of States and the rise in the role of large corporate actors demonstrates the law as a product of the economy – democracy, the rule of law, international human rights law, and development are part of a legal legitimization of international corporate extraction.

2.1.3. Regionally Focused Studies on Remaining Colonial Structures

Similarly, Urzedo and Chatterjee conducted a study about the colonial reproduction of deforestation in the Brazilian Amazon. They argue that the violence and dispossession of the indigenous peoples is a structural condition that remains throughout different political-economic configurations.²⁶

Urzedo and Chatterjee expose how State and corporate developmentalist agendas conducting natural resource extraction, commodity production, and land dispossession correspond to a colonial dynamic of settlement with different levels of significance in different periods.²⁷ In the authors' words, "settler colonialism is not a discrete historical project that is completed once a predominantly white European society is established. Rather, it is an ongoing process of asserting territorial control over indigenous land."²⁸

Further, other scholars analyze the contemporary practices of settler colonialism in urban settings. Milner describes the ongoing evictions in neighborhoods of Tel Aviv, Israel, through the logic of colonial devaluation of land and replacement of inhabitants, demonstrating how settler colonial projects are ongoing contemporary practices instead of completed historical events.²⁹ Correspondingly, Rhoads also argues that forced

²⁵ Mattei & Nader, *Plunder: when the rule of law is illegal*. p.5.

²⁶ D. Urzedo & P. Chatterjee, "The Colonial Reproduction of Deforestation in the Brazilian Amazon: Violence Against Indigenous Peoples for Land Development", *Journal of Genocide Research* 23:2 (2021), pp. 302–324, doi:[10.1080/14623528.2021.1905758](https://doi.org/10.1080/14623528.2021.1905758). p.303.

²⁷ Urzedo & Chatterjee, "The Colonial Reproduction of Deforestation in the Brazilian Amazon: Violence Against Indigenous Peoples for Land Development". p.305.

²⁸ Urzedo & Chatterjee, "The Colonial Reproduction of Deforestation in the Brazilian Amazon: Violence Against Indigenous Peoples for Land Development". p.306.

²⁹ E.L. Milner, "Devaluation, erasure and replacement: Urban frontiers and the reproduction of settler colonial urbanism in Tel Aviv", *Environment and Planning D: Society and Space* 38:2 (2020), pp. 267–286, doi:[10.1177/0263775819866834](https://doi.org/10.1177/0263775819866834). p.268.

evictions for urban development and city expansion in Yangon, Myanmar are traces of colonial land control practices. The author demonstrates how former British colonial practices have been frequently reproduced by different governmental regimes.³⁰

Hence, there are robust and powerful accounts of the correlations between colonial natural resource exploitation and correlations to present socio-economic patterns and impacts of corporate capitalism and extractivism, which is the starting point of this research. The present study aims to contribute further to this topic by demonstrating present day corporate extractivism as a remaining colonial structure and how the colonial past influences the current Business and Human Rights regime.

2.2. Extractivism

Extractivism and neo-extractivism are growing themes in social and environmental studies. This is a particularly useful frame for examining contemporary and past processes in Latin America and is often placed together with developmentalism.

2.2.1. Developmentalist Extractivism

Extractivism has been defined by Szeman and Wenzel as the economic production process in which natural resources are taken from one location and used as the raw material for industrial production in another location – the first location being usually a colonial periphery.³¹ In the words of Burchardt and Dietz, “extractivism is based on the over-exploitation of non-renewable raw materials and agricultural land”, a process that undermines itself.³² A key characteristic of this process is the privatization of the exportation of the raw materials, usually done by transnational corporations and supported by States that preserved this system internally.³³

³⁰ E. Rhoads, "Forced Evictions as Urban Planning? Traces of Colonial Land Control Practices in Yangon, Myanmar", *State Crime Journal* 7:2 (2018), doi:[10.13169/statecrime.7.2.0278](https://doi.org/10.13169/statecrime.7.2.0278). p.279.

³¹ I. Szeman & J. Wenzel, "What do we talk about when we talk about extractivism?", *Textual Practice* 35:3 (2021), pp. 505–523, doi:[10.1080/0950236X.2021.1889829](https://doi.org/10.1080/0950236X.2021.1889829). p.506.

³² H.J. Burchardt & K. Dietz, "(Neo-)extractivism – a new challenge for development theory from Latin America", *Third World Quarterly* 35:3 (2014), pp. 468–486, doi:[10.1080/01436597.2014.893488](https://doi.org/10.1080/01436597.2014.893488). p.476.

³³ Burchardt & Dietz, "(Neo-)extractivism – a new challenge for development theory from Latin America". p.469.

Historically, the term extractivism opens up a new lens on two different processes. First, colonialism, where the environment was looted to benefit a distant and small elite. Second, as a “developmentalist ideology of social welfare premised in the extraction of natural resources”, which can be identified within postcolonialism.³⁴ The developmentalist extractivism largely took place between the 1940s and 1970s.³⁵ It was, however, often seen as an unstable economic policy and poverty-reinforcing, as it created one-sided dependencies on fluctuating prices for raw materials.³⁶

2.2.2. Neo-extractivism

Scholars have argued that neo-extractivism in Latin America is a renewed twenty-first century practice that attempts to use extraction as means for social development.³⁷ It is a post-neoliberal policy of progressive governments in the region that regulate the appropriation of natural resources and raw materials and their exportation. It is done through the nationalization of companies, revision of contracts and the increases on export taxes and duties. The surplus is then invested in social development policies to reduce poverty, diversify local economies and promote social participation.³⁸

Therefore, the new developmentalist policies address poverty, entrenched inequalities and historically excluded populations, such as women and indigenous communities – all elements that the old developmentalism failed to see and address. It does so through the goal of reestablishing the State’s capacity of improving social well-being at the expenses of mineral and other primary exports.³⁹

However, North and Grinspun argue that this new developmental form is impossible in a global order characterized by favoring foreign investment, deregulated finances, and

³⁴ Szeman & Wenzel, "What do we talk about when we talk about extractivism? p.507.

³⁵ L.L. North & R. Grinspun, "Neo-extractivism and the new Latin American developmentalism: the missing piece of rural transformation", *Third World Quarterly* 37:8 (2016), pp. 1483–1504, doi:[10.1080/01436597.2016.1159508](https://doi.org/10.1080/01436597.2016.1159508), p.1483.

³⁶ Burchardt & Dietz, "(Neo-)extractivism – a new challenge for development theory from Latin America". p.469.

³⁷ Szeman & Wenzel, "What do we talk about when we talk about extractivism? p.507.

³⁸ Burchardt & Dietz, "(Neo-)extractivism – a new challenge for development theory from Latin America". p.470.

³⁹ North & Grinspun, "Neo-extractivism and the new Latin American developmentalism: the missing piece of rural transformation". p.1484.

unfair trade agreements. Also, poverty-reducing policies such as agrarian reform are obstructed by powerful domestic and foreign agribusiness that instead, practice land grabbing, further accentuating the issue of land concentration.⁴⁰

Therefore, this new developmental wave relies on the old colonial formula that still rules in the region, and it is in no way “new” since it uses the same means (extraction) to target the same problems (poverty and inequality) that the first wave of developmentalism aimed to solve.⁴¹ Namely, as argued by Szeman and Wenzel, “post-colonial extraction can look a lot like its colonial counterpart”⁴² in the same way neo-extractivism can look a lot like extractivism. Since Latin America’s colonial period, natural resources have been the central actor in political, social, and environmental conflicts.⁴³

The early 2000s commodities boom represented the fast expansion of the extractive sector in Latin America, along with structural adjustments and regulatory reforms. This process generated a general anti-neoliberal sentiment and gave rise to resistance and conflicts against mining and extraction activities.⁴⁴ Government and companies tend to centralize the debate on the economic benefits of extractivism, while communities are excluded and organize themselves to demand the decentralization of the decision-making processes. Lyra details how these grassroots resistance and movements against extractivism have existed in the region “since the colonization period, through authoritarian regimes and finally reaching the neo-extractivism era”.⁴⁵

As stated by North and Grinspun, the current neo-extractivism scenario in Latin America is characterized by the high concentration of land and capital, environmental degeneration, social conflicts with local communities, and often political oppression. These are all mere reflections of the interests of national, regional, and extra-regional large corporations in

⁴⁰ North & Grinspun, "Neo-extractivism and the new Latin American developmentalism: the missing piece of rural transformation". p.1484.

⁴¹ North & Grinspun, "Neo-extractivism and the new Latin American developmentalism: the missing piece of rural transformation". p.1484.

⁴² Szeman & Wenzel, "What do we talk about when we talk about extractivism?" p.507.

⁴³ M. Raftopoulos, "Contemporary debates on social-environmental conflicts, extractivism and human rights in Latin America", *The International Journal of Human Rights* 21:4 (2017), pp. 387–404, doi:[10.1080/13642987.2017.1301035](https://doi.org/10.1080/13642987.2017.1301035). p.390.

⁴⁴ M.G. Lyra, "Pursuing a voice in the extractivism debate in Brazil", *Environmental Sociology* 5:2 (2019), pp. 207–218, doi:[10.1080/23251042.2019.1620091](https://doi.org/10.1080/23251042.2019.1620091). p.207.

⁴⁵ Lyra, "Pursuing a voice in the extractivism debate in Brazil", p.208.

all sectors of industry.⁴⁶ States, even those with anti-imperialist policies, tend to facilitate their own economic interests rather than acting as human rights guardians, favoring capital instead of their communities.⁴⁷

2.2.3. Extractivism in Brazil

Lyra uncovers extractivism in Brazil where, like other countries in the region, the mining sector is reinforcing negative associations with extractivism. This is made evident through a series of serious disasters that happened in the last 10 years, including the Fundão dam failure in 2015 (Mariana dam disaster), Hydro Alunorte tailings leak in 2018 and the dam burst in Brumandinho in 2019. These events resulted in numerous human rights impacts and revealed the government's lack of preparation to respond and protect victims.⁴⁸

According to Lyra, the sequential disasters have opened a national and international debate on the social and environmental consequences and (in)capacity to prevent and respond to the occurrence of other similar disasters.⁴⁹ Nevertheless, human rights discourses have been used as powerful political tools to question the country's development agenda.⁵⁰

As pointed out by Raftopoulos, current research on extractivism has gathered pace with the speed and scale of the commodity boom in the continent, opening debates on the current ontology of development, decolonial approaches to human rights. The author argues for further research and insights on how transnational human and environmental rights are shaping human rights discourses in Latin America and decolonial human rights methodologies in the region.⁵¹

⁴⁶ North & Grinspun, "Neo-extractivism and the new Latin American developmentalism: the missing piece of rural transformation". p.1498.

⁴⁷ Raftopoulos, "Contemporary debates on social-environmental conflicts, extractivism and human rights in Latin America". p.397.

⁴⁸ Lyra, "Pursuing a voice in the extractivism debate in Brazil", p.215.

⁴⁹ Lyra, "Pursuing a voice in the extractivism debate in Brazil", p.215.

⁵⁰ M. Riethof, "The international human rights discourse as a strategic focus in socio-environmental conflicts: the case of hydro-electric dams in Brazil", *The International Journal of Human Rights* 21:4 (2017), pp. 482–499, doi:[10.1080/13642987.2016.1191775](https://doi.org/10.1080/13642987.2016.1191775). p.483.

⁵¹ Raftopoulos, "Contemporary debates on social-environmental conflicts, extractivism and human rights in Latin America". p.401.

2.3. Business & Human Rights

Much like empires and colonies were disregarded in the creation process of international human rights law, multinational corporations – as non-state actors – still inhabit a gray zone in this arena. Since the decolonization period in the 1950s-1970s, a lot of regulatory progress in foreign investment between home countries and host countries has been made, but they all excluded any concern for the relations between the enterprises and the citizens of the State they are operating in. According to Ratner, this link was, until recently, not given much interest academically nor by the international community.⁵²

2.3.1. Where Businesses Stand in the Human Rights Order

There is substantial scholarship supporting the progress made in the field of Business and Human Rights internationally, and that especially argues for the need for corporate accountability in international human rights law. As argued by Ratner, there is a consolidated understanding that an order where States are the sole holder of international legal obligations is not enough to protect human rights efficiently; transnational corporations need to be seen as duty bearers too. Ratner argues that corporate human rights responsibility is both “practically necessary and conceptually possible”.⁵³

López Latorre argues that corporate accountability in human rights is not an issue of nature but just how international human rights law came to be positivized and developed.⁵⁴ However, following the intentions of the Universal Declaration of Human Rights, human rights should be norms to direct all organs of society.⁵⁵ Progressively, treaty bodies and regional tribunals have been referring to the role of business in the realization of rights. Even though corporations’ responsibilities are stressed by their economic mission, differently from States, that is not to say their duties should be limited

⁵² S.R. Ratner, "Corporations and Human Rights: A Theory of Legal Responsibility", *The Yale Law Journal* 111:3 (2001), p. 443, doi:[10.2307/797542](https://doi.org/10.2307/797542). p.460.

⁵³ Ratner, "Corporations and Human Rights: A Theory of Legal Responsibility". p.461.

⁵⁴ A.F. López Latorre, "In Defence of Direct Obligations for Businesses Under International Human Rights Law", *Business and Human Rights Journal* 5:1 (2020), pp. 56–83, doi:[10.1017/bhj.2019.27](https://doi.org/10.1017/bhj.2019.27). p.81.

⁵⁵ López Latorre, "In Defence of Direct Obligations for Businesses Under International Human Rights Law". p.81.

to respecting human rights. Instead, businesses' duties should reflect their capacities and rights to achieve their obligations.⁵⁶

That is, such duties require positive action, not simply inaction and refraining from acting, especially in regards to economic, social, and cultural (ESC) rights. Particularly if taken into consideration that the promotion of ESC rights depend on the availability of economic and financial resources that States often struggle to provide on their own.⁵⁷ The debate on these duties and their scope is extensive, however, Chirwa and Amodu present strong arguments for this in the sense that there are grand power imbalances between individuals and the private sphere; and since power is decentralized and dispersed, so is the threat to human rights, which is not limited to the State or the public power.⁵⁸ In effect, corporations have already been assigned positive and negative socio-economic human rights obligations, such as in relation to workplace and family institutions.⁵⁹

Similarly, Sjøfjell understands that beyond human rights law, corporate law can and must do more for human rights. Not only is it a key player in achieving corporate accountability for human rights, it is also potentially the reason for so many failures so far.⁶⁰ Corporate law has been perceived as simple and efficient, accounting for the interests of shareholders and creditors. Corporate law has left societal needs and impacts of businesses aside, even though corporations should historically be serving the purpose of society's desires. In that sense, corporate law must offer the crucial regulatory infrastructure and decision-making constraints to human rights' needs.⁶¹

2.3.2. Decolonizing Business & Human Rights

⁵⁶ López Latorre, "In Defence of Direct Obligations for Businesses Under International Human Rights Law". p.80.

⁵⁷ D. Chirwa & N. Amodu, "Economic, Social and Cultural Rights, Sustainable Development Goals, and Duties of Corporations: Rejecting the False Dichotomies", *Business and Human Rights Journal* 6:1 (2021), pp. 21–41, doi:[10.1017/bhj.2020.34](https://doi.org/10.1017/bhj.2020.34). p.22.

⁵⁸ Chirwa & Amodu, "Economic, Social and Cultural Rights, Sustainable Development Goals, and Duties of Corporations: Rejecting the False Dichotomies". p.27.

⁵⁹ Chirwa & Amodu, "Economic, Social and Cultural Rights, Sustainable Development Goals, and Duties of Corporations: Rejecting the False Dichotomies". p.29.

⁶⁰ B. Sjøfjell, "How Company Law has Failed Human Rights – and What to Do About It", *Business and Human Rights Journal* 5:2 (2020), pp. 179–199, doi:[10.1017/bhj.2020.9](https://doi.org/10.1017/bhj.2020.9). p.180.

⁶¹ Sjøfjell, "How Company Law has Failed Human Rights – and What to Do About It". p.182.

Finally, little scholarship has been produced in the BHR field using a decolonial approach. Some introductory remarks need to be made on Hanson and Mallet's decolonial analysis of the Samarco mining disaster in Brazil. The authors expose corporate practices that perpetuate coloniality, such as the company's limited public information; the use of national platforms for the construction of the company's image as responsible; State-corporate collusion; the deregulation of the mining sector in strategic times which dates back to historic colonial oligarchies that changed legal and institutional structures for their own benefit.⁶²

Additionally, Hanson and Mallet's study argues that the exclusion of non-corporate interests is based on a colonial logic of placing the interests of the economically powerful higher than the interests of victims and portraying their marginalization as necessary to advance development. The historical colonial power structure still applies to dispossess people's rights and benefit the economic elites.⁶³ Such reflections are relevant and present in any corporate human rights issue in the country.

In a global economic order where transnational corporations hold so much power and where coloniality is still intrinsic in global relations, studies on Business and Human Rights through decolonial lens can contribute to a more just and equal human rights order. Therefore, there is space and necessity for more work exploring the intersections of decoloniality and BHR.

⁶² P.S. Hanson & A. Mallett, "Unearthing power: A decolonial analysis of the Samarco mine disaster and the Brazilian mining industry", *The Extractive Industries and Society* 7:2 (2020), pp. 704–715, doi:[10.1016/j.exis.2020.03.007](https://doi.org/10.1016/j.exis.2020.03.007). p.712.

⁶³ Hanson & Mallett, "Unearthing power: A decolonial analysis of the Samarco mine disaster and the Brazilian mining industry". p.712.

3. Theory & Methods

The following chapter will draw the theoretical framework and methods chosen to conduct the study. A deep analysis of decolonial theory and its relevancy is presented, as well as the reasoning for the selection of historic comparative method and case-study method. Finally, reflections on data collection and ethical considerations will be presented.

3.1. Decolonial Theory

Decolonial theory aims to disrupt the Eurocentric production of knowledge and critical theory and, consequently, re-contextualize human rights theory and rewrite its history. Latin American scholars developed decoloniality to challenge “historical narratives and historiographical traditions emanating from Europe”.⁶⁴ Unlike postcolonialism, which originated in the Middle East and South Asia, decoloniality addresses a larger time frame, from the fifteenth century onwards. In other words, from the early European journeys to the Americas and subsequent colonialization processes.⁶⁵

3.1.1. Decoloniality

Coloniality is, according to Quijano, the most general current form of domination since colonialism, and it has been for the past 500 years.⁶⁶ The scholar argues that the conquest of the Americas was the beginning of the current global order where the beneficiaries are the Western European dominators and their descendants (including North Americans) through the violent concentration of the world’s resources. The primary victims are the dominated and exploited people of Latin America, Africa, and Asia. The successor of colonialism, Western imperialism, is knotted in colonial structures of power that produce social discriminations named as ‘racial’, ‘ethnic’, and ‘anthropological’ – assumed as

⁶⁴ G.K. Bhambra, "Postcolonial and decolonial dialogues", *Postcolonial Studies* 17:2 (2014), pp. 115–121, doi:10.1080/13688790.2014.966414, p.115.

⁶⁵ Bhambra, “Postcolonial and decolonial dialogues”, p.115.

⁶⁶ Quijano, "COLONIALITY AND MODERNITY/RATIONALITY". p.170.

scientific and objective categories of historical significance. Such power frameworks still operate today.⁶⁷

From this starting point of past and ongoing domination, Quijano refines the concept of modernity/coloniality. Quijano argues that the modernity of Europe is so interlinked with European colonial domination that the two terms cannot be separated. European modernity transformed history in the evolution from primitive to civilized, traditional to modern, savage to rational; taking on the responsibility as the advancer of the entire species and imposing this mirage to the colonized cultures still today.⁶⁸ In this context, only European culture is rational and contains ‘subjects’; the other cultures are inferior by nature and can only be ‘objects’ of knowledge and domination. The European paradigm of rational knowledge was a crucial player in the power structure necessary for the European colonial domination, this was made evident through disciplines such as anthropology and ethnography, where other cultures are the ‘object’ of knowledge.⁶⁹

Therefore, decoloniality is epistemological decolonization, and it is needed for legitimate intercultural communication and the exchange of knowledge. This implies freedom for people to “produce, criticize, change, and exchange culture and society”, breaking the power structure of inequality, discrimination, and exploitation.⁷⁰ Mignolo further developed this idea calling it epistemic disobedience, meaning “to delink from the illusion of the zero-point epistemology”.⁷¹

3.1.2. Decolonizing Human Rights

Decolonizing human rights is part of this broader project to decolonize knowledge and it can only be done through “a radical reconceptualization of the human rights paradigm”.⁷² The hegemonic theory of human rights was born out of European events and schools of

⁶⁷ Quijano, "COLONIALITY AND MODERNITY/RATIONALITY". p.168.

⁶⁸ Quijano, "COLONIALITY AND MODERNITY/RATIONALITY". p.176.

⁶⁹ Quijano, "COLONIALITY AND MODERNITY/RATIONALITY". p.174.

⁷⁰ Quijano, "COLONIALITY AND MODERNITY/RATIONALITY". p.178.

⁷¹ W.D. Mignolo, "Epistemic Disobedience, Independent Thought and Decolonial Freedom", *Theory, Culture & Society* 26:7–8 (2009), pp. 159–181, doi:[10.1177/0263276409349275](https://doi.org/10.1177/0263276409349275). p.160.

⁷² W.D. Mignolo, “The Many Faces of Cosmo-polis: Border Thinking and Critical Cosmopolitanism” (2000) 12 *Public Culture* 739.

thought and “rejects the possibility of non-Eurocentric approaches”.⁷³ The Eurocentric theories of human rights give unfair weight to European events and theories while mainly looking at relations between society and State, individual and government; but ignoring the problematic ties between empires and colonies.⁷⁴

A decolonized theory of human rights incorporates a version of history that includes the conquest of the Americas and the colonization of the world as crucial events. In doing so, “it brings into consciousness five hundred years of utopian mobilization of natural rights, the rights of man and human rights to resist imperialism”.⁷⁵

This resistance to incorporating histories of colonization in human rights theory dismantles the claim of universality and rewrites the history and geography of human rights through the modern/colonial lens.⁷⁶ This version of history allows the recognition of Non-Western values aligned with those of natural law and human rights, in addition to these ideas being used by colonized people to oppose imperialism and abusive colonial regimes.⁷⁷ Often enough, the attempt to point to non-European events and ideals as inspiring for contemporary rights notions is regarded as superficial and as belittling centuries of complex and diverse civilizations.⁷⁸ However often that might actually be the case, this still remains truer to an open-ended and cross-cultural history of the human rights origins than detailed centuries of Eurocentric theories and movements.

Most relevant for the present topic is the reflection of how international human rights law and the Eurocentric human rights theory are state-centered regimes, where non-state actors have been invisible or of little relevance. On the contrary, non-state actors, especially transnational corporations, have been central characters in the history of colonialism and colonality. Portuguese, Spanish, and Dutch colonizers acted as “quasi one-man enterprises ransacking continents and the sea”.⁷⁹ And subsequently, private

⁷³ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.2.

⁷⁴ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.4.

⁷⁵ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.4.

⁷⁶ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.6.

⁷⁷ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.14.

⁷⁸ Halme-Tuomisaari & Slotte, "Revisiting the origins of human rights: introduction". p.8.

⁷⁹ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.14.

investors and multinational businesses started trading sugar, rubber, tea, opium, ivory, human beings, and other things everywhere.⁸⁰

Holding large economic and political power, transnational corporations are the new sovereigns. They perform on equal conditions and terms as old empires, exploiting the wealth of the Global South through colonial structures of power⁸¹ - further perpetuating and rooting coloniality. According to Barreto, the transnationalization of human rights empowers the current human rights regime to resist neo-colonialism while using law and litigation to resist transnational corporations.⁸²

Grosfoguel argues that colonial policies of “accumulation by dispossession” are reproduced by current neo-liberal policies. These practices have further deepened the transfer of wealth from the South to transnational corporations, while peripheral States of the South have constraints to their sovereignty “imposed by the global inter-state system”. The author argues that the only solution for this global system of inequality requires the reimagining of global decolonial and anti-systemic utopian alternatives.⁸³

Decolonial theory is a form of looking into the past but it is also a reflective theory of current global socioeconomic orders, and therefore it is the ideal theory to use with the purpose of a historical comparison as it is the present study. Additionally, decolonial theory is regionally sensitive, Latin American in its origins, and it offers proximity and understanding to the reality of the local communities. For those reasons, decolonial theory will be used in the present thesis to analyze the select cases in their power dynamics (subjects/objects), aiming to look at the modern corporation as an actor and reproducer of contemporary coloniality.

3.2. Methods Design

⁸⁰ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.14.

⁸¹ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.15.

⁸² Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.15.

⁸³ Grosfoguel, "Decolonizing Post-Colonial Studies and Paradigms of Political-Economy: Transmodernity, Decolonial Thinking, and Global Coloniality", p.31.

In order to conduct this study two methods were chosen as guides for the research design and further analysis. These are a comparative historical analysis of multiple case studies.

3.2.1. Comparative Historical Analysis

Comparative historical analysis intends to produce links between decisive historical events or processes and is mainly oriented to large-scale change, drawing relations between cases, moments and concepts. This social science method renounces simple linearity and gives space for analysis of discontinuities and trajectories.⁸⁴

In comparative historical sociology, the comparative historical analysis method does not necessarily mean the comparison between two or more historical moments, institutions or events. It is often used to reconstruct a historical trajectory, providing for an indirect comparison to a theory or framework.⁸⁵ The present study, however, aims to do both, by comparing two historical cases and tracing their inter-related trajectories and patterns.

It is relevant to remark that the choices of temporal structure are a result of the research question, being a selection of the most elucidating events for the matter in hand. Nevertheless, such a causal account also reflects the analyst focus, attention, and own preferences.⁸⁶

Authors in the field have identified that there is a recent globalization of historical comparison, where non-Western scholarship is offering the inclusion of outer voices. Predictions point towards eclecticism in present and future historical sociology. The field has contributed significantly to the study of modernity and Western modernization, but this globalization tendency tends to present new “analytical relations, social interpretations, and causal arguments based on different historical trajectories”.⁸⁷ New

⁸⁴ I. Katznelson, “Periodization and Preferences: Reflections on Purposive Action in Comparative Historical Social Science”, in *Comparative Historical Analysis in the Social Sciences*, eds. James Mahoney & Dietrich Rueschemeyer, 1 ed. (Cambridge University Press, 2003), pp. 270–302. p.272.

⁸⁵ C. Demetriou & V. Roudometof, "The History of Historical-Comparative Methods in Sociology", in *The Oxford Handbook of Qualitative Research* (Oxford University Press, 2020), pp. 58–85. p.61.

⁸⁶ P. Pierson, "Big, Slow-moving, and... Invisible: Macrosocial Processes in the Study of Comparative Politics", in *Comparative Historical Analysis in the Social Sciences*, eds. James Mahoney & Dietrich Rueschemeyer, 1 ed. (Cambridge University Press, 2003), pp. 177–207. p. 179; Katznelson, “Periodization and Preferences: Reflections on Purposive Action in Comparative Historical Social Science”. p.271.

⁸⁷ Demetriou & Roudometof "The History of Historical-Comparative Methods in Sociology". p.59.

important historical work to develop an understanding of how the pattern of institutional legacies has influenced and shaped relations amongst States, citizens, and economies is growing.⁸⁸ It is towards these tendencies that this research turns.

3.2.2. Multiple-Case Studies

Case studies can be conducted in numerous ways for many purposes. A case study is an extensive examination of multiple facets of the uniqueness of an institution or system in a “real-life” context.⁸⁹ It is not restricted to a specific method or methodology; being possible to perform a study that is mainly qualitative to present a rich portrayal of a case using mixed methods.⁹⁰ A case study is “an opportunity to shed empirical light on some theoretical concepts or principles”.⁹¹

According to Yin, a case study is especially fitting for situations where the division between the analyzed contemporary phenomenon and the contextual conditions is not clearly evident. That is, the study of such a case will reveal pertinent contextual circumstances.⁹² Which is precisely the objective here, to identify the intrinsic coloniality in circumstances of commodity exploitation throughout history.

Further, a case study can wrap several cases with the goal to draw “a single set of cross-case conclusions”.⁹³ This is known as multiple-case studies. Also, representing the intentions of the present study that will select one historical commodity exploitation and a contemporary, to draw conclusions from their similarities and differences.

⁸⁸ Katznelson, “Periodization and Preferences: Reflections on Purposive Action in Comparative Historical Social Science”. p.273.

⁸⁹ H. Simons, *Case Study Research in Practice* (1 Oliver’s Yard, 55 City Road, London EC1Y 1SP United Kingdom: SAGE Publications, Ltd, 2009). p.21.

⁹⁰ H. Simons, "Case Study Research: In-Depth Understanding in Context", in *The Oxford Handbook of Qualitative Research*, Simons, Helen (Oxford University Press, 2020), pp. 675–703.

⁹¹ R.K. Yin, *Case study research and applications: design and methods*, Sixth edition ed. (Los Angeles: SAGE, 2018). p.38.

⁹² Yin, *Case study research and applications: design and methods*. p.15.

⁹³ Yin, *Case study research and applications: design and methods*. p.17.

The selection of the cases and their limitations is a highly important part of the study design, however this phase might be semifluid and it is relevant to maintain awareness that the cases limitations can potentially change as the study is conducted.⁹⁴

With that said, the cases were geographically limited to the Northeastern region of Brazil. The period delimitation was based on different ruling socio-economic regimes, firstly the colonial period between 1500-1822; secondly modern late-stage capitalism, limited to the years of exploitation of rock salt mines in Maceió, 1976-2019. Finally, the central limitation to antagonistic commodities: sugar and salt. The two commodities were chosen as both represent clearly the burdens their production have put on the local populations.

3.2.3. Data Collection & Data Analysis

A case study relies on a multitude of sources for evidence, with data collection and analysis following a triangulation form. Furthermore, the research design, data collection and analysis benefits from theoretical commitments.⁹⁵ The guiding theoretical framework of this research is the already demonstrated decolonial theory.

Consequently, the data of this study will be primarily historic documents, media and journalistic content and legal documents. Secondary data will rely on scholarship conducted on the specific case studies, on the bigger contextual scenarios (colonial exploitation and modern corporate exploitation) and on decolonial theory to assist with the aforementioned comparative historical analysis.

3.2.4. Ethical Considerations

Research on Business and Human Rights might raise many ethical concerns. A few of them are difficulties in accessing data; informed consent, confidentiality, and anonymity of informants and data. All the data concerning the corporation of the case study, Braskem S.A., was obtained through publicly available means. It is either made public by the corporation itself, or by the Brazilian judiciary power and other authorities, or by other media and journalistic sources. Therefore, this study should not be considered to expose

⁹⁴ Simons, "Case Study Research: In-Depth Understanding in Context". p.677.

⁹⁵ Yin, *Case study research and applications: design and methods*. p.15.

any sensitive or confidential data on the company that could further harm its public image, its employees, or profits.

I, the researcher, have no personal or professional connection to the company in any way. This research is not bound to the company Braskem S.A. or any other business by any kind of industrial engagement, commission, or financial support. For this reason, conclusions are exclusively my own and aimed solely to contribute to the protection and application of human rights.

I am a Brazilian citizen with previous bias and inclinations toward historical and political opinions. However, even though the case studies are focused on Brazil, the higher aim is to formulate conclusions about international human rights law and the global economic order beyond the borders of any Nation-State. Through this logic, any State with a colonial exploitation past and current corporate natural resources exploitation could serve as the case studies of this research, as long as it acknowledges the regional cultural and historical particularities of the location.

The case study also concerns ongoing judicial cases and settlements, which present ethical sensitivities. The Brazilian Federal Constitution of 1988 establishes the legal principle of publicity of procedural acts, and it can only be restricted by law in cases of protection of privacy or social interest.⁹⁶ All the case law documentation used in this research was made public under this principle by the judicial authorities. Also, considering this principle and the right to privacy, the documentation was regarded from a collective perspective, where the judicial authorities represent the concerns of the people against the company. Individual claims and settlements of residents were not considered so to respect the individual's right to privacy.

This work contains many references published in Portuguese, and I was the only one responsible for the translation and interpretation of these sources. Extra care and attention have been put into avoiding issues of double meaning or not capturing the full essence of the cited work. Direction quotations have been prioritized when the original text was in

⁹⁶ Constitution of Brazil (Brazil), 5 October 1988, available at: <https://www.refworld.org/docid/4c4820bf2.html> (accessed 13 May 2022). Art.5. LX.

English, or there were official English-translated versions of the Portuguese or Spanish published works.

The ethical considerations for this thesis are in alignment with the ethical standards of the Swedish Research Council.⁹⁷

⁹⁷ Swedish Research Council, Good research practice, 2017. <https://www.vr.se/english/analysis/reports/our-reports/2017-08-31-good-research-practice.html> (accessed 7 May 2022).

4. Case Studies

To further explore human rights impacts and abuses by non-state actors, this section examines the social and environmental impacts of commodity extraction and production in Brazil. It does this by following the primary case of rock salt mining in Maceió and the corporate and governmental response to the recent social and environmental disaster caused by Braskem. This section also contains a secondary case study looking at commodity extraction in Northeast Brazil in historical perspective, focusing on sugar monoculture during the colonial period.

The Northeast region in Brazil is one of five geographic regional divisions in the country. It is composed of nine states, of which Alagoas is one and its capital is the city of Maceió. That is, both cases concern the same geographical area, albeit a greater land area for the sugar case and a more limited area extent for the salt case. The sugar case demonstrates how the region became a hub for natural resource extraction in the colonial period (1500-1822), while the recent salt case (1976-2019) demonstrates the intensification of social and environmental impacts of extractivism. This comparison aims to map the continuities in issues related to human rights and commodity production. The case studies will be presented in chronological order.

4.1. Sugar in Colonial Northeastern Brazil

Between 1500 and 1822 when Brazil was a Portuguese colony, sugar production was an essential part of the economic success and progress of the colonial project. The country was for several different moments in history, the biggest producer and exporter of this commodity. Despite price fluctuations and different economic policies, sugar cane production remains one of Brazil's main agroindustry products and the country has also been the largest contemporary producer in the world.⁹⁸

⁹⁸ G.S.S.C. Rodrigues & J.L.S. Ross. *A Trajetória Da Cana-de-Açúcar No Brasil: Perspectivas Geográfica, Histórica e Ambiental*. EDUFU, 2020. <https://doi.org/10.14393/EDUFU/978-65-86084-00-9>. p. 9.

Multiple scholars have devoted their efforts to producing a careful economic historiography of colonial sugar cane production in Northeastern Brazil and its long-term consequences. Many scholars have examined the importance of Brazil's sugar industry to the European economy during the colonial period. Furtado argues that the colonial sugar production was an "episode in the commercial expansion of Europe".⁹⁹ Taking a similar view, Prado argues that the purpose of colonization in the tropics was to establish a large commercial corporation intended to explore natural resources in virgin lands for the profits of European commerce.¹⁰⁰ Furthermore, Novais explains the colonial system of production as an asset in a large-scale accumulation intended to overcome structural constraints stopping the expansion of modern European capitalism.¹⁰¹ That is, without colonial production and exploitation, modern capitalism as we know would not exist. Unequivocally, sugar cane production was a unifying point between colonial society and the larger dynamics of global trade, organizing the use of land and property in favor of trade expansion.¹⁰²

4.1.1. An Overview of the Colonial Sugar Production

A joint venture between the Dutch and the Portuguese, the sugar monoculture plantations swept away the traditional livelihoods and agricultural practices of Northeastern Brazil. A land of tropical forests became a dry savannah; a land of food abundance became a region of hunger. As Galeano writes, "all flora and fauna were sacrificed on the altars of sugar cane monoculture".¹⁰³ Northeastern Brazil is today, in Galeano's words, a "gigantic concentration camp of 30 million people" who endure the environmental, social, and political legacies of sugar cane, the most profitable agricultural colonial business in Latin America.¹⁰⁴

⁹⁹ C. Furtado, *Formação econômica do Brasil*, 32^o ed. (São Paulo: Companhia Editora Nacional, 2003). p.5.

¹⁰⁰ C. Prado Jr., *Formação do Brasil contemporâneo*. 23. ed. (São Paulo: Brasiliense, 2008). p.29.

¹⁰¹ F.A. Novais, *Aproximações: ensaios de história e historiografia*. (São Paulo: Cosac Naify, 2005). p.41.

¹⁰² V.L.A. Ferlini, "Pobres do açúcar: estrutura produtiva e relações de poder no nordeste colonial", in *História Econômica do Período Colonial*, 2^o ed. (São Paulo: Tamás Szmrecsányi, 1993). p.23.

¹⁰³ E. Galeano, *As veias abertas da América Latina*, 1^a ed. (Lisboa, Portugal: Antígona Editores Refractários, 2017). p.107.

¹⁰⁴ Galeano, *As veias abertas da América Latina*. p.108.

Rodrigues and Ross explain how the sugar-producing Northeast is a humid strip of Atlantic Forest covering a varying area of land from the sea inwards, ranging between 50 to 120 kilometers from the coastline.¹⁰⁵ Of all hereditary captaincies (administrative divisions of the Portuguese empire) that were created through the colonial administration of Brazil, the captaincies with an outstanding position in sugar cane production between the 16th Century and the beginning of the 19th Century were the captaincies of Pernambuco and Baía de Todos os Santos.

The captaincy of Pernambuco covered the current State of Alagoas (of which Maceió is the capital city) until 1817 when the captaincy limits were altered. The success of sugar cane production in the region was so great that Portuguese colonizers migrated from other captaincies to Pernambuco. In 1585 Pernambuco had 66 sugar mills, called *engenhos* in Portuguese, and the largest exporting port, the port of Recife. The region had fertile soil in long fluvial plains with plentiful water for the *engenhos*, plus it had a favorable geographical location, conveniently closer to Europe.¹⁰⁶ The archival picture from 1891 (Figure 1) demonstrates the rich and abundant native species and the indigenous and African labor force demanded by the sugar plantations in Pernambuco.

¹⁰⁵ Rodrigues & Ross. *A Trajetória Da Cana-de-Açúcar No Brasil*. p.23.

¹⁰⁶ Rodrigues & Ross. *A Trajetória Da Cana-de-Açúcar No Brasil*. p.24.



Figure 1. Schomburg Center for Research in Black Culture, The New York Public Library. "Natives and Hut, Pernambuco Brazil, 1891". Visual Sources from the Schomburg Photographs and Prints Division (Barbados, ca. 1880-1919). South America.

At the end of the 17th Century, Brazil lost its sugar monopoly in the international market and gold mining exploitation started in the center-south region, however that did not stop the production of the *engenhos*, especially in Pernambuco and Baía de Todos os Santos. Brazil was no longer a sugar cane colony, but sugar cane prevailed in the colony through the power of *senhores do engenho* (sugar mill masters) and their influence on the slave trade.¹⁰⁷ The Indigenous and African slavery, power relations between settlers, the work force and the colonial administration were already rooted parts of society.

4.1.2. Colonial Land Destruction and Deforestation

Due to the primitive methods of cultivation, without fertilization, the land used for sugar cane plantations exhausted rapidly, after the third or fourth sugar cane crop the land had to be left fallow for 6-8 years to recover its fertility. As time passed, the soil lost nutrients, and the sprouting cycles were shortened, which would only allow one crop. After 20 or

¹⁰⁷ Rodrigues & Ross. *A Trajetória Da Cana-de-Açúcar No Brasil*. p.34.

30 years of use as a sugar cane plantation, the land was completely infertile and abandoned for new lands where the forest would be cut down and a new cycle would begin.¹⁰⁸

This resulted in unprecedented degradation of the Tropical Atlantic Forest, which covered most of the Brazilian coastal line and originally comprised one million square kilometers. Previous human habitation had altered the forests, with settlements closer to rivers during the 11 thousand years that predated the arrival of Europeans in the American continent. Sugar cane production, however, provoked a series of changes to the landscape on a greater scale, now considered irreversible. The Atlantic Forest is not considered a resilient ecosystem, hardly recovering to its original state previous to such anthropic intervention, which likely led to a vast loss of genetic and organic diversity.¹⁰⁹

The statistics on the acreage deforested for sugar cane plantations are scarce because of the lack of interest in this information and by the prohibition to publish data on Portuguese commerce and profits during the colonial period.¹¹⁰ Different estimations have been calculated through different factors, Rodrigues and Ross describe an estimation of 7500 square kilometers, considering 15 cycles of deforestation between 1550 and 1850.¹¹¹

The use of land for sugar cane production was so intense in some regions that foodstuffs were growing short and hunger spread. Burning was the preferred method for clearing and preparing the land, but this procedure destroyed mycorrhizae, which is important for the absorption of water and mineral salts. Weeds were also removed by the enslaved work force allowing longer crop periods and eliminating the need for long fallow periods. Nevertheless, both practices reduced any chances of forest regeneration.¹¹²

4.1.3. Sugar, Hunger & Other Social Impacts

The long-term correlation between colonial sugar cane monoculture and prevailing hunger and malnourishment in the Northeast is indisputable. Despite the success and

¹⁰⁸ Rodrigues & Ross. *A Trajetória Da Cana-de-Açúcar No Brasil*. p.44.

¹⁰⁹ Rodrigues & Ross. *A Trajetória Da Cana-de-Açúcar No Brasil*. p.56.

¹¹⁰ Rodrigues & Ross. *A Trajetória Da Cana-de-Açúcar No Brasil*. p.58.

¹¹¹ Rodrigues & Ross. *A Trajetória Da Cana-de-Açúcar No Brasil*. p.59.

¹¹² Rodrigues & Ross. *A Trajetória Da Cana-de-Açúcar No Brasil*. p.61.

profitability of the sugar endeavor and thereafter the whole colonization of Brazil,¹¹³ the colonial sugar agribusiness led to severe biological damage to multiple generations of local populations.¹¹⁴ While responsible for economic stability of the new society and solid structure around an agricultural system, the harms of this production continue today. The high profits the cane gave the colonizers demanded equally high compensation from the land and local population.¹¹⁵

The sugar cane regime is one of “autophagy”, it devours everything around it – the land, the soil fertility, and human capital. The history of sugar cane empires repeats itself: the rapid ascension, the transitory splendor, and irremediable decline. This was true in different geographical regions such as Haiti, Cuba, Puerto Rico, Java, and Northeastern Brazil.¹¹⁶ The use of plantations only for sugar production led to an extremely restricted supply of other foodstuffs, livestock, and wild animals. This demonstrates the extractive nature of this colonial production, attending solely to the interests of the metropolis.¹¹⁷

Eichen reflects Brazilian sugar cane plantations of the 16th and 17th Centuries and its role in the racializing Capitalocene and Mbembe’s necropolitics. The depopulation and repopulation of the New World through the sugar plantation replaced indigenous labor with African labor, which was made through violence, malnourishment, and diseases.¹¹⁸ Eichen presents details on the lack of interest of the *senhores de engenhos* to produce an agricultural surplus, as it was more profitable to produce sugar and buy food.¹¹⁹

Senhores do engenho would buy provisions to feed the enslaved, constituting a nutritionally poor diet composed primarily of manioc flour, fish, and whale meat. Further, it also included raw brandy that served as a stimulant for the long hours working in the

¹¹³ Furtado, *Formação econômica do Brasil*, p.18.

¹¹⁴ J. de Castro, *Geografia da Fome: O dilema brasileiro: pão ou aço* (Edições Antares, 1984). p.107.

¹¹⁵ de Castro, *Geografia da Fome*. pp.107-109.

¹¹⁶ de Castro, *Geografia da Fome*. p.109.

¹¹⁷ J. Naritomi, R. Soares & J. Assunção, *Rent Seeking and the Unveiling of “De Facto” Institutions: Development and Colonial Heritage within Brazil*, w13545 (Cambridge, MA: National Bureau of Economic Research, 2007), <http://www.nber.org/papers/w13545.pdf> [accessed 2022-02-22]. p.8.

¹¹⁸ J.R. Eichen, ‘Cheapness and (Labor-)Power: The Role of Early Modern Brazilian Sugar Plantations in the Racializing Capitalocene.’ *Environment and Planning D: Society and Space* 38, no. 1 (February 2020): 35–52. <https://doi.org/10.1177/0263775818798035>. p. 36.

¹¹⁹ Eichen, ‘Cheapness and (Labor-)Power’. p.38.

mills. This resulted in early death for the enslaved and a rise in the profitability of the sugar cane *engenhos*, a consequence of the cheapening of the labor-power cost.¹²⁰

In addition to hunger, research has demonstrated the correlation between the colonial sugar cycle and current weak institutional foundations and governance practices. The extractive use of land for sugar generated structural elements such as social inequality, concentration of power with a small economic elite, and taxation systems shaped by extractive aims. These historical characteristics have given rise to municipalities and states with unequal distribution of property and land.¹²¹

Evidently, colonial sugar production in Northeastern Brazil is closely intertwined with environmental degradation and the suffering of enslaved indigenous and African populations. Beyond, such impacts remained and perpetrated in history, with generations of local populations suffering from malnourishment and foodstuff scarcity in the region, as well as indigenous and African-Brazilians populations suffering structural discrimination and lack of opportunity.¹²²

4.2. Rock Salt Mines in Contemporary Maceió

Rock salt exploitation in Maceió only gained national and international public visibility in 2018 when earthquakes and land subsidence were first registered.¹²³ Although a recent disaster, the scholarship conducted on the topic is wide and interdisciplinary, covering historical details, the social-environmental impacts to-date, and geographical developments. This section aims to narrate the case through a triangulation between previous scholarship, company's documents and information, judicial settlements, public authority documents and journalistic coverage.

¹²⁰ Eichen, 'Cheapness and (Labor-)Power'. p.38.

¹²¹ J. Naritomi at al., *Rent Seeking and the Unveiling of "De Facto" Institutions: Development and Colonial Heritage within Brazil*, p.11-15.

¹²² Naritomi at al., *Rent Seeking and the Unveiling of "De Facto" Institutions: Development and Colonial Heritage within Brazil*; Eichen, 'Cheapness and (Labor-)Power', de Castro, *Geografia da Fome*.

¹²³ M. Vassileva, D. Al-Halbouni, M. Motagh, T.R. Walter, T. Dahm, and H. Wetzel. "A Decade-Long Silent Ground Subsidence Hazard Culminating in a Metropolitan Disaster in Maceió, Brazil." *Scientific Reports* 11, no. 1 (December 2021): 7704. <https://doi.org/10.1038/s41598-021-87033-0>.

4.2.1. Discovery and Beginning of the Rock Salt Enterprise

Rock salt mining in Maceió dates from the 1970s onwards. The chemical industry developments date back to the military dictatorship period in Brazil (1964-1985), when, especially General Ernesto Geisel, used this industry as the flagship development of the military government.¹²⁴ The rock salt mines of Maceió were found incidentally when looking for petroleum quarries, the rock salt deposits were extremely pure and were 1000 meters deep.¹²⁵

The extraction was initiated in 1976 by a company named '*Salgema Industrias Químicas S.A.*' and the rock salt was used for the production of caustic soda and polyvinyl chloride (PVC). The company was bought by Braskem, the largest petrochemical corporation in Latin America, in 2002.¹²⁶ Braskem is an arm of Odebrecht S.A. created to merge the investments made by Odebrecht in the 1990s and 2000s in the petrochemical industry. The other big shareholder of Braskem is Petrobras, Brazil's state-owned oil and gas company.¹²⁷

The extraction of rock salt has faced resistance from Maceió's local social and environmental movements from the very beginning.¹²⁸ The installation of the industry in the South region of Maceió only took into consideration the easy access from the Mundaú lagoon into the sea, ignoring prospects of the capital's urban expansion, the correct distribution of industrial zones, the lagoon's ecosystem and the region's tourism potential. In other words, there was no proper planning for sustainable development, the installation was solely based on the cost-effectiveness for the investors and the interests of the national military government.¹²⁹ The following picture shows the first industry instalments in the 1970s (see Figure 2).

¹²⁴ C.J. Santos e Santos & M.E.F. da Silva Viegas. "Refugiados ambientais urbanos: o desaparecimento dos bairros pinheiro, mutange, bebedouro, bom parto – Maceió/AL". *GT 06 – Modelo Extrativista, Mega-projetos e Economia de Commodities na América Latina*, February 2021, 19. p.2047.

¹²⁵ Santos e Santos & da Silva Viegas. "Refugiados ambientais urbanos". p.2049.

¹²⁶ *Termo de Acordo Ação Civil Pública Socioambiental Processo nº 0806577-74.2019.4.05.8000* (2020). 3ª Vara Federal AL. Ministério Público Federal.

¹²⁷ Santos e Santos & da Silva Viegas. "Refugiados ambientais urbanos". p.2049.

¹²⁸ M.C. Vieira. "Daqui só saio o pó: Conflitos urbanos e mobilização popular: a Salgema e o Pontal da Barra". Maceió:EDUFAL, 1997. 96. p.20.

¹²⁹ J. Cavalcante. "Salgema: do erro a tragédia". Maceió: Editora CESMAC, 2020. 136. p.25.



Figure 2. E. Ticianeli. *Salgema e o movimento contra a ampliação de 1985*, 1/4/2019, <https://www.historiadealagoas.com.br/salgema-e-o-movimento-contra-a-ampliacao-de-1985.html> (accessed 11 April 2022).

The investment in the extraction of the rock salt in the urban surroundings of Maceió was proposed at the time as a great alternative for the development of the local economy. Proponents argued that the integration of the local sugar-ethanol industry with the modern chemical industry had the potential to generate up to 30,000 jobs directly and indirectly.¹³⁰

4.2.2. Surface Displacement and Ground Subsidence

Therefore, for more than four decades rock salt was extracted from 35 wells in Maceió, in four affected neighborhoods: Pinheiro, Mutange, Bebedouro, and Bom Parto. In February 2018, fractures in the streets and buildings of Pinheiro were identified after intense rainfall followed by an earthquake on March 3rd. Thousands of buildings were classified as condemned and more than 55 thousand people had to be relocated (this number is still growing), along with all the commercial establishments, hospitals, schools, churches, and other community infrastructure.¹³¹ Braskem's first response was to allege

¹³⁰ Viera. "Daqui só saio o pó". p. 3.

¹³¹ Santos e Santos & da Silva Viegas. "Refugiados ambientais urbanos". p. 2047.; M. Vassileva, D. Al-Halbouni, M. Motagh, T.R. Walter, T. Dahm, and H. Wetzel. "A Decade-Long Silent Ground Subsidence Hazard Culminating in a Metropolitan Disaster in Maceió, Brazil." *Scientific Reports* 11, no. 1 (December 2021): 7704. <https://doi.org/10.1038/s41598-021-87033-0>. p.2.

that it was unaware of the causes and that its mining activities were unrelated to the events.¹³²

Rock salt extraction procedures pose geohazards such as surface displacement. Diverse causes, including water depletion and pre-existing geological structure reactivation, have been investigated as the origin of the seismic events in 2018 and 2019.¹³³ Later, it was attributed to the occasional total or partial collapse in most of the salt cavities. Geotechnical observations have also identified further geological instability due to erosion effects caused by surface water infiltration.¹³⁴

Due to the chaotic scenario, the municipality of Maceió declared a state of public calamity in 2019 and required intervention from the federal government, who conducted an investigation of the causes of the seismic events through the Brazilian Geological Service (*Serviço geológico do Brasil – CPRM*) and the Ministry of Mines and Energy (*Ministério de Minas e Energia*).¹³⁵ The final report pointed unequivocally to the rock salt extraction over the decades, which created underground cavities of huge proportions in an area of pre-existing geological fractures as the cause of the geological instability and ground subsidence. Crucially, the extraction not only causes ground subsidence but can potentially generate a complete collapse of these cavities, causing an unprecedented disaster.¹³⁶

The streets of the threatened neighborhoods have become deserted areas where the only life left was in the form of scribbled protests via emotional graffiti such as “*Braskem, what is the price for the salt of our tears?*” (see Figure 3).¹³⁷ Once the responsibility of the company was made clear through CPRM’s final report in April 2019, Braskem

¹³² Santos e Santos & da Silva Viegas. “Refugiados ambientais urbanos”. p.2055.

¹³³ Vassileva, et al. “A Decade-Long Silent Ground Subsidence Hazard Culminating in a Metropolitan Disaster in Maceió, Brazil.” p.2.

¹³⁴ Vassileva, et al. “A Decade-Long Silent Ground Subsidence Hazard Culminating in a Metropolitan Disaster in Maceió, Brazil.” p.2.

¹³⁵ Serviço Geológico do Brasil (CPRM), *Estudos sobre a instabilidade do terreno nos bairros Pinheiro, Mutange e Bebedouro, Maceió (AL): Relatório Síntese dos Resultados no 1*, 2019.

¹³⁶ M.E.F. da Silva Viegas & C.J. Santos e Santos. “Cidade, Capitalismo e Sofrimento”, 61–66. Maceió, Brasil, 2021. <https://doi.org/10.46421/singeurb.v3i00.1066>. p.65.

¹³⁷ da Silva Viegas & Santos e Santos. “Cidade, Capitalismo e Sofrimento”. p.62.

assumed its accountability for its actions and took over the process of relocation of the concerned populations and the compensation for damages.¹³⁸

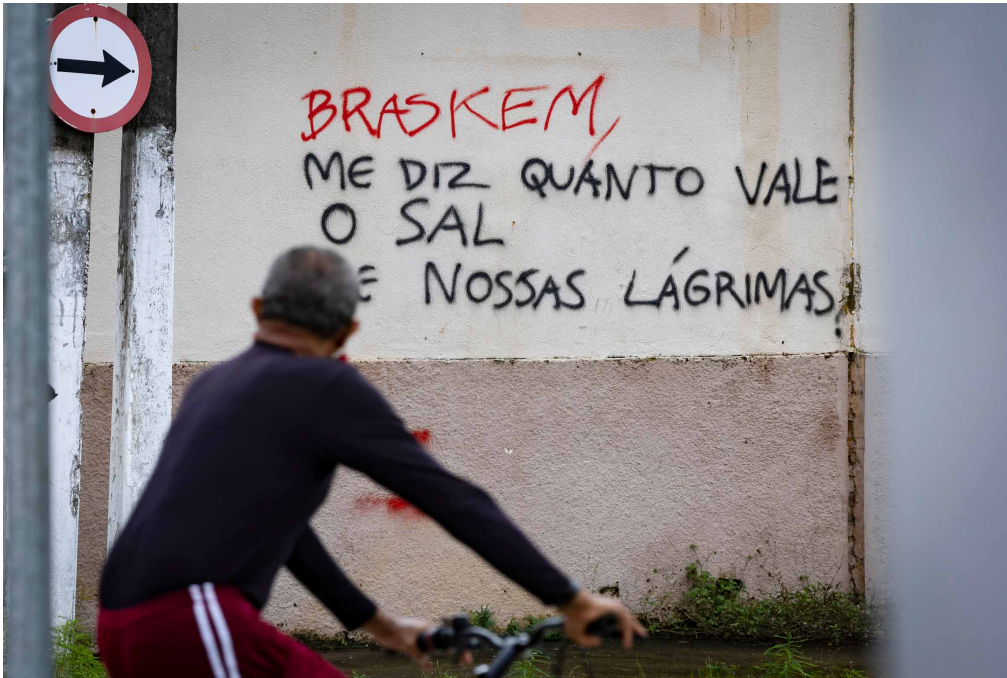


Figure 3. R. Veleda & I. Estrela. “Afundamento de Maceió provoca êxodo urbano de 55 mil pessoas”. *Metrópoles*. May 31, 2021. <https://www.metropoles.com/materias-especiais/afundamento-de-maceio-provoca-exodo-urbano-de-55-mil-pessoas>. (accessed 5 January 2022).

4.2.3. Judicial Procedures

The Federal Public Prosecution Office, along with the Public Defense Office and the State of Alagoas’s Prosecution Office, has initiated three public civil suits against Braskem. Public civil suit is a constitutional remedy created to protect collective and diffused rights. The first suit received a condemnatory sentence¹³⁹ in August 2019 ruling for the complete cessation of the rock salt extraction, that the company conduct the continual study and observation of the mines, as well as execute the responsible closing of all salt wells in Maceió.¹⁴⁰

¹³⁸ Santos e Santos & da Silva Viegas. “Refugiados ambientais urbanos”. p.2055.

¹³⁹ A condemnatory sentence in Brazilian civil procedure condemns the defendant to an obligation of any kind (financial reparation and/or actions).

¹⁴⁰ *Ação Civil Pública Processo nº 0803662-52.2019.4.05.8000* (2019). 4ª Vara Federal AL. Juiz Substituto Sebastião José Vasquez de Moraes.

The second suit was a socioenvironmental public civil suit, in which Braskem reached a settlement with the prosecutors and the public defenders. The main objective of this suit was to obtain environmental accountability from the company through the recovery and restoration of the damaged area combined with emergency actions.¹⁴¹ The settlement was reached in December 2020 and the company is obliged to pay financial reparation and organize mitigation and compensation measures in the affected neighborhoods. Additionally, the settlement includes the stabilization of the deactivated mines and continuous monitoring in the coming years. A social urban recovery plan was set with three pillars: neighborhoods, public transport and social compensation for collective moral damages. The measures must also contemplate the protection of the local historical and cultural heritage, along with popular consultation of the society, especially relocated populations.¹⁴²

Lastly, the third suit tackles the question of compensation of the local residents. This suit also resulted in a partial settlement between Braskem and the public authorities to facilitate and accelerate the negotiation between the company and residents.¹⁴³ The public prosecutor's website clarifies that Braskem has ownership of the proprieties it paid compensation for, which includes not only rights but also obligations such as stray animal care, patrimonial security and waste management. Furthermore, even though Braskem is now the formal owner of a vast area, the first public civil suit prohibits the future exploration of mining activities in the region.¹⁴⁴

Santos e Santos and Silva Viegas have raised concerns on how this process is taking place and how much power Braskem now holds over the population, given that the company is responsible for both negotiations and management of the relocation, creating a “a fox in the chicken coop” situation. The Civil Defense is monitoring this process, but it is unclear how closely. Santos e Santos and Silva Viegas argue that Braskem is appropriating both

¹⁴¹ *Termo de Acordo Ação Civil Pública Socioambiental Processo n° 0806577-74.2019.4.05.8000* (2020). 3ª Vara Federal AL. Ministério Público Federal.

¹⁴² *Termo de Acordo Ação Civil Pública Socioambiental Processo n° 0806577-74.2019.4.05.8000* (2020). 3ª Vara Federal AL. Ministério Público Federal.

¹⁴³ *Termo de Acordo Ação Civil Pública n° 0803836-61.2019.4.05.8000* (2020). 3ª Vara Federal AL. Ministério Público Federal.

¹⁴⁴ Ministério Público Federal. *Caso Pinheiro/Braskem Dúvidas Frequentes*, 2021, <http://www.mpf.mp.br/grandes-casos/caso-pinheiro/duvidas-frequentes> (accessed 11 April 2022).

private and public properties in the neighborhoods and assuming several State functions, such as street cleaning, stray animal care and control, paving and drainage, security surveillance, amongst others.¹⁴⁵

Braskem affirms publicly that they have tackled the risks and there is no longer a threat of the rock salt cavities collapsing. The company also advertises that definite stabilization of the affected area might be achieved, which begs the question of what would happen to the properties then, considering Braskem owns them after relocating and compensating the previous owners.¹⁴⁶

4.2.4. Social Impacts

Investigative journalism has played a key role in exposing the suffering of the population of Maceió, through interviews that reveal cultural consequences such as the separation of traditional dance groups (*coco de roda*), religious groups, the inaccessibility to public services of the remaining or surrounding citizens, to name a few.¹⁴⁷

The map of affected areas has been reviewed four times since 2019, covering more areas each time. This has caused anxiety in the population that does not know if they will be relocated or not. Additionally, the residents of the bordering areas lose access to commerce and public services that were provided in the areas previously relocated, and have now become increasingly socially isolated.¹⁴⁸ The following evacuation map (see Figure 4) is the latest (April 2022) made available by Braskem, where each zone and area represent different areas added progressively while in agreement with the public authorities and the evacuations are still ongoing. Until February 2022, 14,000 families had been evicted.¹⁴⁹

¹⁴⁵ Santos e Santos & da Silva Viegas. “Refugiados ambientais urbanos”. p. 2056.

¹⁴⁶ Santos e Santos & da Silva Viegas. “Refugiados ambientais urbanos”. p. 2060.

¹⁴⁷ R. Veleda & I. Estrela. “Afundamento de Maceió provoca êxodo urbano de 55 mil pessoas”. *Metrópoles*. May 31, 2021. <https://www.metropoles.com/materias-especiais/afundamento-de-maceio-provoca-exodo-urbano-de-55-mil-pessoas>. (accessed 5 January 2022).

¹⁴⁸ Veleda & Estrela. “Afundamento de Maceió provoca êxodo urbano de 55 mil pessoas”.

¹⁴⁹ Braskem. *Programa de compensação financeira e apoio à realocação: as ações em Maceió*, https://www.braskem.com/portal/principal/arquivos/alagoas/25.03.2021_book.pdf (accessed 11 April 2022).

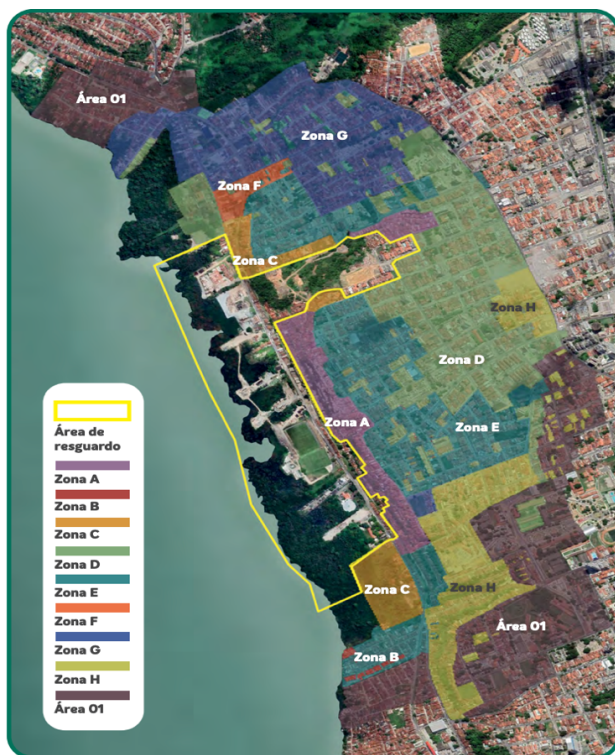


Figure 4. Braskem. Programa de compensação financeira e apoio à realocação: as ações em Maceió, https://www.braskem.com/portal/principal/arquivos/alagoas/25.03.2021_book.pdf (accessed 11 April 2022). p.17.

There is a concern about the possibility of a loss of cultural heritage and historical sites in the area. For example, the church *Santo Antônio de Pádua* opened in 1873 with Portuguese tiles, where the current priest resists its closing and still celebrates weekly masses. In the list of affected institutions and community relevant actors, is also the only public psychiatric hospital of the Alagoas State, *Portugal Ramalho*, and the CSA, the local football club. According to the municipality, there are at least 20 historically relevant properties in the area.¹⁵⁰

With the relocation of such a high number of residents, the real estate market has also reacted, unable to absorb the demands of 55,000 people, which resulted in price increases for buying or renting properties in other neighborhoods. The municipality reported that the compensations offered by Braskem are 20% lower than the market average.¹⁵¹

¹⁵⁰ Veleda & Estrela. “Afundamento de Maceió provoca êxodo urbano de 55 mil pessoas”.

¹⁵¹ Veleda & Estrela. “Afundamento de Maceió provoca êxodo urbano de 55 mil pessoas”.

4.2.5. Braskem's Perspective

Braskem, beyond publishing its corporate social responsibility (CSR) and human rights commitments on the company's website, has created a separate webpage for Braskem Alagoas, providing a channel of contact and information for the local population and society while reporting on the actions taken.¹⁵²

The company publicizes their "Program of Financial Compensation and Support to Relocation", in which Braskem pays compensation for material and moral damages, defrayal of moving costs, logistic and psychological support. Until March 2020, the company had set up a physical space to assist residents with the relocation process, after that the services continued remotely because of the COVID-19 pandemic.¹⁵³ Since February 2021, responding to demands, the company provides businesses and commerce in the affected areas with expert and exclusive assistance.¹⁵⁴

Braskem estimates that the filling and closing of the mines will take around three years and these are being monitored by Brazil's National Mining Agency. Each mine demands a specific and adequate form of filling and they are being monitored by high technology tools.¹⁵⁵ The company constantly emphasizes the close communication and authorization from local and national public authorities.

In sum, Maceió is facing a severe socioenvironmental crisis over the four decades of rock salt extraction. Public authorities along with the company responsible for the crisis have embarked upon compensation and mitigation measures and actions, however there are still claims and concerns raised by the local residents and scholars of the impacts that

¹⁵² Braskem. *Braskem Alagoas*, 2021, <https://www.braskem.com.br/alagoas#> (accessed 11 April 2022).

¹⁵³ Braskem. *Programa de compensação financeira e apoio à realocação: as ações em Maceió*, https://www.braskem.com/portal/principal/arquivos/alagoas/25.03.2021_book.pdf (accessed 11 April 2022). p.28.

¹⁵⁴ Braskem. *Programa de compensação financeira e apoio à realocação: as ações em Maceió*, https://www.braskem.com/portal/principal/arquivos/alagoas/25.03.2021_book.pdf (accessed 11 April 2022).p.25.

¹⁵⁵ Braskem. *Programa de compensação financeira e apoio à realocação: as ações em Maceió*, https://www.braskem.com/portal/principal/arquivos/alagoas/25.03.2021_book.pdf (accessed 11 April 2022).p.48.

cannot be repaired materially. Among these are social ties, cultural heritage, historic sites and access to quality public services.

5. Analysis

Following the presentation of the case studies, it is possible to further develop the comparative historical analysis. Foremost, it is relevant to acknowledge the significant differences that play an essential role in each of the cases. These include the ruling economic order, state administration, judicial system, etc. For example, as previously mentioned, there was no established human rights system or institutions during Brazil's colonial period, while human rights order and discourses play an important role in Maceió's contemporary case. The colonial administration and judicial system were located in the Portuguese metropolis, far removed from the Brazilian people, while currently, Brazil has a robust and digitalized federal and state-level administration and judiciary. But still, it is possible to draw similarities between the two cases in terms of power relations between the interests of capital and the interests of vulnerable groups and enduring accountability issues. Such similarities expose intergenerational abuses and impacts on the local populations across time, such as human displacement and accountability issues.

5.1. Displacement

The first and most evident similarity between the cases is the displacement resulting from the environmental destruction of the two extractive industries. Indigenous and enslaved Africans were displaced from their lands in the colonial sugar monoculture case, and the evicted residents from the affected neighborhoods in Maceió became urban environmental refugees following the risks to their homes from the rock salt extraction.¹⁵⁶ Human displacement as a result of socioenvironmental issues is ongoing and complex, as well as a growing cause of human migration.¹⁵⁷ However, it is not a new phenomenon, as the colonial sugar cane production in Northeastern Brazil demonstrates. Even though the two cases concern different times, different groups of people, and different terminologies, they both share critical common elements, such as the anterior or posterior dislocation of

¹⁵⁶ Santos e Santos & da Silva Viegas. "Refugiados ambientais urbanos". p. 2056.

¹⁵⁷ L.L. Jubilut et al. "Refugiados Ambientais", *Boa Vista: Editora da UFRR*. 2018. p. 11.

people for land exploitation; that is, human land displacement and eviction as the direct consequences of capital and corporate interest and privilege.

5.1.1. Displacement of Indigenous and Africans in the Sugar Producing Northeastern Colonial Brazil

In colonial Northeastern Brazil, the indigenous populations were the first to be expelled and displaced by sugar cane production. Their enslavement and acculturation modified and extinguished many of their traditions. Additionally, European diseases like smallpox and measles rapidly spread and killed thousands of indigenous people. European settlers often threatened or used violence to make the indigenous communities move from lands considered adequate for sugar plantations.¹⁵⁸ Nevertheless, the indigenous populations resisted and protected the forests with bows and arrows against settlers, stopping them from advancing the sugar cane enterprise even further inland.¹⁵⁹

In turn, enslaved Africans' land displacement and dispossession are primarily related to enslavement, beginning with their forced transatlantic journey, leading to fugitive enslaved Africans' communities (called "*Quilombos*") removed from the sugar lands, hiding deep in the jungle.¹⁶⁰ This movement was also closely related to the hunger issue in the region. In the *Quilombos*, Africans fully adopted and adapted to the regional species and resources, becoming a subsistence multi-cropping agricultural community. Even when still bound to the *engenhos*, the enslaved Africans would disobey orders and secretly plant small quantities of manioc, sweet potato, beans, and corn – which shows the direct links to their farming roots and traditions in Africa. This accounted for a disruption in the uniform green scenery of the sugar cane plantations.¹⁶¹

5.1.2. Displacement of Residents in the surrounding areas of Rock Salt Mines in Maceió

¹⁵⁸ Rodrigues & Ross. *A Trajetória Da Cana-de-Açúcar No Brasil*. p.65.

¹⁵⁹ de Castro, *Geografia da Fome*. p.122.

¹⁶⁰ de Castro, *Geografia da Fome*. p.124.

¹⁶¹ de Castro, *Geografia da Fome*. p.124.

Most recently, Maceió's displaced and evicted residents have received compensation and were placed into defined categories of protection such as "urban environmental refugees". According to Jubilut et al., environmental refugees include those people internationally or nationally displaced by environmental causes, be it natural disasters or man-made, sudden events, or progressive degradation with permanent or temporary consequences.¹⁶²

The affected people of the neighborhoods of Pinheiro, Mutange, Bebedouro, and Bom Parto in the city of Maceió are qualified as environmental refugees because they are facing the permanent and temporary consequences of the man-caused mining disaster, with both sudden seismic events and progressive subsidence. Independently of how many vulnerability categories this group of people is contemporarily protected by, in essence, their situation is surprisingly similar to those of indigenous peoples and Africans deprived and displaced from their lands in colonial times. This includes essential parts of the home and housing relations but also cultural and subsistence factors.

If regarded through the lens of the current international human rights framework, it is possible to identify impacts on multiple human rights, especially those established in the International Covenant on Economic, Social, and Cultural Rights (ICESC). Most evidently, the right to adequate housing (Article 11), was clearly affected in both cases where the people were deprived of their homes and lands, consequently having to move locations.

The right to self-determination and to not be deprived of its means of subsistence, with provisions on both covenants, the International Covenant on Civil and Political Rights (ICCPR) and the ICESC, is also impacted in both cases. In the colonial sugar case, Indigenous peoples and enslaved Africans were deprived of their lands and, therefore, of their livelihood, closely interlinked with the territory. In the current salt rock case, the residents of the affected neighborhoods were deprived of developing their economic and cultural rights, especially those conducting economic and commercial activities in the

¹⁶² Jubilut et al. "Refugiados Ambientais". p. 11.

area who had their livelihood affected. Plus, traditional religious and dance groups that were separated or distanced had their cultural rights impacted.

Finally, the right to privacy established in the ICCPR, which aims to prevent unlawful or arbitrary interference in the individual's privacy, family, home, or correspondence, is also commonly impacted in both scenarios. The economic activity of the extraction and production of the two commodities has led to the interference in the privacy and home of the concerned populations in each case.

Conclusively, the capital and economic interest in the development of commodities such as sugar cane and rock salt in Northeastern Brazil generated multiple human rights impacts on different generations of the local populations. Such effects pervade human land displacement and the direct and indirect consequences of such displacement, including subsistence, adequate housing, economic and cultural development.

5.2. Accountability

The second similarity between the two commodities is the accountability issues present in both cases. Colonial powers were not held accountable internationally for the atrocities committed in the colonies, nor, generally, are multinational corporations today for their human rights abuses.

5.2.1. Colonial and Corporate Unaccountability

As briefly presented in the theory chapter, at the creation of the current international human rights order, the primary concern was the relations between individuals and the State, disregarding the problematic relations between colonies and metropolises.¹⁶³ This similarity is the unifying tie between decolonial theory and Business and Human Rights.

Particularly, colonial relations were not considered in the establishment of the international human rights framework. Nonetheless, colonial regimes were extremely tied to business relations¹⁶⁴ – in fact, a lot of elements of the modern corporation as we know

¹⁶³ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.14.

¹⁶⁴ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.14.

it today come from the colonial periods, perhaps most notably seen in the case of the East India Company.¹⁶⁵ Perchance, if the colonial ties were considered in the establishment of the human rights order, it would not be one where States are the only duty bearers, and non-state actors are often disregarded. Colonial trade and exploitation were potentially the beginning of the modern corporation's impacts on human rights, which have since grown exponentially in severity, extent, and frequency.¹⁶⁶

Even though there is not a world repository of information on multinational corporations' involvement in human rights issues, authorities on the matter believe there has been a significant increase in corporate human rights abuses since the 1990s, based on reasons such as more companies operating in more countries around the globe, especially in challenging sociopolitical contexts. Additionally, this has also meant the expansion of operations in a network model and more complex value chains.¹⁶⁷

Colonial empires acted as or through enterprises fomenting the trade of commodities while abusing the rights of vulnerable populations as companies and enterprises still do. Similar to colonial sugar producers, Braskem cannot be held accountable at the international level for the human rights impacts of its mining activities in Maceió since corporations and legal persons do not have a standing in the international human rights regime.

Comparable to colonies lacking the means to protect their people from the atrocities promoted by empires to achieve their capitalistic agenda, some States in the global order still do not have the resources to control corporate operations in their territory. Relying exclusively on State duties for the protection and promotion of human rights is inadequate, it was at a time of colonial trade empires, and it still is in a time of powerful multinational corporations.¹⁶⁸

These issues also reveal the ongoing coloniality of commodity extractivism, where modern corporations replaced colonial empires as subjects acting in their best capital

¹⁶⁵ P.J. Stern, "The English East India Company and the Modern Corporation: Legacies, Lessons, and Limitations", vol. 39, p. 423.

¹⁶⁶ Ruggie, *Just business: Multinational corporations and human rights*. p.602.

¹⁶⁷ Ruggie, *Just business: Multinational corporations and human rights*. p.602.

¹⁶⁸ Ratner, "Corporations and Human Rights: A Theory of Legal Responsibility". p.461.

interest while local and vulnerable populations remain the objects of domination and suffering. The result is masses of people easily disregarded in their individual and collective claims and practices, as well as displaced and dispossessed, paying the heaviest prices for the unsustainable use and extraction of natural resources.

5.2.2. Advancements in Corporate Accountability in the International Human Rights Order

Despite the similarities, it is imperative to recognize differences and improvements in respect for human rights over time, as seen through the two cases. In recent years, international human rights law has devoted efforts to expanding the protection of human rights in relation to corporate activities. Even though corporations are still not accountable at the international level, States are being more and more demanded to regulate and enforce human rights in business activities.

Great examples of this are the United Nations Guiding Principles for Business and Human Rights (UNGPs, also known as the Ruggie Principles) from 2011 and the recent European Union draft proposal for mandatory human rights and environmental due diligence.¹⁶⁹ In the Americas, the Inter-American Court of Human Rights (IACHR) has progressively applied Business and Human Rights (BHR) understandings in its case law.

In the *case of the Workers of the Fireworks Factory in Santo Antônio de Jesus and their families v. Brazil* of 2020, the IACHR ruled that even though the State cannot be responsible for every human rights violation committed by private individuals within its jurisdiction, particular circumstances and the implementation of the obligation to ensure rights has to be looked at in order to attribute international responsibility. In this case, Brazil was held responsible for not complying with its duty to enforce laws requiring business enterprises to respect human rights and periodically assess the adequacy of such laws and address any gaps.¹⁷⁰

¹⁶⁹ Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937.

¹⁷⁰ IACHR. *Case of the Workers of the Fireworks Factory in Santo Antônio de Jesus and their families v. Brazil*. 15 July 2020. Serie C 407. §150.

In addition, in the *case of the Miskito Divers (Lemoth Morris et al.) v. Honduras* of 2021, the IACHR went even further, emphasizing States' duties to prevent corporate human rights violations through legislative and other measures, as well as investigate, punish and provide reparation when they occur (relating the UNGPs pillar III with the Article 25 of the American Convention – right to remedy). The IACHR considers that States should encourage businesses to adopt good corporate governance practices, including human rights policies, due diligence processes, and effective remedies.¹⁷¹

It is reasonable to associate that the international developments and commitments made by Brazil and the condemnation at the IACHR on the *case of the Workers of the Fireworks Factory in Santo Antônio de Jesus and their families v. Brazil* have instigated better and faster public responses in the Braskem case in Maceió, both administrative and judicial. The Brazilian Geological Service (CPRM) was quick to identify the causes of the subsistence, and the Public Prosecution Office provided procedural promptness with the settlements and compensation agreements with Braskem.¹⁷²

The scenario in Maceió is far from perfect, with compensations to residents that are insufficient for relocation in a shaken real estate market and with Braskem taking over State responsibilities and uncertainty around the future of the massive land the company now possesses. Scholars even argue that this situation should not have happened in the first place, had the extraction activities in urban areas been considered from a socioenvironmental sustainable development standpoint.¹⁷³ Nonetheless, public authorities and the company have diligently taken measures to assess the impacts on the local residents.

¹⁷¹ IACHR. *Case of the Miskito Divers (Lemoth Morris et al.) v. Honduras*. 31 August 2021. Serie C 432. §§48-49.

¹⁷² Serviço Geológico do Brasil (CPRM), *Estudos sobre a instabilidade do terreno nos bairros Pinheiro, Mutange e Bebedouro, Maceió (AL): Relatório Síntese dos Resultados no 1*, 2019; *Termo de Acordo Ação Civil Pública Socioambiental Processo nº 0806577-74.2019.4.05.8000* (2020). 3ª Vara Federal AL. Ministério Público Federal.

¹⁷³ Cavalcante. “Salgema: do erro a tragédia”. p.25.

6. Conclusions

From the historical comparative study of the colonial sugar cane production and the contemporary corporate rock salt extractivism in Northeastern Brazil is possible to deduce a few points of conclusion.

First and foremost, the similarities between the cases identified in the analysis demonstrate the historical trend of a power shift from colonial empires to modern corporations, as sustained by previously mentioned scholars. Even though different actors, State and non-state actors, this power relation continues to reproduce structures and processes of inequality, social and environmental impacts, and the unsustainable exploitation of natural resources. It does so in the remaining colonial foundations and tools of manipulating and shaping institutions, the rule of law, and human populations to achieve the economic interests of elites.

Such common ground illustrates the reality of Quijano's coloniality and Stoler's imperial duress/durabilities. Comparing the structure of colonial exploitation and commodity production, with particular consideration to its social impacts, to a present-day extraction industry and its human rights abuses demonstrates the continuity of colonial practices and configurations – especially concerning the human labor force and local residents and institutional accountability.

If regarded through the lens of accountability, the cases reveal more significant historical and current-day matters concerning the international human rights order. Human rights discourses or equivalents, even if adopted in different forms or terminologies, such as natural rights or fundamental rights, were used to resist the colonial regimes and their looting¹⁷⁴ and are now used by activists and victims against mining and extractivism in Latin America.¹⁷⁵ On the other hand, international human rights law has previously failed

¹⁷⁴ Barreto, "Decolonial Strategies and Dialogue in the Human Rights Field: A Manifesto". p.4.

¹⁷⁵ Riethof, "The international human rights discourse as a strategic focus in socio-environmental conflicts: the case of hydro-electric dams in Brazil." p.483.

to protect colonized people. It is still failing to protect the victims of corporate abuses making human rights claims for protection.

One potential historical interpretation raised in the analysis of this thesis is that if the establishment of the current international human rights order as we know it had recognized and addressed the relations beyond the individual, and State, especially the relationship between Empires and colonized peoples, perhaps the ties between businesses and human rights would not be a place of such uncertainty and late development. There are unquestionably numerous other decisive factors that cannot make this anything more than a hypothesis. Still, the ties and correlations between colonial and modern corporate processes, practices, and structures are also undeniable.

That is to say, modern corporate actors cannot be dissociated from past colonial history and a current ongoing colonial power structure. This urgently needs to be considered in the field of Business and Human Rights, both academically and by global governance actors, so that future actions can be more effective and better targeted.

Even though still far from ideal protection of human rights, the analysis of the contemporary rock salt mines case in Maceió can partially serve as a positive thermometer on the measures the State is taking to comply with its international duties, providing remedies and mitigation for cases of corporate human rights abuses. This progress in State responsiveness could be a direct result of the recent and multiple developments made in the international human rights order in the multi-actor field of Business and Human Rights.

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