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# FEMINIST AND CRT/TWAIL INTERVENTIONS IN INTERNATIONAL LAW: HOW “GLOBAL LAW” ABSORBS-OR RESISTS-CRITICAL APPROACHES

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## 1. ABSTRACT

This paper examines the tension in contemporary international law between absorbing and resisting critical traditions stemming from feminist, Critical Race Theory (CRT), and Third World Approaches to International Law (TWAIL) perspectives. We argue that while global institutions have increasingly adopted the language and some demands of these critiques (for example through UN resolutions on women, peace and security, gender mainstreaming in trade and finance, and the incorporation of intersectionality in human rights discourse), they often do so selectively and superficially.<sup>2</sup> The core structures of power in international law state sovereignty, neoliberal economics, and Western-centric norms remain largely intact. Thus, global law absorbs critical ideas through new norms and policies (like UNSCR 1325 and gender strategies at the IMF/WTO) even as it resists deeper transformation (e.g. co-option of feminist goals for militarist agendas, or ignoring race and colonial context when discussing gender). We draw on established scholarship (Anghie, Chimni, Mutua, Crenshaw, Charlesworth, Chinkin, etc.) and examples including UNSC 1325, refugee law reforms, and IMF/WTO frameworks to show how these dynamics play out.<sup>3</sup> Intersectionality and Global South perspectives are emphasized throughout. Finally, we consider proposals from critical scholars for reimagining international law on more inclusive, decolonial foundations.

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<sup>2</sup> WTO, 'Joint Declaration on Trade and Women's Economic Empowerment' (Buenos Aires Ministerial, 13 Dec 2017) [https://www.wto.org/english/thewto\\_e/minist\\_e/mc11\\_e/genderdeclarationmc11\\_e.pdf](https://www.wto.org/english/thewto_e/minist_e/mc11_e/genderdeclarationmc11_e.pdf) accessed 26 Sep 2025; see commentary in O E Fitzgerald, 'Reshaping Trade through Women's Economic Empowerment' (CIGI, 2018).

<sup>3</sup> See A Anghie, *Imperialism, Sovereignty and the Making of International Law* (CUP 2004); B S Chimni, 'Third World Approaches to International Law: A Manifesto' (2006) 8 *Int'l Community L Rev* 3; M W Mutua, 'What is TWAIL?' (2000) *Proc Am Soc Int'l L* 94, 31; K Crenshaw, 'Demarginalizing the Intersection of Race and Sex' (1989) 140 *Univ Chicago Legal Forum* 139; H Charlesworth and C Chinkin, 'Feminist Approaches to International Law' (1991) 85 *Am J Int'l L* 613.

## 2. INTRODUCTION

In recent decades, feminist scholars, critical race theorists, and advocates of Third World Approaches to International Law (TWAAIL) have exposed how international law has historically reflected and reinforced patriarchal, racist, and colonial power structures. Hilary Charlesworth and Christine Chinkin observed in 1991 that international law's public/private divide effectively mystifies women's exclusion.<sup>4</sup> Similarly, CRT and TWAAIL scholars argue that the very origins of international law lie in European imperialism, making it "a predatory system that legitimizes... the plunder and subordination of the Third World".<sup>5</sup> These critiques challenge the ostensibly neutral claim of global law. At the same time, international legal institutions have taken on some critical demands: for example, the post-2000 UN system has incorporated gender and human-rights language, and institutions like the WTO or IMF now mention gender issues. This paper posits that international law thus undergoes a dual process: it absorbs critical discourses by adopting new norms and policies, even as it resists their transformative implications by containing or diluting them. In other words, "global law" integrates feminist, CRT and TWAAIL insights into its rhetoric and selective practices, but also perpetuates underlying hierarchies.

## 3. THEORETICAL FRAMEWORK

In analyzing "global law" (a broad term for the international legal order and global governance norms), we draw on three critical traditions:

### 3.1. FEMINIST INTERNATIONAL LAW

Feminist scholars argue that international law has been shaped by patriarchal biases, often privileging states and masculine domains (war, diplomacy) while relegating women and "private" issues to the margins. Early feminist IL critiques (e.g. Charlesworth, Chinkin & Wright 1991) showed how the public/private distinction in law systematically invisibilizes women's experiences. One strand, liberal feminism, has focused on inclusion (e.g. quotas, treaty rights for women) and equal participation. Another, radical or structural feminism, highlights how IL's structures (state sovereignty, economic systems) are inherently gendered. Third-world and postcolonial feminists point out that Western

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<sup>4</sup> H Charlesworth, C Chinkin and S Wright, 'Feminist Approaches to International Law' (1991) 85 Am J Int'l L 613, 614-18.

<sup>5</sup> A Anghie, *Imperialism, Sovereignty and the Making of International Law* (CUP 2004) 1-30 (on colonial origins); M W Mutua, 'What is TWAAIL?' (2000) Proc Am Soc Int'l L 94, 31

feminism often universalizes “woman” and ignores differences of race, class and colonial history. For instance, Chinkin and Charlesworth argue that formal equality is insufficient if social structures (like militarism or the global economy) continue to harm women disproportionately. Contemporary feminist IL thus emphasizes intersectionality the idea that gender intersects with race, class, sexuality, etc. so that women of color, indigenous women, migrant women, etc., have different experiences than privileged women. This approach stresses that any global law claiming to aid “women” must attend to multiple identities and power relations, as many critical feminists insist .

### **3.2. CRITICAL RACE THEORY (CRT) AND INTERSECTIONALITY**

CRT originated in U.S. legal thought, analyzing how law upholds white supremacy. Applied globally, CRT-inspired scholars (often overlapping with TWAIL) focus on how international law has entrenched racial hierarchies for example, by justifying colonial conquest or by ignoring racial oppression outside the West. CRT emphasizes that formal equality (e.g. nondiscrimination clauses) can disguise deeper biases. Intersectionality, a core CRT concept, insists that race cannot be analyzed apart from gender and class. This matters in international contexts: as Basu and Pratt observe regarding UNSCR 1325, focusing only on “women” often erases how Black or postcolonial women experience war differently. The CRT lens thus demands that global law address the legacies of racism (e.g. in humanitarianism, migration, development).

### **3.3. THIRD WORLD APPROACHES TO INTERNATIONAL LAW (TWAIL)**

TWAIL scholars, including Anghie, Chimni, Mutua, and others, argue that international law emerged to facilitate European imperialism and still serves powerful states. They highlight how norms like sovereignty, trade rules, and human rights have been shaped by colonial-era power. TWAIL calls for centering the interests and voices of the Global South. Makau Mutua, for instance, describes TWAIL as seeking “cultures of belonging, inclusion, and full global citizenship for everyone” against norms of domination .<sup>6</sup> He famously declares international law a “predatory system” of Western plunder. TWAIL thus overlaps with CRT (both critique colonial racism) and with feminist critiques (many TWAIL scholars emphasize gender and culture). Together, these frameworks share a belief that IL is neither neutral nor universal; it must be interrogated and broadened.

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<sup>6</sup> M W Mutua, ‘What is TWAIL?’ (2000) *Proc Am Soc Int’l L* 94, 31; see also M W Mutua, ‘Savages, Victims, and Saviors: The Metaphor of Human Rights’ (2001) 42 *Harv Int’l LJ* 201.

### **3.4. INTERSECTIONALITY AS UNIFYING LENS**

All three traditions underscore intersectionality. As one commentator notes, a truly critical feminist approach must “recognize that gender always simultaneously takes on other identities such as race, class, and religion”. The intersectional turn in human rights practice is well documented: international bodies increasingly invoke intersectionality to understand violations. Yet scholars warn that simply inserting intersectional language into legal texts can “depoliticize” critique. A thorough theoretical framework therefore acknowledges power: feminist, CRT, and TWAIL critiques all demand that global law account for multiple, overlapping oppressions and the colonial histories that produced them.

These critical frameworks thus set the stage: they identify structural biases in international law (patriarchy, racism, imperialism) and call for their dismantling. The question we explore is how the international legal order has responded. Has it incorporated these critiques for example by adopting new norms of gender and racial justice or has it deflected them to preserve existing power? We address this by examining specific areas where critical interventions have met institutional realities.

## **4. ABSORPTION**

In many areas, international law has absorbed critical ideas by adopting their language or some of their goals. These include high-level UN commitments, revised legal doctrines, and new institutional policies, often framed as progressive developments. Below are key examples:

### **4.1. WOMEN, PEACE, AND SECURITY (WPS) AGENDA**

The UN’s adoption of Resolution 1325 (2000) marked an unprecedented recognition of gender in peace and security.<sup>7</sup> For the first time the Security Council declared that women should “participate fully” in conflict resolution and be protected from violence, reflecting decades of feminist advocacy. This watershed resolution and its subsequent WPS resolutions absorb feminist demands for inclusion and protection. Indeed, feminist engagement ensured UNSCR 1325’s passage and the creation of National Action Plans in many countries. By institutionalizing gender into peacekeeping mandates and reporting, the UN claims a commitment to feminist goals. Similarly, human rights treaties and bodies have increasingly integrated gender: the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979) and UN human-rights committees explicitly address

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<sup>7</sup> SC Res 1325 (2000) UN Doc S/RES/1325 (31 Oct 2000).

women's rights, and some regional courts (e.g. African Court on Human and Peoples' Rights) have begun interpreting equality rights through a gender lens.

## **4.2. HUMANITARIAN AND CRIMINAL LAW**

Feminist critiques have reshaped international criminal law norms. Critical interventions have contributed to recognizing rape and sexual slavery as crimes against humanity and genocide (e.g. ICTR in 1998).<sup>8</sup> Likewise, refugee law has gradually absorbed gender perspectives: many countries now accept "honor killing" or FGM as persecution. For instance, Canada's Refugee Board issued detailed Gender Guidelines requiring an intersectional analysis of asylum claims (considering how gender, race, etc., compound in the claimant's experience). In short, aspects of global law formally acknowledge problems raised by feminist and CRT scholars gender-based harm is now a recognized violation in some international courts and tribunals.

## **4.3. INTERNATIONAL INSTITUTIONS AND NORMS**

Major international organizations have launched gender and inclusion policies. The WTO's 2017 Joint Declaration on Trade and Women's Economic Empowerment is a recent example of "gender mainstreaming" in trade policy. It proclaims that gender equality in economic activity is a goal of the trading system. Similarly, the IMF released its first Strategy on Gender Equality in the early 2020s, aiming to integrate gender concerns into lending and advice. These kinds of actions show that feminist ideas have been taken in.<sup>9</sup> For example, the WTO declaration talks about women's entrepreneurship and empowerment in value chains. Gender has become an official principle for project support in some multilateral development banks. These institutional changes show that global governance has at least taken on the language of racial and gender equality and has included important ideas in policy frameworks.

## **4.4. GLOBAL SOUTH VOICES IN LAWMAKING**

Third World countries have pushed for change on some issues. The 1970s movement for a "New International Economic Order," which was led by developing countries, is an earlier example of TWAIL issues coming up in UN debates (even though rich countries mostly won). More recently, Global South coalitions have pressured for climate debt relief, equitable vaccine access, and

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<sup>8</sup> Prosecutor v Jean-Paul Akayesu (Trial Chamber), Case No ICTR-96-4-T, Judgment, 2 Sept 1998

<sup>9</sup> International Monetary Fund, 'IMF Strategy Toward Mainstreaming Gender in Its Work' (Board paper, July 2022) <https://www.imf.org/external/np/pp/eng/2022/0722.htm> accessed 26 Sep 2025.

development finance reforms. For example, in trade negotiations WTO members occasionally raise gender-related demands, and some climate conferences have included women's representation goals. These are forms of TWAIL ideas entering the agenda.

Together, these developments suggest significant absorption of feminist, CRT, and TWAIL critiques: international law now routinely speaks of women's empowerment, racial equality, and "leaving no one behind." Gender quotas, diversity initiatives, and human rights campaigns mean that critical perspectives shape global norms and rhetoric. As Mutua puts it, TWAIL's vision is "a project of... inclusion and full global citizenship for everyone", and some institutional changes appear aimed in that direction.

However, the extent of absorption is limited and often superficial. The next section shows how these same reforms are frequently inadequate or even co-opted, leaving the deeper critiques unaddressed.

## **5. RESISTANCE**

Despite this nominal incorporation of critical concerns, international law often resists transformative change by containing, diluting, or co-opting critical demands. In practice, many global initiatives fall short of confronting entrenched power. Key illustrations include:

### **5.1. CO-OPTATION OF FEMINISM**

UNSCR 1325 itself exemplifies how a feminist breakthrough can be turned to status quo ends. Scholars note that although 1325 ostensibly aimed to prevent war and empower women, it has frequently been used to justify military interventions and bolster security institutions. Anna Nikoghosyan argues that 1325 "not only fails to advance an anti-war feminist agenda, but also gets utilised for militarist purposes, transforming its radical potential into an instrumentalised, co-opted feminist agenda".<sup>10</sup> In other words, the resolution's language about protecting women has been interpreted as legitimizing military force (for example, interventions to "save" women), rather than challenging the logic of war. The same pattern is seen across the WPS agenda: training and deploying more women peacekeepers occurs without questioning whether militaries should exist or how they operate. In the words of one critic, 1325 "has become... one of those hidden strategies of masculinised

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<sup>10</sup> A Nikoghosyan, 'Co-Optation of Feminism: Gender, Militarism and the UNSC Resolution 1325' (Heinrich-Böll-Stiftung / online, 26 Sep 2017) <https://feminism-boell.org/en/2017/09/26/co-optation-feminism-gender-militarism-and-uns-c-resolution-1325> accessed 29 Sep 2025.

militarisation”. Thus, the feminist message of 1325 has largely been absorbed by the international security architecture in name only, while the underlying patriarchy and militarism persist.

## **5.2. NARROW FRAMING OF EQUALITY**

A related form of resistance is the reduction of critical frameworks to narrow, manageable terms. For example, the WPS agenda tends to treat “women” as a single category, neglecting how gender intersects with race or class.<sup>11</sup> Scholars point out that 1325 “privileges gender above race, class or other significant relations of power”. Postcolonial feminists note that this erases the experiences of Black and Global South women. As Pratt observes, 1325 lacks “black/postcolonial feminist understandings of women, peace and war”. In practice, then, the agenda favours those women who already fit Western norms of empowerment, while leaving others invisible. Similarly, many trade and development initiatives highlight “women’s entrepreneurship” or labor force participation (concerns of relatively privileged women) but ignore how structural inequalities affect the rural poor. For instance, the WTO’s Gender Declaration has been criticized as focusing on “white, middle-class women” and failing to address how trade liberalization deepens exploitation of poor Southern women.<sup>12</sup> In short, by confining critique to acceptable categories (e.g. adding a “woman” checkbox or promulgating policy papers), global law absorbs only the liberal feminist critique and resists more radical demands.

## **5.3. MARGINALIZATION OF GLOBAL SOUTH INPUT**

The international system often sidelines TWAIL insights by privileging Global North agendas. As one commentator notes of WPS, the “global narrative of UNSCR 1325” mostly reflects Northern interests, treating the Global South “as a mere recipient” of policies. Others argue that powerful states use gender initiatives to impose favorable post-conflict policies on developing countries, all under the banner of “equality”. This dynamic is not limited to gender: in climate talks, debt relief campaigns, or trade negotiations, Southern proposals have repeatedly been diluted or vetoed by rich states. The very structure of international institutions (e.g. UNSC veto, IMF quotas, WTO voting rules) ensures that TWAIL critiques about unequal power go largely unaddressed.

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<sup>11</sup> S Basu, ‘The Global South Writes 1325 (Too)’ (2016) 37 Int Pol Sci Rev 362; N Pratt, ‘Reconceptualizing Gender...’ (2013) 57 Int Stud Q 772.

<sup>12</sup> Third World Network, “Pink-washing” the WTO with Draft Women’s Declaration? (26 Dec 2017) <https://www.twn.my/title2/wto.info/2017/ti171228.htm> accessed 27 Sep 2025.

## 5.4. REINFORCEMENT OF NEOLIBERAL STRUCTURES

One critical analysis observes that trade liberalization broadens the class divide with deleterious consequences for disadvantaged women, especially in the Global South.<sup>13</sup> The so-called “Gender Declaration” of the WTO emphasizes entrepreneurship and public procurement opportunities, but conspicuously ignores “the gendered impact of traditional trade issues such as agriculture, informal work... access to medicines”. These omissions reflect a systemic bias: gender initiatives exist, but the core economic agenda remains unchallenged. As Nancy Fraser cautions, calls for gender equality can become “a smokescreen” through which liberal feminism advances the neoliberal project.<sup>14</sup> In short, attempts to absorb feminist critiques in economics have largely been resisted by maintaining market-oriented policies.

## 6. CONCLUSION

This paper has argued that the international legal system today is marked by both absorption and resistance of feminist, CRT, and TWAIL critiques. On one hand, global institutions have taken on elements of these critiques embedding gender and diversity language in resolutions, policies, and norms. On the other hand, the underlying structures of power, hierarchy, and exclusion remain largely intact; indeed, many reforms have been co-opted to serve the status quo. In practice, this means that women, racial minorities, and Third World communities have often had to fit their concerns into the categories acceptable to existing international actors. Intersectional and decolonial voices in particular are frequently marginalized by a system that privileges Western liberal ideals.

The central thesis that international law simultaneously absorbs and resists critical traditions reflects this ambivalence. International law absorbs criticisms by appearing to respond (e.g. creating agendas like Women, Peace and Security, or recognizing race-based rights).

However, it suffers from problems with power and practice, leading to narrow definitions and exacerbating inequalities (for example, leveraging gender discourse to support militarism or shaping trade policies that harm the Global South). This dual dynamic is particularly evident in the Global South: the North initiates many ideological reforms and promotes them as universal. The South and civil society often devise new ways to employ these tools, only to face obstacles from powerful interest groups.

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<sup>13</sup> O E Fitzgerald, ‘Reshaping Trade through Women’s Economic Empowerment’ (CIGI, 2018)

<sup>14</sup> N Fraser, ‘How feminism became capitalism’s handmaiden — and how to reclaim it’ *The Guardian* (14 Oct 2013)

To truly defend international law, we need to do more than listen to critics. We must work to uphold its rules, address power imbalances, embrace diverse voices, and adapt realities to histories and differences. Only then can global law stop resisting critical approaches and begin to be shaped by them.

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