IJSSRR.COM
ISSN 2700-2497
International Journal of Social Science Research and Review (IJSSRR)
In collaboration with
3RD STUDENTS' LETTERS CONFERENCE, 2025
INSTITUTE OF SOCIOLOGY,
FACULTY OF SOCIAL SCIENCES, EÖTVÖS LORÁND
UNIVERSITY, BUDAPEST
CULTURAL CLUB
Special Issue: Social Change in Global Perspectives:
*Migration, Populism, Postcolonial Legacies, and the Language of Transformation*

# Decolonizing International Law?

A Decolonial Critique of Third World Approaches to International Law

**Fatma Ben Mustapha**

Doctoral School of Sociology, Faculty of Social Sciences, Eötvös Loránd University, Faculty of Social Sciences, Budapest, 1117, Hungary

Benmustaphafatma7@gmail.com

http://dx.doi.org/ 10.47814/ijssrr.v0i0.3456

***Abstract***

International law is often represented as a neutral and universal legal system; however, critical scholarship has illustrated the ways in which it is inextricably embedded in colonial histories and sustained by global power hierarchies. Third World Approaches to International Law emerged as a significant critical intervention, highlighting the Eurocentric underpinnings of international law and its unfair impact on the Global South. Although TWAIL has made valuable political and theoretical contributions, this paper argues that its decolonizing project remains limited since decolonization is an epistemic process rather than an exclusively historical or material one. The paper uses post-colonial theory to investigate how TWAIL regularly relies on inherited legal categories such as sovereignty and universality, categories constraining its critique. Through a qualitative analysis of TWAIL scholarship, the paper argues for the necessity of going beyond reformist engagement to epistemic questioning as a condition for the decolonization of international law.

***Keywords;*** *Decolonization; TWAIL; Legal Reform; Eurocentrism; Postcolonial Theory*

## *Introduction*

International law has always been presented as a neutral and universal system open to the vast majority of the international society (Dogaru, 2024). However, as critical literature has demonstrated, this neutrality obscures the structural and historical inequalities ingrained in the system. According to Third World Approaches to International Law (TWAIL), the system of international law is actually a system in which the Global South was politically and economically subordinate to the West (Singh, 2019). Furthermore, this claimed universality of international law has never been the case for the very reason that its origins are rooted in colonialism. It was never a mere product of European ingenuity and history; it is deeply intertwined with colonialism and the governing of the "uncivilized" non-European people

through the imperialistic civilizing missions and determined who could be recognized as civilized and sovereign (Anghie, 2006).

TWAIL emerged in the aftermath of the Second World War and during the era of decolonization as a critical scholarly framework and political project opposed to the structural biases and contradictions of international law, working against the interests of the Third World nations (Singh, 2019; Appiagyei-Atua, 2015). With strategies of deconstruction and reappropriation, TWAIL unmasks Eurocentric assumptions supporting international law's universalist pretensions and reconstructs international law on the basis of justice, equality, and democracy Appiagyei-Atua, 2015), and offers the possibility of thinking outside the Western idea of progress, in building "other possible worlds" (Mbembe, 2021, p.3). At its core, TWAIL emphasizes praxis, or the inseparable nexus between critical reflection and political action for transforming the global legal order (Natarajan et al., 2016). TWAIL tried to reappropriate international law in its benefit. In doing so, they advanced a set of principles that aimed to transform the very foundations of international law. First was self-determination, a key principle in the end of colonial rule (Appiagyei-Atua, 2015). Then there is Permanent Sovereignty over Natural Resources, premised on the belief of peoples to a natural and prior right over their own resources (Fatouros, 1964). Third is the New International Economic Order, which called for the wholesale restructuring of the global economic system to make it more equitable for the developing world (Sornarajah, 2006).

Despite its remarkable critical and political gains, this paper argues that TWAIL's engagement with international law raises an unresolved problem when decolonization is understood beyond the level of historical critique and material inequality. While TWAIL strongly challenges Eurocentrism in the origins, institutions, and distributive outcomes of international law, there is comparatively little attention to the epistemic foundations through which international legal knowledge itself is produced, validated, and reproduced. The result is that TWAIL may remain partially constrained by inherited Western legal categories-sovereignty, legality, and universality among them-even as it contests their unequal application.

Thus, the central research question of this paper is: To what extent does TWAIL remain constrained and limited by the legal and epistemic framework it seeks to challenge, and how do the epistemological basis of international law today influence and limit its critique?

This article adopts a post-colonial theoretical framework to analyse the limitations of Third World Approaches to International Law (TWAIL) in its role of decolonization. Decolonization here means more than the mere end of political control; it is an epistemological fight against coloniality, incorporated within the framework of the construction and reproduction of population knowledge in International Law. Although postcolonial and decolonial theories share the same concern with uncovering the legacies of colonial domination, they come from different intellectual backgrounds. Postcolonial theory, for instance, is rooted in literary and cultural studies, with a primary concern for analysing colonial discourse and the political and cultural legacies of colonial domination (Tsang, 2021). On the other hand, decolonial theory is rooted in Latin American social theory, with more concern for the idea of the "coloniality of power" and the persistence of Western knowledge formations in the contemporary era, long after the formal decolonization of the Third World (Quijano, 1993; Mignolo, 2011; Tsang, 2021). Despite these differences, both traditions converge in their critique of Western claims to universality and offer complementary analytical tools for examining how colonial epistemologies continue to shape international law.

The two core principles of this post-colonial theoretical framework include the dehumanization of Indigenous and the destitution of Indigenous institutions, the two ways through which colonial legality denied non-European societies the ability to make law and govern. While TWAIL highlights the European foundations for International Law, little is said regarding the ways in which this knowledge

continues to be reproduced through mimetic agency and through the mimetic reproduction of European legal knowledge in post-colonial societies. Through its focus on reproduction, this theoretical framework enables a decolonial critique of TWAIL itself, treating international law as a field of knowledge structured by enduring epistemic hierarchies rather than a neutral legal system.

Methodologically, the paper adopts a qualitative critical analysis of existing literature. The paper examines major TWAIL texts alongside historical and doctrinal analyses of international law's colonial foundations, focusing on how legal concepts such as sovereignty, development, and universality are framed and contested. Rather than offering a descriptive overview of TWAIL scholarship, the paper analytically tries to identify its epistemic assumptions, internal tensions, and limits as a decolonizing project.

Based on this methodological approach, the first section of the paper examines the colonial origin of international law, while the second section questions the approach adopted by TWAIL and applies a colonial critique to this school of thought, examining its underlying assumptions. Finally, the last section focuses on what decolonizing international law means beyond the engagement of the dominant legal framework.

## *The Colonial Origin of International Law*

Contemporary international law, as we know it today, is a system of orders open to the vast majority of international society. It consists of principles that are today considered fundamental to international law and are enshrined in the United Nations charter and other fundamental treaties, such as the principle of the sovereign equality of states, territorial integrity, political independence, and equality before the law, as well as the principle of non-intervention, and most relevant, the right of people to self-determination that guarantees the right to choose political status, economic, social and cultural development (Dogaru, 2024).

However, this claimed universality of international law is rooted in colonialism. The widely common belief that international law is a pure product of European ingenuity and history is characterized by a deeply rooted Eurocentric mindset that obscures its intertwinement with colonialism. Colonialism was not just a secondary element of international law; rather, it was at the core principle of sovereignty and the governing of the "uncivilized" non-European people through the imperialistic civilising missions (Anghie, 2006).

Historians such as J.H.W. Verzijl argue that the main essence of international law is the creation of the European mind, particularly the Western European one. It was born from European history and European experience and was later projected into the rest of the world that lay beyond the initial European legal sphere (Anghie, 2006). This does not mean that history exists only within the European experience. Rather, the centrality of European history in international legal narratives is a product of the historical dominance of European power and knowledge production. Thus, certain understandings of history have served to legitimate the status quo of the international system by positing the historical development of European history as the universal basis for international law, while negating alternative historical traditions and normative systems (McKeil, 2023). In this context, the concept of Sovereignty in its classical understanding emerged from the Treaty of Westphalia of 1648, which laid down the principle of equal sovereignty. However, the emergence of decolonization should not be seen as an extension of this European legal system into colonized peoples. Decolonization, in fact, should be seen as a product of the political struggles of colonized societies. Its philosophical significance, as expressed by Achille Mbembe, is a "will to community" or a "will to life," in which these colonized peoples attempted to reconstitute political existence "beyond" colonial domination (Mbembe, 2021).

However, critics argue that this view of sovereignty omits a crucial fundamental question which why non-European states were considered to be not sovereign to start with. In this sense, sovereignty is not merely the creation of European history, but exclusion lies at its very core. Exclusion was used as a tool for justifying imperial goals and ruling over the territories and people that were considered non-sovereign. At the core of this distinction between sovereign and "non-sovereign" is the distinction between what is then called "civilised" and "uncivilised". Thus, the perceived cultural difference is what fundamentally influenced the doctrine and legal concept of sovereignty. International law became universal because of colonialism and its attempt to bring the uncivilized under European rule (Anghie, 2006). Here, the formalism of international law is best demonstrated, which is the process of giving legal form to power relations and converting political domination into legal legitimacy (Laghmani, 2021).

The writing of the Spanish theologians of the school of Salamanca in the sixteenth century demonstrates further the colonial foundation of international law. Francisco de Vitoria is at the centre of this intellectual movement, which attempted to adapt European expansion into the Americas with a universal legal and moral order. His lectures articulated principles which later jurists saw as the foundational tenets of international law, long before the systematic works of Hugo Grotius. By the late nineteenth century, Vitoria was officially celebrated as the "founder" of modern international law, because his framework seemed to offer a universally justifiable basis for the application of European norms beyond Europe (Koskenniemi, 2010).

Vitoria's thought emerged directly from the context of colonization. He reinterpreted the Roman law concept of dominium, meaning lawful power or ownership, into a system dividing public authority from private property, thereby legitimizing the pursuit of trade and economic expansion under a moral guise. While he acknowledged that Indigenous peoples possessed dominium and rightful ownership of their lands, he simultaneously portrayed their political communities as lacking lawful sovereignty. This contradiction transformed Spanish intervention into a legal duty. His notion of a universal right to travel and trade (ius peregrinandi et negotiandi) further implied that Indigenous resistance amounted to injustice (iniuria), legitimizing conquest as self-defence. Thus, the ius gentium became the legal instrument through which European powers universalized their commercial and civilizing mission. The School of Salamanca's legacy survives in international law's structure: a universalist system born from empire and framed in the language of legality and moral order (Koskenniemi, 2010).

During the nineteenth century, the era of intense imperial expansion, international law went through a fundamental transformation. Its previous bases in natural law, which had laid claim to a universal moral foundation, gave way to a Eurocentric conception of "civilization" now projected as the legal consciousness of an allegedly developed world. This shift gave international law a mission civilisatrice, painting colonialism as both lawful and necessary for human progress. The emerging discourse set a "standard of civilization" that had a decisive power over which societies could enjoy sovereign statehood. Enshrined in the theory of recognition, this standard legally distinguished European people from their non-European Others, designating them as inferior, and excluded from the realm of the international legal order (Rademarhcer, 2023).

The simultaneous emergence of positivism reinforced this Eurocentrism: the positivist jurists asserted that international law applied only to "civilized" states, and the racial and cultural factor remained a criterion for deciding who qualified. Non-European societies, denied legal personality, were thus treated as objects of conquest rather than subjects of law. (Rademarhcer, 2023). Scholars like John Westlake argued that "government is the test of civilization," legitimizing intervention wherever European forms of governance were absent. Positivists such as Franz von Holtzendorff further naturalized these hierarchies by claiming that international law's "ethnographic basis" validated the classification of peoples. By the end of the century, the European expansion had globalized this legal order, embedding imperial domination within the very structure of international law (Rademarhcer, 2023).

The period of classical international law. Just as contemporary international law is founded on the principle of equal sovereignty of nations, but of just civilized nations, the creators and subjects of international law are thus the beneficiaries of all rights. The rest are divided between savages and semi-civilized states (Laghmani, 2021). Concepts such as terra nullius, which means Nobody's land, were used to qualify lands inhabited by people considered savages (Rademarhcer, 2023). They were not considered as subjects of international law and thus they do not have any legal personality, and their land is open to occupation without any treaty needed for that (Laghmani, 2021). Semi-civilized states had their quality of states recognized, but they had to confide the management of their foreign affairs to another civilized state and thus lose the external sovereignty, which usually gave way to the loss of internal sovereignty as well. Such "contracts" between the civilized and semi-civilized states are usually called a protectorate, such as the Bardo treaty in Tunisia of 1881(Laghmani, 2021).

This principle of equal sovereignty among civilized states gave way to different approaches to controlling the rest of the world, such as the open-door policy. This theory emerged in the late nineteenth century and early twentieth century in relation to China and later expanded to other colonies. It was a response to the monopolistic and exclusionary practices of colonial states, to demand equal access among the civilized nations and non-discrimination in trade, tariffs, and investment opportunities. Thus, equal sovereignty between states, as we know it, was first reinforced to promote equality among imperial powers to exploit the rest of the world (Culberston, 1919). Another practice of that time was the capitulation system, under which foreigners in non-European countries were under the rule of their own law rather than the law of the country of their residency. They also had to be under internal standards that implied European control. European governance was portrayed as indispensable and unavoidable for achieving "civilization and stability." Siam, nowadays Thailand, is one example of the countries that were never officially colonised but had to accept such treaties (Anghie, 2006).

This institution of occupation led to competition between civilized nations, threatening peace. In this context, the Berlin conference of 1885 was held. During this conference, European states negotiated based on what occupation titles they should divide the occupied lands. Among the titles of contracts with indigenous people, discovery title, and effectivity one, the latter was adopted (Laghmani, 2021). The Berlin conference demonstrates how doctrines were adopted to prevent conflicts between the civilized nations and ensure peace between them.

## *The Decolonial Critique of Third World Approaches to International Law*

### 1. Decolonial Discourse Analysis

This section proposes a post-colonial and decolonial discourse analysis as its methodological framework. This research paper approaches TWAIL as a discursive formation situated within the epistemic framework of modern international law (Quijano, 1993). A discourse analysis in this way is not merely concerned with what is asserted in TWAIL, but with how that claim is made intelligible, authoritative, or persuasive in the dominant legal order (Maldonado-Torres, 2025).

Through the lenses of the decolonial tradition, discourse is seen as a space where power, knowledge, and subjectivity intersect (Quijano, 1993). International law is consequently approached not as a language that is apolitical or purely technical, but as a colonial epistemic order that sets the limits of what is known, can be said, and can be acknowledged as law (Mignolo, 2011). This is based on the decolonial thought that argues that colonial power can extend beyond the end of colonial politics through the colonization of knowledge production (Quijano, 1993; Trindade, 2025).

TWAIL literature formulates its critique of international law through categories inherited from international legal discourse, such as sovereignty, universality, legality, and development. These categories are not considered analytical categories; instead, they are epistemically produced forms of knowledge that originated from European modernity (Mignolo, 2011). TWAIL criticism of international law does not challenge universality. Moreover, from a decolonial perspective, this form of critique does not fully interrogate the epistemic hierarchies that authorize international law as "law" in the first place (Trindade, 2025). Additionally, TWAIL's vision of the "Third World" as a unified political subject risks reiterating the same classificatory mode of modernity and coloniality that historically resulted in the production of global hierarchies of civilization and development (Mignolo, 2011).

By positioning TWAIL discourse within this epistemology, the analysis will identify where TWAIL both resists and reproduces the coloniality of international law. This approach seeks neither to invalidate TWAIL as an ineffective political movement nor as an incoherent theory. On the contrary, this approach seeks to demonstrate the limits of the critique when the object of critique itself remains an unquestionable political framework (Maldonado Torres, 2025). That approach to post-colonial theory offers the necessary analytical lenses to question how international law is continuously being reproduced as a universal framework, including within critical scholarship (Spivak, 1988; Chatterjee, 2011; Mignolo, 2011).

In this regard, the discourse analysis conducted within this paper directly relates to the objective research of the paper, which is to critically apply a decolonial approach to TWAIL to assess the decolonization of international law at an epistemic level (Quijano, 1993).

## 2. Third World Approach to International Law and the Coloniality of Legal Epistemology

As previously stated, TWAIL's objective is the transformation of international law into a system based on justice rather than a hierarchy of power (Yildiz, 2023). However, TWAIL fails to address the "coloniality of power" that is perpetuated by the colonization of the methods of knowledge production itself. As Aníbal Quijano argues, modernity and coloniality were "born on the same day". The colonial encounter between Europeans and black and indigenous people is a constitutive and foundational moment in its emergence (Trindade, 2025). According to the decolonial critique, TWAIL remains confined in a European paradigm of rational knowledge within which the continued "secularization of authority" in legal discourse rejects any non-Western forms of knowledge level (Quijano, 1993). TWAIL approaches risks reproducing epistemic coloniality, where the European-made law is considered the universal law (Mignolo, 2011).

## 3. Dehumanization and the coloniality of the legal subject

International law is founded on a colonial infrastructure, in particular a "coloniality of being", that defines who is human and not human. This occurs through the process of going from ego cogito (I think) to the ego conquiro (I conquer), allowing Europeans to determine their presence through the negation of the ontological struggle of others who resisted colonialism (Trindade, 2025). Efforts within TWAIL to advance protection for Third World peoples often overlook how the international law's subject itself was constituted historically through "logic of continental racialization." Which is considered non-European as inhuman or barbarians (Mignolo, 2011). Insofar as the racialized face of the coloniality of being, the "encounter with death always comes too late, as it were, since death is already beside them as a constant threat" (Maldonado-Torres, 2007, p.143). In this sense, the project of existence is an attempt to overcome the colonial condition of racialized being in which death and disposability are structurally embedded. Thus, decoloniality is not the result of the encounter between the racialized subject and death but is an attempt to escape the condition in which death is normalized as a structural element of their existential experience. The existential condition of the subject is not just historical and social, but is deeply embedded in the ontological structure of international law itself. This existential condition of the subject

goes beyond being merely historical or social in itself, but it is deeply involved in the ontological structure of international law itself (Trinadade, 2025). TWAIL's focus on human rights and other legal concepts could actually perpetuate the "savages-victims-saviours" approach, continuously constructing the Third World as victims in need of rescue by a Western-made legal framework (Yildiz, 2023). However, the process of decolonization requires the reversal of this racialized ontological regime that always places the "other" in a lower position.

## 4. Mimetic Reproduction and the limits of legal emancipation

Coloniality persists for the very reason that modern power structures remain the main element in the organization of labor, authority, and knowledge through racialized hierarchies. In this context, mimetic reproduction can be described as the reproduction of Epistemologies in postcolonial societies, which are mostly imposed by virtue of being accepted within the global system (Trindade, 2025). Mimetic agency contends that postcolonial actors are not mere recipients of European models but are actively reproducing them since the global order rewards imitation and punishes those who dare to epistemically diverge (Trindade, 2025). TWAIL often imagines emancipation through the use of international law as a site of resistance, while from a decolonial perspective, by using international law, one has to obey the same rules that make international law authoritative (Mignolo, 2011). If international law operates as an epistemic regime, then the pursuit of recognition via international law can become a mechanism of reproduction: postcolonial states may be accorded formal sovereignty while reproducing European legal rationality as the singular valid template of governance and legitimacy. (Quijano, 1993) In this sense, TWAIL's strategy of reappropriation can appear ambivalent from a decolonial perspective: it seeks justice via international law while leaving untouched the epistemic basis through which what counts as justice in legal form is defined. (Mignolo, 2011) The decolonial critique does not wish away the strategic value of legal struggle; it insists merely that strategy should not be mistaken for decolonization when the epistemic monopoly of modern legality is left unchallenged.

## 5. Representation and the silencing of the subaltern

The question of Gayatri Spivak's "Can the subaltern speak?" provides a powerful lens through which TWAIL's claims to speak on behalf of marginalized subjects can be questioned. Scholars who consider themselves representatives of the subaltern engage in epistemic violence by erasing alterity and reducing the "Other" to an object to be analysed rather than how colonial discourse has always constructed the subaltern as a subject whose speech and political agency are denied. Her use of the distinction between vertreten (political or legal representation) and darstellen (theoretical or discursive re-presentation) shows how the "native informant" is reduced to providing experiential data that is then passed through dominant European theoretical frames. For example, the formalization of "customary" or "indigenous" norms by postcolonial scholars within international law can be viewed as a form of epistemic violence where heterogeneous practices are reduced to rigid legal forms framed within Western structures. In this sense, TWAIL scholars run the risk of acting as the "bearers" of subaltern consciousness without adequate reflection on their own positionality within the global production of knowledge and thus result in the reproduction of the very hierarchies they aim to contest (Spivak, 1988).

## 6. The Necessity of Epistemic Delinking

The geopolitics of knowledge in Mignolo's critical discourse on "Latin America" is based on the construction of modern concepts from particular locations of power and then declares such concepts universal. In fact, the question of universalism goes beyond being an intellectual mistake; it is also a geopolitical tool through which European knowledge maintains its validity and undermines other epistemological traditions. In this sense, it can be said that the universalism of international law implies geopolitics of global hierarchy of knowledge in which European legal rationality remains the ultimate

means of validating its own and others' legality (Mignolo, 2011).

Delinking does not mean withdrawing from international politics, but the refusal of the epistemic authority of European modernity as the single horizon of reason (Mignolo, 2011). By relying on the universalist form of legality as the way to justice, this legality can reproduce coloniality even when the content of legal claims is emancipatory (Quijano, 1993). Decolonizing international law means disrupting this epistemic monopoly on universality through plural normative frameworks, which modern law has consistently subordinated. (Mignolo, 2011).

### *Beyond TWAIL: Rethinking The Meaning of Decolonizing International Law*

The question that follows from the previous analysis is how the project of decolonizing international law can be meaningfully conceptualized beyond TWAIL. If international law is built upon colonial epistemologies, then decolonization cannot be merely a process of critique, inclusion, or reform within the existing system. Rather, it necessitates the rethinking of the role of international law itself within global structures of knowledge and power (Quijano, 1993; Maldonado-Torres, 2025).

From a decolonial perspective, international law has to be recognized as simply one normative order among many, and certainly not as the universal grammar of international justice. The coloniality of power has produced and perpetuates its own historical and epistemological system in its understanding of legality, its priorities, its values, and above all its commitment to European modernity as its horizon and its prime reference (Mignolo, 2011). Thus, decolonizing international law means protesting its epistemological monopoly, not in rejecting law in general, but in rejecting its monopoly and its claims of universality as the exclusive way of organizing the world (Quijano, 1993). In this sense, decolonial thought opens the way to a "pluriverse," a world that is characterized by the coexistence of different epistemologies, laws, and forms of social organization, rather than their submission to a single universal model. Decolonization, as a result, involves the creation of space for the plurality of normative systems and forms of knowledge beyond the epistemic frontiers established by modern international law (Escobar, 2020).

This has profound implications for the imagined role of international legal power. Rather than aiming to optimize international law through participation and development, the decolonial approach encourages the recognition of the co-existence of various normative worlds, which international law has traditionally subordinated or made invisible (Mignolo, 2011). This recognition does not entail the idealization of non-Western systems of law, but rather the acknowledgement that modern law's position is contingent, situated, and deeply shaped by colonial history (Trindade, 2025).

In this respect, decolonization also entails a re-evaluation of the relationship between law and political imagination. As Maldonado-Torres (2025) asserts, coloniality limits not only political outcomes but the very horizons of what can be imagined as legitimate political action. By making international law's language of justice the default one, other models of political and legal organization can easily end up being deemed illegible or irrational. Thus, decolonizing international law entails broadening the space of the political imagination beyond its realm (Quijano, 1993).

Additionally, in relation to the role of postcolonial states and institutions in maintaining international legal knowledge, Decolonization must be understood not only as a response to external colonial rule, but also in relation to internalized colonial epistemological orders in post-colonial societies (Quijano, 1993). International law continues to be taught and practiced through academic and institutional orders, which reproduce European legal rationality as the norm of expertise and epistemological superiority (Trindade, 2025).

This does not mean disengagement from international law altogether. International law remains a site of struggle and contestation-especially for marginal actors fighting against violence, dispossession, and domination (Maldonado-Torres, 2025). Yet a decolonial approach insists that such an engagement be underpinned by epistemic vigilance: a recognition of the limits of law and a refusal to equate legal success with decolonization itself (Mignolo, 2011). Law might be a strategic tool, but it mustn't be treated as a clear or adequate vehicle for emancipation.

In this light, the decolonization of international law appears not as a goal or an end-state but rather as an ongoing epistemic practice. This means ongoing questioning of the categories, assumptions, and hierarchies through which international legality is constituted and reproduced (Quijano, 1993). Rather than pursuing a final decolonized version of international law, the task is to keep open the possibility of other normative horizons that challenge the authority of modern legal reason (Maldonado-Torres, 2025).

This paper seeks to move beyond a critique of the colonial origins of international law to engage with the epistemic structures that sustain its authority. Decolonizing international law, therefore, requires resistance not only to the injustice within the law but a sustained effort to unsettle law's claim to universality and to reopen the political imagination to forms of normativity that modern international law has historically excluded (Mignolo, 2011).

## *Conclusion*

This paper has demonstrated that Third World Approaches to International Law struggles and attempts at reappropriating international law remain limited by the same legal and epistemological categories it seeks to contest. A decolonial critique emphasizes that a reformist approach to international law alone cannot achieve decolonization; rather, it necessitates challenging the coloniality inherent in the creation of international legal knowledge itself. A call to decolonize international law must, therefore, be understood as an ongoing struggle to question and challenge the authority of international law through alternative paradigms of thought.

## *Statements and Declarations*

The author gratefully acknowledges Sumit Kumar, Research Associate at the Department of Social Theory, Faculty of Social Sciences, Eötvös Loránd University, for his valuable comments on the draft of this paper. No specific funding was received for this work. This article does not involve human participants or animals. The author declares no conflict of interest. Fatma Ben Mustapha is the sole author and is responsible for all aspects of the work. No additional information is available.

## *References*

Anghie, A. (2006). The evolution of international law: Colonial and postcolonial realities. *Third World Quarterly*, *27*(5), 739–753. https://doi.org/10.1080/01436590600780011

Appiagyei-Atua, K. (2015). Ethical Dimensions of Third-World Approaches to International Law (twail): A Critical Review. *African Journal of Legal Studies*, *8*(3-4), 209–235. https://doi.org/10.1163/17087384-12342063

Chatterjee, P. (2011). *Lineages of political society: Studies in postcolonial democracy*. Columbia University Press.

Culbertson, W. S. (1919). *The "Open Door" and Colonial Policy*. American Economic Association. Retrieved from American Economic Association website: https://www.jstor.org/stable/1814011

Dogaru, M. (2024). FUNDAMENTAL PRINCIPLES OF INTERNATIONAL LAW. *Journal of Law and Administrative Sciences*, (21).

Escobar, A. (2020). *Pluriversal politics: The real and the possible* (D. Frye, Trans.). Duke University Press.

Fatouros, A. A. (1964). International Law and the Third World. *Virginia Law Review*, *50*(5), 783. https://doi.org/10.2307/1071592

Koskenniemi, M. (2010). *COLONIZATION OF THE "INDIES" THE ORIGIN OF INTERNATIONAL LAW?*

Laghmani, S. (2021). L'ordre juridique international. Retrieved November 10, 2025, from Edition Nirvana website: https://nirvanaedition.com/produit/lordre-juridique-international/

Maldonado-Torres, N. (2025). Aníbal Quijano and the Decolonial Turn. *Theory, Culture & Society*. https://doi.org/10.1177/02632764241303701

Mbembe, A. (2021). *Out of the Dark Night: Essays on Decolonization*. New York; Chichester, West Sussex: Columbia University Press. https://doi.org/10.7312/mbem16028

Mignolo, P., The, W., Malden, A., & Blackwell, M. (2005). *Mignolo's Idea of Latin America: Race, Place, and the*.

Natarajan, U., Reynolds, J., Bhatia, A., & Routledge, S. (2016). *THIRD WORLD APPROACHES TO INTERNATIONAL LAW On Praxis and the Intellectual THIRDWORLDS TW BOOKSERIES thirdworldquarterty*.

Tsang, M. (2021, January 21). Decolonial? Postcolonial? What does it mean to "decolonise ourselves"? – Decolonising Modern Languages and Cultures. Retrieved from School of Modern Languages, Newcastle University website: https://blogs.ncl.ac.uk/decolonisesml/2021/01/21/decolonial-postcolonial-what-does-it-mean-to-decolonise-ourselves/

Quijano, A. (1993). The Postmodernism Debate in Latin America. *Duke University Press*, *20*(3), 140–155.

Rademacher, I. (2023). Droit international, eurocentrisme et colonialisme : de la hiérarchisation des civilisations et des peuples à travers des exemples de la théorie juridique allemande. *Revue d'Allemagne et Des Pays de Langue Allemande*, *55*(1), 25–40. https://doi.org/10.4000/allemagne.3516

Singh, A. (2019). Third World Approach to International Law. *International Journal of Law 1 International Journal of Law*, *5*(5), 2455–2194.

Sornarajah, M. (2006). *ARTICLES POWER AND JUSTICE: THIRD WORLD RESISTANCE IN INTERNATIONAL LAW* (pp. 10–19).

Trindade, L. (2025). Coloniality: The Social Theory of Aníbal Quijano. *Latin American Perspectives*, 52(6), 72–90. https://doi.org/10.1177/0094582x251388473

Yıldız, E. (2023). Postcolonial Approaches to International Human Rights Law: The TWAIL Case. *Public and Private International Law Bulletin*, *43*(1), 353–369. https://doi.org/10.26650/ppil.2023.43.1181972