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Perspectives

An Essay on TWAIL-Blazing Neo-Liberalism

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ABSTRACT

This essay provides a critique of Liberalism from the lens of Third World Approaches to International Law (TWAIL) which has emerged as an intellectual and political movement that critiques the Eurocentric foundations of international law and exposes its role in sustaining hierarchies between the First and Third Worlds. At its core, TWAIL insists that international law has historically functioned as a vehicle of colonial domination and continues to reproduce dependency through contemporary economic and political arrangements. The rise of neoliberalism since the late twentieth century marked by deregulation, liberalization, and privatization has reinforced this critique by demonstrating how international legal regimes are mobilized to legitimize Western hegemony.

KEYWORDS: Third World Approaches to International Law (TWAIL), Neo-Liberalism, Liberalization, Privatization, Western Hegemony

INTRODUCTION

The contemporary world is a spinoff of colonial imperialism. It is not a fallacy to assume that most of the “International Laws” are a product of Westphalia. Most of the global norms are skewed in

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favor of the former colonial overlords. I argue that the very idea of “Liberalism” in the way it is understood is colored with overarching notion of colonialism. As we sit here in a Post-Colonial Nation, debating if we should import liberalism, we tend to ignore the discriminatory origins of the term. One cannot discount the predatory origins of economic liberalization when trying to “strike a balance”. Another question emerges –is there a need for a “balance” for the capitalist or the consumer? In this essay, I explore the need for striking a balance. There is a need for an *indigenous-multipolar-understanding* of the word - “*Liberalization*”. Albeit a bit rudimentary, the TWAIL perspective emerges as a solution for the predicament we find ourselves in.

Third World Approaches to International Law (TWAIL) emerged as an intellectual and political movement that critiques the Eurocentric foundations of international law and exposes its role in sustaining hierarchies between the First and Third Worlds. At its core, TWAIL insists that international law has historically functioned as a vehicle of colonial domination and continues to reproduce dependency through contemporary economic and political arrangements. The rise of neoliberalism since the late twentieth century marked by deregulation, liberalization, and privatization has reinforced this critique by demonstrating how international legal regimes are mobilized to legitimize Western hegemony.

A CLASSIC CASE OF INDIA

India provides a compelling case study. India entered the global neoliberal order with its 1991 reforms, ushered in under the pressure of an acute balance of payments crisis. The reforms signaled integration into global markets but also invited a new form of dependency on transnational capital and international legal institutions. This essay, through a TWAIL lens, interrogates whether liberalization is inherently Eurocentric, how it perpetuates First World–Third World dichotomies, and whether international law has become the legitimizing framework of re-colonization. It further considers India’s responses, critiques development as a Trojan horse, and envisions alternative world orders rooted in social justice.

Liberalization is often presented as a “natural order” of economic life, equated with progress, modernity, and efficiency. Yet TWAIL insists that this is a Eurocentric narrative. Liberalization draws its intellectual pedigree from European Enlightenment ideals of free markets, individual

property rights, and contractual freedom, universalized as if they represent the inevitable trajectory of all societies. This Eurocentrism erases the diversity of non-European economic histories, including India's long traditions of community-based resource management and state intervention in markets.

In the Indian context, liberalization was not born of endogenous demand but of exogenous compulsion. The International Monetary Fund and World Bank, acting as custodians of neoliberal orthodoxy, tied structural adjustment programs to loans during India's 1991 crisis. Liberalization thus emerged less as a free choice and more as a coerced adoption of Eurocentric economic rationality. From a TWAIL perspective, this reveals how international law and institutions normalize Western economic models while delegitimizing alternatives.

Despite the rhetoric of globalization as flattening hierarchies, the First World–Third World dichotomy persists through trade and investment regimes. The World Trade Organization exemplifies this divide. While developed states like the United States and members of the European Union maintain massive agricultural subsidies, developing countries such as India are pressured to dismantle protections for their farmers in the name of free trade. India's struggle over agricultural subsidies in WTO negotiations highlights the structural imbalance. When India defends its public stockholding programs for food security, it faces scrutiny under WTO rules, while subsidies in the Global North are tolerated. This asymmetry perpetuates the colonial logic of extraction: the First World secures advantages while the Third World is disciplined into compliance. TWAIL interprets this not as a failure of the system but as its very design international law is calibrated to preserve the North–South divide.

One of the defining features of neoliberal globalization is the emergence of a transnational capitalist class. Comprising multinational corporations, financial institutions, and global elites, this class transcends national boundaries and shapes international law in its image. Bilateral investment treaties (BITs), international arbitration, and intellectual property regimes all serve to entrench their interests. The influx of foreign direct investment after 1991 created pressure on the Indian government to adapt domestic policies to suit global capital. Labor law reforms, stronger intellectual property protections under TRIPS, and deregulation of key sectors reflect how

sovereignty is eroded in favor of the transnational capitalist class. TWAIL critiques this as a form of neo-liberalization that is not nation-driven but capital-driven, reproducing inequalities between and within states. Liberalization, under the neoliberal framework, functions as re-colonization through law and markets rather than territorial conquest. TWAIL scholars argue that while colonial empires have formally ended, international institutions perpetuate similar patterns of control.

India's confrontation with the United States and the European Union over agricultural subsidies demonstrates this. Western states, by shielding their own farmers while demanding that India open its markets, replicate colonial economic hierarchies. When India resists, it is cast as obstructive, echoing colonial tropes of the "uncivilized" resisting progress. Neocolonialism thus operates through the logic of "liberalize or perish," where access to global capital and trade is conditioned on compliance with neoliberal rules.

International law functions as the legitimizing discourse of neoliberalism. Rules on investment, intellectual property, and trade embody Western priorities while masquerading as universal norms. The "standard of civilization," once used to exclude non-European states from sovereignty, has been rearticulated in terms of "good governance," investor protection, and rule of law. In India's case, bilateral investment treaties have allowed foreign corporations to sue the government in arbitral tribunals for policy changes that affect profits. This reveals how international law internalizes Western property rights and imposes external scrutiny on domestic policymaking. Sovereignty is not eliminated but conditioned, operating under the shadow of neoliberal legal frameworks. Against this backdrop, TWAIL calls for an alternative vision of international law centered on social justice. This requires moving beyond the narrow focus on state sovereignty toward the rights of peoples. TWAIL emphasizes redistributive justice, historical reparations, and recognition of the legacies of colonialism.

India's own history resonates with these themes. The Bandung Spirit of 1955, emphasizing solidarity, non-alignment, and alternative models of development, remains an inspiration. Calls for reparations from Britain, spearheaded by Indian leaders in recent years, illustrate a reassertion of TWAIL's demand that colonial plunder be acknowledged and compensated. International law must be re-imagined not as a tool for disciplining the Third World but as an instrument of

emancipation. Historically, international law was preoccupied with sovereignty, diplomacy, and warfare. Today, economics dominates the field. The establishment of the WTO, proliferation of BITs, and role of the IMF and World Bank have transformed international law into a regime of economic governance.

For India, this shift is significant. Sovereignty is eroded not by territorial conquest but by economic conditionalities. Moreover, the state is no longer the sole actor in international law. Corporations, arbitral tribunals, and even civil society actors shape the rules of the game. TWAIL highlights the danger of this transition: when economics overshadows politics, questions of justice and equity are sidelined in favor of efficiency and profit. The rhetoric of development, central to postcolonial international law, has become a Trojan horse for neoliberalism. TWAIL critiques how development discourse masks coercion: countries are pressured to liberalize as a precondition for aid, investment, and recognition.

India's 1991 reforms exemplify this logic. Liberalization was presented as a necessity for survival, a cure for economic malaise. Yet, it was imposed under conditions of debt and crisis, leaving little space for democratic deliberation. The idea that there is no alternative ("TINA") delegitimizes any vision of development outside the neoliberal framework. In TWAIL terms, development is not a gift but a weapon, an ideological tool for neocolonial control. TWAIL advances a radical re-conceptualization of sovereignty: it must belong to peoples, not merely to states. This critique arises from recognition that postcolonial states themselves often reproduce internal hierarchies and marginalize vulnerable communities.

In India, liberalization has often dispossessed indigenous peoples and marginalized farmers. Land acquisition for industrial projects, displacement for infrastructure, and erosion of labour protections highlight how state sovereignty can conflict with peoples' sovereignty. By reframing sovereignty as a collective right of people, TWAIL insists that international law must protect the interests of communities, not merely the prerogatives of states or corporations. The neoliberal order is not unipolar but constituted by multiple empires: the United States, European Union, China, and increasingly powerful multinational corporations. TWAIL describes this as "plutocratic law," where rules are crafted by and for elites, insulating wealth and power.

India finds itself navigating among these multiple empires. On the one hand, it resists Western dominance in WTO negotiations; on the other, it seeks South-South solidarity through BRICS and the G-77. Yet without a justice-oriented framework, multipolarity risks reproducing hierarchies in new forms. TWAIL's intervention is to insist that plurality alone is insufficient; justice must anchor any reordering of global governance.

The way forward requires both restoration and rethinking. Restoration refers to reviving the Bandung Spirit of solidarity and resistance to imperial domination. Rethinking demands that developing countries, including India, interrogate neoliberal frameworks such as BITs and trade agreements that curtail sovereignty. The "foot in the door" approach of incremental liberalisation must be resisted, as it gradually entrenches neoliberal orthodoxy until it becomes irreversible. India's recent reconsideration of its BIT regime is a step in this direction, signaling recognition that earlier treaties excessively empowered foreign investors. Restoration and rethinking also involve protecting labour markets, defending food security, and asserting peoples' sovereignty.

CONCLUSION

TWAIL exposes the neoliberal order as a continuation of colonialism through law and economics. Liberalization is not a neutral policy but a Eurocentric project that reinforces the First World–Third World dichotomy, empowers a transnational capitalist class, and legitimizes neocolonial hierarchies. For India, liberalization has meant both opportunity and dependency, participation and subjugation. Yet India's resistance in challenging WTO rules, reconsidering BITs, and calling for reparations demonstrates that alternatives are possible. TWAIL urges an international law that prioritizes people's sovereignty, reparative justice, and plural visions of order rooted in social justice. Liberalization may be cast as the "natural order," but TWAIL reminds us that orders are constructed and thus can be reimagined.

The contemporary world order, as illuminated by Third World Approaches to International Law (TWAIL), is an intricate tapestry of colonial legacies, neoliberal ambitions, and competing visions of modernity. In revisiting the trajectory of liberalization in India and its intersections with global capitalism, one observes not merely an economic policy shift but the profound existential reordering of social, political, and intellectual life. To bring together the threads of Heidegger's

averageness, the alienation of the worker, the dominance of the transnational capitalist class, and the promises of liberalism amid fractured class consciousness, one must conclude that the neoliberal project sustains itself not only through law and markets but also through its capacity to normalize itself as the inevitable horizon of human existence.

Heidegger's notion of *averageness*, the leveling down of thought, experience, and individuality into monotonous conformity resonates deeply with the neoliberal era described in TWAIL scholarship. Liberalization, framed as a universal good, silences alternative imaginaries in precisely this fashion. The so-called "natural order" of markets becomes a background condition of existence, unquestioned and omnipresent. Workers, communities, even entire nations become absorbed into this *they-world* where dissent appears deviant and revolutionary transformation seems unnecessary, even utopian in the pejorative sense. Yet, as TWAIL reminds us, this order is not natural; it is constructed atop colonial extractions and maintained by legal regimes that masquerade as neutral and universal.

This brings us to the separation of the worker from the thing he works upon Marx's classic alienation reappearing in neoliberal attire. Under colonialism, the worker was dispossessed through brute conquest; under neoliberalism, dispossession occurs through legal instruments, investment treaties, intellectual property rights, and market orthodoxies. The worker toils not for communal sustenance or self-actualization but for distant shareholders, transnational boards, and abstract growth metrics. The *thing* — whether land, labor, or intellectual production — is severed from lived realities and reconstituted as capital. TWAIL's critique of the transnational capitalist class underscores this alienation: a global elite transcends nations, manipulating laws and institutions to protect its interests while communities bear the costs of displacement, debt, and ecological precarity.

At the so-called *existentialist café* of global governance, states of the Global South find themselves sipping from the cup of liberalization, often under duress. Like the intellectuals of mid-20th-century Europe grappling with freedom, absurdity, and responsibility, postcolonial nations confront a paradox: they are formally sovereign yet constrained by structures of finance, trade, and law that reproduce colonial hierarchies. India's 1991 reforms, undertaken amidst crisis, exemplify

this existential condition. The choice to liberalize was less an embrace of freedom than an act of survival in a world where “There Is No Alternative” (TINA) had become the neoliberal mantra. And yet, as TWAIL notes, alternatives do exist they are simply delegitimized, rendered invisible, or dismissed as radical nostalgia.

The question of *utopia* thus acquires renewed significance. If neoliberalism presents itself as the *end of history*, a horizon beyond which no systemic change is conceivable, TWAIL and allied thinkers insist on the necessity of utopian imagination. But this utopia, as you noted, may not require a singular revolutionary rupture. Rather, it demands the patient, plural reimagining of international law, sovereignty, and development beyond the metrics of profit and growth. It asks whether solidarity, reparations, and peoples’ sovereignty can replace the compulsions of debt, conditionalities, and capital mobility.

Yet the road to such transformation is obstructed by fractured *class consciousness*. Classical Marxism located revolution in the awakening of a unified proletariat, forged through shared suffering under industrial capitalism. Neoliberalism, however, individualizes hardship: the indebted farmer, the laid-off worker, the displaced villager experience precarity in isolation, mediated by markets and often blamed for their own conditions. The transnational capitalist class, shielded by investment treaties and arbitration tribunals, faces no such fragmentation; its power is coordinated, legalized, and global. This asymmetry explains why resistance often manifests not as international solidarity but as localized protest important yet insufficient against systemic forces. TWAIL’s call for sovereignty seeks to bridge this gap, insisting that international law must protect not only state borders but also the rights and dignity of communities eroded by neoliberal development.

The *intersections* here between colonial legacies and neoliberal reforms, between existential alienation and legal domination, between utopian yearning and political fragmentation reveal that liberalism itself is not monolithic. As the document shows, Indian thinkers and leaders have long wrestled with *competing bourgeois liberalisms*: the colonial liberalism of empire, the nationalist liberalism of postcolonial state-building, and the neoliberalism of global markets. Each promised freedom; each delivered it partially, unevenly, and in ways entangled with domination. The current

phase, dominated by transnational capital, reduces freedom to the freedom of the market while other freedoms of self-determination, of dissent, of economic experimentation shrink under global regulatory disciplines.

And yet, history reminds us that no order is permanent. The same international law once used to justify colonialism became a language for anticolonial struggles in the twentieth century. Today, as India and other nations contest WTO hierarchies, withdraw from exploitative investment treaties, and demand reparations for colonial loot, one glimpses the faint stirrings of a counter-hegemonic project. It may lack the drama of revolution, but in rethinking sovereignty, development, and law itself, it carries the seeds of systemic transformation

In this sense, the *existentialist café* reopens: the world sits at a table where the menu is not fixed, where the future remains unwritten. The task, as TWAIL and allied philosophies suggest, is to refuse the *averageness* that normalizes injustice, to overcome the alienation that fragments solidarities, and to expose the transnational capitalist class that hides behind the veil of markets and treaties. Liberalism need not vanish, but it must be decolonized, democratized, and disentangled from the myth that equates freedom with finance and justice with growth.

Ultimately, the struggle is both material and imaginative. Material, because it confronts land dispossession, labor exploitation, and legal domination; imaginative, because it seeks to envision a world where law serves people rather than capital, where development means dignity rather than displacement, and where sovereignty empowers communities rather than merely states. This dual task echoes across the themes we began with: Heidegger's warning against conformist *averageness*, Marx's concern over alienated labor, the existentialists' insistence on meaning amid absurdity, and TWAIL's demand for justice in a world still scarred by empire.

The conclusion, then, is neither a rejection of liberalism in toto nor an uncritical embrace of its neoliberal variant. It is a call to multiply liberalisms — to recover the suppressed traditions of solidarity, equality, and pluralism buried beneath colonial and capitalist appropriations. It is to recognize that the *natural order* of markets is no more natural than the divine right of kings once was; that like all orders, it can be challenged, reimagined, and replaced. And it is to affirm, against

the despair of TINA, that alternatives not only exist but are already emerging in the resistances, solidarities, and ideas that refuse to accept neoliberalism as the horizon of history.

The task ahead is immense. But as TWAIL, existentialist thought, and the long struggles against empire all remind us, history moves not only through crises and coercion but also through courage — the courage to think beyond the given, to act beyond the permissible, and to dream beyond the probable. Liberalization may have arrived as a coercive necessity in 1991, but its future — and that of international law itself — remains open to those willing to confront its myths, challenge its hierarchies, and construct, patiently yet persistently, a more just world order. The future of international law must lie not in sustaining plutocratic capitalism but in restoring solidarity, protecting the vulnerable, and rethinking global governance in terms of justice.

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