

EDITORIAL NOTE

In recent years, many have proclaimed the death of international law, citing its repeated failures to protect the most vulnerable and its inability to hold powerful states accountable. Yet this crisis is not new. For decades, post-colonial societies have approached the institutions and doctrines of international law with a healthy suspicion, born from a history of exploitation and exclusion.

This scepticism first found expression in the Non-Aligned Movement, as newly decolonised nations in Asia and Africa charted an independent course through Cold War geopolitics. Refusing to be drawn back into the orbit of imperial powers, these states rejected the predatory bargains of neo-colonialism and sought to participate in international politics on their own terms.

With the end of the Cold War, these patterns were merely reshaped. Under the banner of a ‘rules-based international order’, the 1990s witnessed the proliferation of new institutions and legal regimes, largely steered by the United States and its allies. It was against this backdrop that Third World Approaches to International Law (‘TWAIL’) emerged as a critical discipline, driven by scholars committed to asking how international law continued to reproduce structures of dominance. In this regard, we are honoured to have Prof. (Dr) BS Chimni, one of the foremost thinkers of TWAIL, contribute the Foreword to this Issue.

TWAIL compels us to see international law not merely as a system upholding sovereignty and global cooperation, but as a historical and ongoing project of imperial power. Today’s global crises starkly illuminate why this critical lens is indispensable. For nearly two years, Israel’s relentless assault on Palestinian civilians in Gaza has proceeded with impunity, underwritten by the repeated use of the United States’ Security Council veto to block a permanent ceasefire. Meanwhile, the very language of international law is routinely invoked to justify wars of aggression as acts of global guardianship, whether in Russia’s ongoing invasion of Ukraine or in other theatres of conflict.

Beyond the realm of armed conflict, the same hierarchies pervade international economic and corporate regimes. The World Trade Organization, champion of neo-liberal trade policy, has long been criticised for sustaining unequal exchanges that allow First World economies to flood Southern markets and destabilise local industries. At the same time, domestic courts in Western states exploit gaps to protect corporate interests in foreign jurisdictions, whether

by enabling Nestlé and Cargill to evade responsibility for child labour in West Africa, or by protecting Union Carbide in the aftermath of the Bhopal disaster.

In this context, TWAIL's mission to expose and challenge how international law continues to uphold the subjugation of the Global South is more pressing than ever. However, TWAIL itself is not without its critiques and complexities.

Through this RSRR Issue, we seek to examine both the promises and the shortcomings of international law across varying contexts, bringing together six contributions from students and leading TWAIL scholars alike.

In *Navigating the Tensions Between Universal International Criminal Justice and Third World Obstacles: An Analysis of the Ljubljana-The Hague Convention*, Akshith Sainarayan and BV Sai Rishi examine how the Convention, despite its promise of bolstering global justice mechanisms, places disproportionate burdens on Third World states by disregarding their resource constraints and legal contexts. They call for reforms through principles of common but differentiated responsibilities and stronger regional cooperation.

Rohan Karan Mehta, in *Nutcracker or Sledgehammer? A TWAIL Perspective on Proportionality Test in Indirect Expropriation*, critiques the use of the proportionality test in international investment law, arguing that it imports Eurocentric standards that erode regulatory sovereignty in the Global South. As a more equitable alternative, he advocates adopting the sole effects doctrine.

In *Prosecuting Corporations Under International Criminal Law: Who is it Protecting?*, Pulkit Goyal highlights how the Rome Statute's exclusion of corporate criminal liability undermines the legitimacy of international criminal law. Through a TWAIL lens, he reveals how the state–corporate nexus and selective ICC prosecutions protect powerful actors from accountability.

Rashmi Raman, in *Reimagining Victimhood Under International Law – From Margins to Mandate: Transitional Justice, Legal Personality and Lessons from the Bhopal Gas Disaster*, critiques the fragmented and impersonal treatment of victims in international legal regimes. Using the Bhopal gas disaster as a case study, she calls for a more relational and agency-focused approach, showing how domestic experiences expose critical gaps in global frameworks.

Kailash Jeenger's *Third World View of the Laws of Armed Conflict: An Introduction* traces how these laws were historically crafted by colonial powers

to serve imperial interests, excluding colonised peoples and dismissing anti-colonial struggles. His paper argues that the Eurocentric character of these laws continues today, privileging powerful states while marginalising Third World realities.

Lastly, in *TWAIL and the Question of Caste and Misappropriation of Decolonisation: Some Provocations*, Vijay Kishor Tiwari and Madhav Pooviah critique TWAIL's shortcomings in addressing internal hierarchies such as caste and warn against the co-optation of decolonial narratives by Hindu nationalist forces. They argue that without confronting Brahminical dominance and the exclusion of minorities, TWAIL risks becoming a merely performative exercise.

The Editorial Board, together with the Peer Review Board, has dedicated considerable time and effort to shortlist and finalise these contributions. This Issue would not have been possible without the thoughtful collaboration of all our authors and the unwavering commitment of the Editorial Board. With this, we are proud to present Volume 10, Issue 2 of the RGNUL Student Research Review.

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