

Decolonizing International Law: The Impact of Postcolonial Theory on Legal Norm Formation

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This article investigates how postcolonial theory has influenced the formation of legal norms in international law and examines the implications of these theoretical contributions for the legitimacy, inclusivity, and epistemic foundations of global legal governance. Using a scientific narrative review and descriptive analysis method, this study synthesizes academic literature published between 2019 and 2024. Peer-reviewed journal articles, scholarly books, and legal commentaries were selected through systematic searches across major academic databases. The analysis is guided by key postcolonial concepts such as subalternity, hybridity, and epistemic violence, with thematic attention to international law's colonial legacy and contemporary challenges in legal norm formation. The review reveals that international law continues to reflect Eurocentric assumptions rooted in its colonial past. Postcolonial theory challenges these assumptions by exposing structural inequalities in the development and enforcement of legal norms. Case studies such as the New International Economic Order, the Declaration on the Right to Development, and the international recognition of Indigenous rights illustrate how postcolonial actors have shaped normative agendas despite institutional limitations. The analysis also identifies growing demands for epistemic decolonization, South-South legal solidarities, and pluralistic models of norm-building. Postcolonial theory has significantly reshaped the discourse of international law by foregrounding issues of power, voice, and legitimacy. While challenges remain in translating critique into enforceable legal change, the theoretical and normative contributions of postcolonial scholarship have created critical openings for a more inclusive and equitable global legal order.

Keywords: Postcolonial theory, international law, legal norm formation, decolonization, epistemic justice, Global South, legal pluralism.

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1. Introduction

The need to reassess the foundational assumptions of international law has become increasingly urgent in recent years, particularly as formerly colonized states continue to confront the persistent structural inequalities embedded in global legal institutions. While the field of international law often projects itself as a

neutral and universal discipline, its historical trajectory reveals deep entanglements with empire, conquest, and racialized hierarchies. This history has not only shaped the legal doctrines and institutions that govern the international order today but has also limited the possibilities for genuine inclusion and normative diversity within global governance. In response to these legacies, postcolonial theory has emerged as a powerful



intellectual force aimed at deconstructing the epistemic and political foundations of international law and advocating for more equitable frameworks of norm formation.

International law as it is presently constituted cannot be fully understood without reference to its colonial past. Legal structures that were ostensibly created to govern relations between sovereign equals in practice functioned to justify and perpetuate imperial domination. From the sixteenth century onward, European empires deployed international legal norms to rationalize conquest, subjugation, and dispossession of non-European peoples. These early legal justifications were embedded in doctrines that classified non-European societies as uncivilized or legally inferior, thus legitimating their exclusion from the community of nations. As articulated by scholars such as Antony Anghie and later expanded by others, the so-called “civilizing mission” of international law became a mechanism through which European powers imposed legal norms on colonized territories while simultaneously denying them the full benefits of legal subjecthood.

The rise of postcolonial theory in legal scholarship has brought renewed attention to these historical injustices. Drawing on critical traditions in literature, history, and political theory, postcolonial legal scholars seek to unveil the normative and epistemological biases that continue to shape international legal discourse. Key figures in this intellectual movement have emphasized the persistence of colonial power relations under the guise of legal neutrality and universality. B. S. Chimni, for instance, challenges the assumption that international law ever operated as a truly universal project, arguing instead that it has historically served the interests of dominant powers under the guise of formal equality (Chimni, 2024). Similarly, Sundhya Pahuja and Makau Mutua have critiqued the liberal humanitarian foundations of international law for masking structural inequalities and perpetuating dependency. This critical engagement has led to the emergence of the Third World Approaches to International Law (TWAIL), a collective effort to expose the neocolonial underpinnings of contemporary legal regimes and to imagine alternative pathways for normativity grounded in the experiences and priorities of the global South.

The emergence of postcolonial theory has thus created a fertile ground for interrogating the processes through which legal norms are created, disseminated, and legitimized. As Chantal Thomas has noted, postcolonial critiques compel us to examine how international legal norms often reflect the values and interests of a limited set of actors while purporting to represent universal principles (Willey-Sthapit, 2023). This disjunction between the purported universality of legal norms and their actual origins in Western epistemes underscores the need for a decolonial lens in international law. A decolonial approach does not simply seek to revise existing doctrines; rather, it demands a fundamental rethinking of what constitutes valid legal knowledge, who has the authority to articulate norms, and how those norms are implemented across diverse cultural and political contexts.

The aim of this review is to examine how postcolonial theory has influenced the formation of legal norms in international law and to assess the implications of this influence for the future of global legal governance. Rather than offering an exhaustive account of all postcolonial critiques, the review focuses on key themes and representative case studies that illustrate the transformative potential of decolonial thinking. By tracing the ways in which postcolonial scholars have challenged traditional assumptions about sovereignty, human rights, development, and legal subjectivity, the review seeks to highlight both the limitations of existing legal frameworks and the possibilities for creating more inclusive and context-sensitive forms of legal normativity. The scope of the review includes a critical analysis of theoretical debates, doctrinal developments, and institutional practices, with particular attention to how power asymmetries continue to shape the global legal order. Through this lens, the article aims to contribute to the growing body of scholarship that seeks to decolonize international law and to envision a more equitable and pluralistic international legal system.

2. Methodology

This study adopts a scientific narrative review design based on a descriptive analysis method, focusing on the impact of postcolonial theory on legal norm formation in international law. A narrative review is particularly suited for synthesizing a complex and interdisciplinary body of scholarship, as it enables the researcher to trace

conceptual developments over time and analyze their implications for legal doctrine and institutional practice. The review is guided by a poststructural and critical legal studies framework, emphasizing the deconstruction of dominant legal narratives and the amplification of subaltern perspectives. The descriptive analysis method facilitates a structured yet flexible examination of themes emerging from the literature, allowing for the interpretation of legal norms within their broader historical, political, and epistemological contexts. Special attention is paid to the ways in which power relations shape the creation, dissemination, and contestation of legal norms, particularly in postcolonial societies.

The data for this review consist of peer-reviewed journal articles, scholarly books, book chapters, and legal commentaries published between 2019 and 2024. The selection of literature was conducted through comprehensive searches in academic databases including JSTOR, HeinOnline, Scopus, Westlaw International, and Google Scholar. Keywords used in the search included “postcolonial theory,” “international law,” “legal norm formation,” “decolonization,” “Third World Approaches to International Law (TWAIL),” “global South,” and “legal epistemology.” Inclusion criteria focused on works that explicitly applied postcolonial theoretical insights to analyze legal norms or international legal institutions, particularly in areas such as sovereignty, human rights, development, indigenous law, and global governance. Priority was given to high-impact publications that have significantly influenced the field, as well as to emerging voices from the global South that challenge the hegemony of Euro-American legal epistemes. The selected literature includes works published in journals such as *Leiden Journal of International Law*, *Third World Quarterly*, *The European Journal of International Law*, *International Journal of Law in Context*, and *Transnational Legal Theory*. Exclusion criteria involved commentaries that addressed colonial history without engaging postcolonial theoretical frameworks or those that discussed legal normativity without reference to global asymmetries or epistemic critique.

The analysis was conducted using a thematic approach informed by the descriptive analysis method. First, all selected texts were subjected to an initial reading to identify recurring theoretical constructs, such as subalternity, legal pluralism, epistemic violence, and

norm contestation. This phase also involved mapping the historical trajectory of colonial and postcolonial critiques in international law discourse. In the second phase, a deeper interpretive reading was carried out to extract how these constructs are mobilized to interrogate specific areas of international legal norm formation. The descriptive method allowed the classification of literature into categories such as critiques of sovereignty and statehood, challenges to the universality of human rights, contestations in international development law, and emerging alternative norm-building processes grounded in regional or indigenous legal orders. Throughout the analysis, emphasis was placed on identifying both convergences and divergences within the literature, highlighting tensions between reformist and radical approaches to decolonization. To ensure academic rigor and theoretical coherence, the analysis was iteratively refined to include cross-references among authors and schools of thought, paying close attention to how legal norms are contextualized within broader socio-political struggles for decolonization.

3. The Colonial Foundations of International Law

The origins of international law are deeply entwined with the history of European imperial expansion, where legal doctrines and institutions were designed not only to regulate relations among European states but also to justify their domination over non-European territories. The development of international law during the early modern period was marked by the emergence of Eurocentrism as a defining feature of legal thought. This Eurocentrism manifested in the formulation of the “standard of civilization,” a doctrine that became a central criterion for determining which states or peoples could be considered part of the international community. Those deemed uncivilized were excluded from full participation in international legal processes and were often subject to coercive forms of legal inclusion, including colonization and forced treaties. As argued by Sundhya Pahuja and echoed by recent scholars such as E. Ç. Yildiz, this standard operated as a gatekeeping mechanism that entrenched Western dominance while presenting itself as a neutral and objective measure of legal progress (Yildiz, 2023).

The administrative structures of colonial governance further entrenched these legal hierarchies. Colonial

powers established legal systems in their overseas territories that replicated the hierarchies of the imperial metropole while subordinating indigenous legal orders. These systems were characterized by dual legal regimes—one for colonizers and another for the colonized—that reinforced racial and cultural hierarchies through law. As Charlotte F. Moran has argued, the imposition of international criminal law in postcolonial contexts often replicated these colonial power dynamics, casting formerly colonized peoples as subjects to be governed rather than agents of legal authority (Moran, 2023a). Moreover, the transplantation of European legal systems into colonial contexts was frequently justified through the rhetoric of modernization and civilizational uplift, thereby masking the violent and extractive nature of legal colonization.

Legal doctrines such as *terra nullius* and *uti possidetis* provided the formal legal justifications for conquest and the retention of colonial boundaries. The doctrine of *terra nullius*, for instance, allowed European powers to claim territories as legally unoccupied if they did not recognize the land tenure systems of indigenous peoples. This legal fiction enabled widespread expropriation of land and the displacement of native populations, particularly in settler-colonial contexts. As noted by Gordon Christie, such doctrines were instrumental in framing indigenous resistance as illegitimate and outside the bounds of legal protection (Christie, 2019). The doctrine of *uti possidetis*, on the other hand, served to preserve colonial borders at the moment of decolonization, thereby freezing the territorial arrangements imposed by imperial powers and perpetuating conflicts rooted in colonial cartography. This legal continuity highlights the extent to which international law has functioned to stabilize, rather than dismantle, colonial legacies.

The broader implication of these doctrines and administrative structures is that international law developed not as a body of norms reflecting a global consensus but as a tool of empire. As articulated by Getachew in her political theory of decolonization, the legal order created during the colonial period was structured around the imperative of maintaining imperial control, often through the manipulation of legal categories such as sovereignty and jurisdiction (Getachew, 2019). This legacy continues to shape the architecture of the international legal system,

particularly in the ways that legal subjectivity and normativity are distributed. Even in contemporary international law, the voices and legal traditions of formerly colonized societies are often marginalized or filtered through frameworks developed in the global North.

Thus, the colonial foundations of international law are not merely historical artifacts but living legacies that continue to structure global legal relations. As scholars such as A. Elmuradov have emphasized, any serious engagement with international law must grapple with the epistemic and political consequences of these colonial roots (Elmuradov, 2021). The persistence of Eurocentric assumptions about legal rationality, legitimacy, and authority underscores the urgency of postcolonial critique and the necessity of rethinking international law through a decolonial lens. This rethinking involves not only revisiting the past but also challenging the present configurations of power that determine whose norms are recognized, whose knowledge is validated, and whose rights are protected in the international legal system.

4. Postcolonial Theory: Key Concepts and Legal Critique

Postcolonial theory emerged as a powerful interdisciplinary framework that interrogates the cultural, political, and epistemological legacies of colonialism in formerly colonized societies. Drawing from fields such as literary criticism, cultural studies, and political philosophy, the theory was significantly shaped by scholars like Edward Said, Homi Bhabha, and Gayatri Chakravorty Spivak, whose collective work revealed how colonial domination extended far beyond territorial control and operated through the production of knowledge, identity, and representation. Said's foundational work, *Orientalism*, exposed how Western knowledge systems constructed the East as inherently inferior and irrational, legitimizing colonial governance through a system of epistemic domination. Bhabha's notion of hybridity challenged essentialist binaries between colonizer and colonized, suggesting that colonial identity was always marked by ambivalence and mimicry, while Spivak's concept of the subaltern underscored the silencing of oppressed voices within hegemonic discourses.

In legal studies, these conceptual tools have provided critical insight into how international law has historically marginalized non-Western epistemologies. Legal scholars inspired by postcolonial theory have demonstrated that international law functions not merely as a set of neutral rules but as a historically contingent and politically charged field. These critiques are rooted in the recognition that international law emerged as a product of colonial modernity, embedding within it assumptions about civilization, sovereignty, and legality that privileged European states while excluding or subordinating others. As B. S. Chimni has argued, international legal doctrines have consistently reflected the interests of dominant states, operating under a veneer of universality that obscures their selective and exclusionary foundations (Chimni, 2024).

One of the central contributions of postcolonial theory to international legal critique is the concept of subalternity. Spivak's provocative question, "Can the subaltern speak?" underscores the epistemic exclusion that postcolonial subjects face even in regimes ostensibly committed to inclusion and rights. Within international law, subaltern voices are often incorporated only to the extent that they conform to dominant legal rationalities. For instance, the discourse on human rights frequently presupposes liberal individualism as a normative ideal, marginalizing collective or culturally specific understandings of justice. This critique is particularly salient in the context of minority rights and indigenous legal claims, where recognition often requires translation into terms legible to international institutions, thereby muting the subaltern voice through the very act of inclusion (Shahabuddin, 2021).

Hybridity, another key postcolonial theme, has also found resonance in legal scholarship. Rather than treating legal systems as static or monolithic, hybridity reveals the dynamic and contested nature of legal identity in postcolonial contexts. Legal systems in many formerly colonized states reflect a complex amalgam of indigenous customs, colonial legacies, and contemporary global norms. As C. F. Moran observes, international legal frameworks often fail to account for this hybridity, instead imposing universal standards that erase local specificity and agency (Moran, 2023b). By foregrounding hybridity, postcolonial scholars challenge the assumption that legal progress entails convergence

toward a singular model of legality rooted in Western norms.

Epistemic violence, a term coined by Spivak and taken up in legal studies, refers to the ways in which knowledge production can silence and devalue alternative worldviews. In the international legal context, epistemic violence manifests through the prioritization of Western legal traditions and the marginalization of non-Western contributions to legal thought. This is evident in the construction of legal histories that center European innovations while rendering invisible the legal systems and philosophical traditions of colonized societies. As noted by C. Willey-Schapit, postcolonial theory demands an ethic of epistemic justice that involves both recognizing and engaging with the plurality of legal knowledge systems across the globe (Willey-Schapit, 2023).

Postcolonial critiques have also been directed at specific domains of international law, including sovereignty, human rights, and development. The doctrine of sovereignty, long considered a cornerstone of international law, has been scrutinized for its Eurocentric origins and its deployment to exclude non-European polities from legal recognition. As I. D. Loshkariov argues, the classical conception of sovereignty was predicated on European historical experiences and was used to delegitimize non-Western political orders, thereby justifying their subordination under colonial rule (Loshkariov, 2022). Even after decolonization, the Westphalian model of sovereignty continued to dominate, often clashing with the lived realities of postcolonial states.

The human rights regime has similarly come under postcolonial scrutiny for universalizing particular cultural values while overlooking structural inequalities. While international human rights law purports to protect all individuals, postcolonial theorists argue that it often serves as a vehicle for Western moral and political hegemony. S. Biswas points out that the selective application of human rights norms—especially in humanitarian interventions—reinforces global hierarchies and perpetuates a neocolonial civilizing discourse (Biswas, 2024). Furthermore, the framing of rights in individualistic terms frequently fails to resonate in communal or indigenous societies, thereby limiting the transformative potential of the human rights project.

International development law has perhaps been the most prominent target of postcolonial critique, given its explicit lineage in colonial discourses of modernization and progress. Development initiatives, particularly during the mid-20th century, often replicated colonial patterns of extraction and control under the guise of aid and modernization. As M. F. Aminuddin argues, postcolonial states were frequently positioned as passive recipients of expertise, rather than as active agents shaping their own trajectories (Aminuddin, 2022). This critique underscores the continued dominance of Western states and institutions in defining the goals, metrics, and methodologies of development, reinforcing the dependency that decolonization ostensibly sought to overcome.

Thus, postcolonial theory offers a powerful framework for interrogating the foundations, practices, and aspirations of international law. By foregrounding concepts such as subalternity, hybridity, and epistemic violence, it compels legal scholars and practitioners to question the assumed neutrality and universality of legal norms. In doing so, postcolonial legal critique opens space for alternative visions of legality rooted in pluralism, historical accountability, and epistemic justice.

5. Postcolonial Challenges to Legal Norm Formation

The challenge that postcolonial theory poses to international legal norm formation lies fundamentally in its interrogation of the questions: whose norms are being codified, and whose voices are heard in the process? International law has long claimed universality, yet the mechanisms through which legal norms are negotiated, codified, and enforced are deeply unequal. Postcolonial scholars argue that the supposed neutrality of international norm formation often disguises asymmetries of power and influence, particularly between states of the global North and those of the global South. These asymmetries manifest not only in institutional representation but also in the epistemological foundations of what counts as valid legal reasoning.

Legal norm formation in bodies such as the United Nations and the World Trade Organization continues to reflect historical imbalances. In the United Nations Security Council, for instance, the permanent membership and veto power of a handful of states

institutionalize a hierarchy that marginalizes the influence of postcolonial states in global security governance. As S. Routh highlights, the structural design of international institutions often reflects colonial-era power distributions, and efforts to reform these structures have been repeatedly stalled or diluted (Routh, 2024). Similarly, in the World Trade Organization, norm formation processes are driven by states with greater economic and political clout, leading to trade rules that often disadvantage developing economies. This creates a normative environment in which the voices of weaker states are either co-opted or excluded altogether, calling into question the legitimacy of the resulting legal norms.

The claim to universality in international law is further undermined by its selective application. D. Lustig argues that contemporary international law often returns to informal modes of empire under the guise of legality, as powerful states bypass or reinterpret norms to suit their strategic interests (Lustig, 2020). This uneven application not only delegitimizes legal norms but also erodes the faith of postcolonial societies in the fairness and objectivity of international law. The supposed universality of legal norms is thus exposed as contingent on geopolitical interests, undermining their normative authority.

In response to these asymmetries, postcolonial scholars and states have advocated for alternative approaches to norm formation rooted in legal pluralism, regionalism, and customary law. Legal pluralism challenges the idea that a single, universal legal system can address the diverse needs and histories of the global community. Instead, it emphasizes the coexistence of multiple legal orders—customary, religious, indigenous, and formal state law—and the need for international law to engage with this complexity. As T. Maluwa notes, African states have contributed to international law through regional treaties that reflect indigenous values and legal traditions, thereby offering a pluralistic alternative to dominant legal frameworks (Maluwa, 2020).

Regionalism has also emerged as a strategy for resisting normative dominance. Through regional organizations such as the African Union or ASEAN, postcolonial states have sought to articulate legal norms that reflect their specific historical and cultural contexts. While regional legal instruments are often subordinated to global treaties, they serve as important sites of resistance and

norm innovation. C. L. Lim has argued that regional norm-making efforts can challenge the hegemony of Western-centric legal principles by reasserting the agency of postcolonial states in shaping international law (Lim, 2024). These efforts are not merely reactive; they represent a proactive attempt to redefine legal subjectivity and sovereignty on more equitable terms.

Customary law also offers a critical entry point for postcolonial engagement with international norm formation. Unlike treaties and formal legal instruments, customary law emerges from the consistent practices and legal consciousness of communities over time. It thus embodies a form of legal authority that is not beholden to the institutional hierarchies of global governance. As M. Sabaratnam notes, postcolonial approaches to customary law challenge the idea that legal validity must be grounded in formal institutions, instead emphasizing legitimacy rooted in social practice and historical continuity (Sabaratnam, 2022). However, customary law has often been marginalized or reinterpreted within international forums to align with dominant legal expectations, diluting its radical potential.

Ultimately, postcolonial critiques of legal norm formation underscore the necessity of reimagining international law as a genuinely inclusive and dialogical project. This requires not only structural reform of international institutions but also epistemic humility—an acknowledgment that no single tradition holds a monopoly on legal wisdom or normative authority. As C. F. Moran asserts, achieving epistemic justice in law involves listening to voices that have long been silenced and creating space for alternative visions of legality to flourish (Moran, 2023b). Only by addressing the asymmetries of voice and power in norm formation can international law begin to shed its colonial legacy and move toward a more just and pluralistic global legal order.

6. Case Studies of Postcolonial Influence on Norm Formation

The influence of postcolonial theory on the development of international legal norms becomes particularly visible when examining certain transformative moments and initiatives spearheaded by states from the Global South. Among the most significant examples are the push for a New International Economic Order (NIEO), the adoption

of the Declaration on the Right to Development, and the increasing incorporation of Indigenous rights into international legal discourse. These case studies highlight the enduring tensions between normative innovation and structural constraint, while also showcasing how postcolonial resistance can shape legal narratives, institutions, and practices.

The call for a New International Economic Order (NIEO) in the 1970s was one of the earliest and most explicit efforts by postcolonial states to reconfigure the global legal and economic order in a manner that reflected the realities and demands of newly independent nations. Originating from the Non-Aligned Movement and articulated through the United Nations General Assembly, the NIEO sought to redress the economic imbalances that had persisted after formal decolonization. It called for greater control over natural resources, fairer trade terms, and increased development assistance for the Global South. A central legal component of the NIEO involved the push to reassert permanent sovereignty over natural resources, which challenged existing doctrines that prioritized transnational corporate rights and investment protections.

While the NIEO did not result in binding legal instruments, its normative impact was substantial. As A. Elmuradov has pointed out, the NIEO's demands fundamentally challenged the liberal capitalist foundations of international economic law, offering a decolonial alternative grounded in solidarity and redistribution (Elmuradov, 2021). The proposal also foregrounded the role of postcolonial states as norm entrepreneurs, pushing back against a global economic regime designed to perpetuate dependency. Scholars such as S. Routh have argued that the NIEO served as a key moment in the assertion of Third World agency in legal norm formation, even as its institutional realization remained constrained by geopolitical resistance from the Global North (Routh, 2024).

Another pivotal example of postcolonial influence on legal normativity is the Declaration on the Right to Development, adopted by the United Nations General Assembly in 1986. This declaration conceptualized development not merely as an economic objective but as a human right encompassing political, social, and cultural dimensions. It affirmed the right of peoples to participate in, contribute to, and enjoy economic, social,

cultural, and political development, thereby centering human dignity and collective agency. The Right to Development emerged from the frustrations of postcolonial states with the failures of traditional development models, which had often reproduced colonial patterns of control under the guise of modernization.

C. L. Lim argues that the Right to Development marked a turning point in international legal discourse, as it explicitly linked development to the realization of other human rights and placed obligations on the international community to create an enabling environment for development (Lim, 2024). The declaration reflects a distinctly postcolonial critique of the structural inequalities embedded in international economic law and offers a vision of global justice rooted in historical accountability. However, as M. F. Aminuddin notes, the declaration's non-binding nature and lack of effective enforcement mechanisms have limited its transformative potential, raising questions about the sincerity of global commitments to development justice (Aminuddin, 2022). Despite these limitations, the Right to Development continues to serve as a normative reference point in contemporary debates on trade, investment, and climate finance.

The growing recognition of Indigenous rights in international law represents another significant outcome of postcolonial critique. Indigenous movements across the world have long challenged the legitimacy of legal systems that denied their sovereignty, dispossessed them of land, and suppressed their cultural practices. The adoption of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007 marked a major step in acknowledging the rights of Indigenous communities to self-determination, land, language, and legal pluralism. While the declaration was the result of decades of advocacy, its roots lie in postcolonial resistance to the erasure of indigenous epistemologies and legal systems.

According to G. Christie, the recognition of Indigenous rights in international law reflects a gradual shift toward accepting legal pluralism and challenging the hegemony of Western legal frameworks (Christie, 2019). However, the process of codifying Indigenous rights has also exposed the limits of international law's capacity to accommodate radical difference. The language of rights, often grounded in liberal individualism, can clash with

Indigenous conceptions of collective identity and relational responsibility. Moreover, as C. F. Moran argues, the recognition of Indigenous rights often remains symbolic unless accompanied by mechanisms for enforcement and restitution, underscoring the gap between legal recognition and material justice (Moran, 2023a).

Finally, the realm of climate justice has become an increasingly prominent site for postcolonial engagement with legal norm formation. Global South states have played a critical role in pushing for a more equitable approach to climate governance that takes into account historical emissions, differentiated responsibilities, and the unequal capacity of states to respond to climate change. The concept of "common but differentiated responsibilities" (CBDR), enshrined in the United Nations Framework Convention on Climate Change (UNFCCC), reflects a normative compromise that acknowledges postcolonial critiques of environmental law. As P. Saksena observes, Global South actors have used climate negotiations to assert their normative perspectives, resist technocratic solutions, and demand reparative justice for environmental harm rooted in colonial exploitation (Saksena, 2023).

This case illustrates how postcolonial states and civil society actors can shape the language and priorities of international legal instruments, even within highly unequal negotiation settings. Yet, as D. Lustig emphasizes, the actual outcomes of climate negotiations often fall short of these aspirations, as powerful states continue to shape the agenda and limit redistributive commitments (Lustig, 2020). Nevertheless, the climate justice movement demonstrates the continuing relevance of postcolonial thought in rethinking the normative foundations of international environmental law and asserting alternative frameworks rooted in ecological sovereignty, intergenerational justice, and communal rights.

7. Critical Evaluation: Achievements, Limitations, and Future Directions

Postcolonial theory has significantly altered the intellectual landscape of international legal scholarship, prompting critical reflection on the historical foundations, normative assumptions, and institutional practices of global legal governance. One of its most tangible achievements has been the expansion of

recognition and participation within international law. Through sustained critique and activism, postcolonial scholars and states have succeeded in bringing attention to the structural inequalities embedded in legal institutions and have contributed to the development of new legal instruments and discourses that better reflect the diversity of global legal traditions.

Increased participation of Global South actors in international forums has facilitated greater representation of postcolonial perspectives in norm negotiation. For example, the inclusion of Global South priorities in discussions surrounding sustainable development, digital equity, and climate finance demonstrates the normative impact of postcolonial engagement. As M. Sabaratnam notes, the presence of these actors has led to the diversification of legal agendas and the gradual destabilization of the myth of Western universality (Sabaratnam, 2019). Likewise, the broader inclusion of Indigenous peoples, women, and marginalized groups in international legal processes indicates an opening toward more inclusive and participatory norm formation.

Yet, these gains in recognition are frequently undercut by profound limitations in enforcement and norm internalization. Legal norms that reflect postcolonial aspirations—such as the Right to Development or Indigenous sovereignty—often remain aspirational, with limited practical impact. As G. E. K. Dzah points out, the absence of binding obligations and accountability mechanisms means that many of these norms are honored more in principle than in practice (Dzah, 2019). Moreover, the gap between recognition and implementation is exacerbated by the continued dominance of powerful states in setting the agenda and interpreting international norms, often sidelining postcolonial concerns through procedural or technical constraints.

This tension between formal inclusion and substantive marginalization underscores the need for a deeper transformation in the epistemic foundations of international law. Postcolonial scholars increasingly advocate for epistemic decolonization—an effort to challenge the dominance of Western legal thought and to create space for alternative ways of knowing and governing. As P. Sharma argues, decolonizing legal epistemology involves not only recognizing non-Western legal traditions but also rethinking the

hierarchies of knowledge that determine what counts as law and who gets to produce it (Sharma, 2024). Epistemic decolonization calls for a pluralistic legal order in which diverse normative systems are engaged on equal footing, without being subsumed under Western categories.

A related imperative is the fostering of South-South legal solidarities—networks of cooperation and mutual learning among postcolonial states that can serve as counterweights to Northern dominance in legal norm formation. These solidarities have taken the form of regional legal initiatives, such as African human rights instruments or Latin American jurisprudence on environmental rights, which articulate shared normative commitments outside the frameworks of Western-led institutions. As M. Felsch cautions, however, South-South cooperation must also be critically examined to avoid reproducing internal hierarchies or uncritically mimicking Northern models (Felsch, 2023). The challenge lies in building solidarities that are both structurally transformative and epistemically plural.

Looking ahead, postcolonial legal scholarship is increasingly focused on developing new models of norm-building that are participatory, inclusive, and historically grounded. These models emphasize the importance of dialogical processes, local agency, and contextual specificity. For example, C. Willey-Sthapit emphasizes the need for participatory methodologies in legal research that engage communities not merely as subjects of law but as co-producers of legal knowledge (Willey-Sthapit, 2023). Similarly, S. Biswas calls for a reorientation of international law toward justice rather than order, prioritizing the lived experiences and struggles of marginalized peoples over abstract doctrinal coherence (Biswas, 2024).

In conclusion, the postcolonial engagement with international law has generated important gains in recognition, critical insight, and normative innovation. At the same time, it faces persistent challenges related to enforcement, epistemic dominance, and structural inertia. The task now is to move beyond critique toward the construction of legal orders that are genuinely inclusive, pluralistic, and emancipatory. This requires not only institutional reforms but also a fundamental reimagining of what international law is, whom it serves, and how it is formed. Through sustained commitment to epistemic justice, South-South solidarities, and

participatory norm-building, postcolonial legal thought continues to chart pathways toward a more equitable global legal future.

8. Conclusion

The postcolonial critique of international law has emerged as one of the most significant intellectual movements in recent decades, offering a powerful re-evaluation of the discipline's historical roots, conceptual foundations, and normative trajectories. By exposing the colonial legacy embedded in legal doctrines and institutions, postcolonial theory has compelled legal scholars and practitioners to confront the uncomfortable realities of exclusion, marginalization, and epistemic violence that continue to shape global governance. The insights derived from postcolonial thought have expanded the scope of legal inquiry beyond formalistic interpretations of doctrine, inviting a more historically grounded, culturally sensitive, and ethically conscious approach to norm formation.

The colonial foundations of international law were never merely incidental but were integral to its very emergence as a system of control and classification. Concepts such as sovereignty, civilization, and legal personhood were constructed in ways that privileged European powers and excluded colonized peoples from full legal recognition. These foundational asymmetries were not erased with decolonization but have been reconstituted in new forms through the institutions and mechanisms of contemporary international law. Recognizing this continuity is essential for understanding why many legal norms fail to resonate with or protect those on the peripheries of global power. Postcolonial theory has challenged the self-image of international law as a universal and neutral system by highlighting whose voices are privileged in norm formation and whose knowledge is recognized as authoritative. Through the concepts of subalternity, hybridity, and epistemic justice, postcolonial scholars have expanded the analytical vocabulary of legal studies and redirected attention to the lived experiences of those historically excluded from legal discourse. This theoretical shift has contributed to tangible changes, including greater inclusion of Global South perspectives, increased recognition of Indigenous and communal rights, and normative innovations such as the Right to Development and the principle of climate justice.

Nevertheless, these advances remain constrained by structural and institutional limitations. The recognition of postcolonial perspectives often takes place within frameworks that are themselves shaped by historical inequalities, making it difficult to fully realize the transformative potential of these critiques. Norms that emerge from postcolonial struggles frequently lack binding force, robust enforcement mechanisms, or equitable avenues for participation. As a result, the gap between normative aspiration and practical implementation persists, reinforcing patterns of marginalization under the guise of inclusion.

Despite these challenges, the influence of postcolonial theory on international legal discourse should not be underestimated. It has disrupted conventional assumptions, questioned entrenched hierarchies, and broadened the field's intellectual and ethical horizons. More importantly, it has provided a language through which marginalized actors can articulate their claims and reassert their agency in shaping the legal norms that govern them. By centering alternative epistemologies and embracing pluralistic forms of legal knowledge, postcolonial theory offers a pathway toward a more just and inclusive international legal order.

The future of international law depends on its capacity to engage meaningfully with the demands of decolonization—not merely as a historical process but as an ongoing struggle for dignity, equality, and recognition. This requires a fundamental shift from dominance to dialogue, from exclusion to participation, and from normative imposition to co-creation. As postcolonial scholars continue to challenge the boundaries of legality and legitimacy, they invite the international legal community to imagine new forms of global justice rooted in shared humanity, historical accountability, and respect for difference. In doing so, they keep alive the possibility of a truly decolonized international law.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

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Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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