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The Fourth World Approaches to International Law: A cursory Glance

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ABSTRACT

The questions of Fourth Worlds are still not widely discussed in philosophical perspectives, even though a Third-World interpretation of international law is an established and thriving theme. The segmentation of the world community along economic, political, and ideological lines is referred to as the "Fourth World." It is an exegetical evolution of the "Three Worlds" theory. The study uses doctrinal research methods and literature from the "Third World" to spotlight the "Fourth World." under international law. This article aims to highlight the similarities and differences between third- and fourth-world people's experiences and expectations under international law.

Keywords: TWAIL, First World, Second World, Third World, Fourth World and Indigenous People.

I. INTRODUCTION

Fourth World Approaches to International Law (FWAIL) is a relatively recent theoretical framework that seeks to challenge mainstream international law, which is largely focused on the relations between states and international organizations. FWAIL aims to give voice and agency to marginalized groups and communities, particularly those who are not recognized as sovereign states, but who are still subject to international law. The term "Fourth World" refers to groups such as Indigenous peoples, minority communities, and other marginalized groups that are not considered part of the traditional first, second, or third world categories. FWAIL seeks to address the historical and ongoing injustices that these groups have experienced, and to create a more inclusive and just international legal system.

Some of the key ideas associated with FWAIL include the recognition of the diversity of legal systems and the importance of understanding and respecting the perspectives and values of non-state actors. FWAIL scholars also emphasize the need to address the power imbalances that exist in the current international legal system, and to give greater consideration to the social, cultural, and economic factors that shape the experiences of marginalized groups. While FWAIL is still a relatively new and evolving theoretical framework, it has already had a

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significant impact on the field of international law, particularly in terms of highlighting the importance of considering the perspectives and experiences of non-state actors. As the international legal system continues to evolve, it is likely that FWAIL will continue to play an important role in shaping debates and discussions around issues of justice, equality, and human rights. The concepts of the First, Second, and Third Worlds were originally developed during the Cold War era to describe the geopolitical divisions between the capitalist Western countries, the communist Eastern bloc, and the non-aligned countries of the Global South, respectively. However, the meaning of these terms has evolved over time, and scholars have offered a range of perspectives on the interplay between these three worlds. Some scholars argue that the First World has historically dominated the Second and Third Worlds, both economically and politically. This domination has led to exploitation and inequality, with the First World benefiting from the resources and labor of the other two worlds. From this perspective, the relationship between the worlds is characterized by a power imbalance and a history of colonialism and imperialism. Others argue that the distinctions between the worlds have become increasingly blurred in recent years, with the rise of emerging economies in the Global South and the decline of Western dominance. Some scholars suggest that the world is now characterized by a multipolar system, with power and influence more widely distributed across the globe.

II. CHALLENGING THE STATUS QUO

More than 370 million people in more than 70 countries are called "Indigenous and tribal peoples (*"Fourth World"*).² Indigenous and tribal peoples are frequently referred to by national labels such as native peoples, aboriginal peoples, first nations, Adivasi, janajati, hunter-gatherers, or hill tribes.³ ILO Convention refers to both "indigenous and tribal peoples" and accords the same rights to them.⁴ For instance, several afro-descendent cultures in Latin America have been referred to as "tribal."⁵ Indigenous and tribal peoples are not universally defined. However, ILO Convention No. 169 adopts a pragmatic stance and offers objective and subjective criteria for recognising the people in question.⁶ In the case of the Indigenous Group of People, A person who identifies as a member of an indigenous group is the subjective

² Who are the indigenous and tribal peoples?, (2016), http://www.ilo.org/global/topics/indigenous-tribal/WCMS_503321/lang--en/index.htm (last visited Nov 10, 2022).

³ klaus kastle-nationsonline.org, 'First, Second, and Third World Countries - Nations Online Project' <https://www.nationsonline.org/oneworld/third_world_countries.htm> accessed 7 February 2023.

⁴ Momaday, N. Scott. *House Made of Dawn*. New York: Harper & Row, 1968. Print.

⁵ Ken Coates Mitchell Terry, 'The Rise of the Fourth World' (*Centre for International Governance Innovation*) <<https://www.cigionline.org/articles/rise-fourth-world/>> accessed 7 February 2023.

⁶ Id.

criterion.⁷ In contrast, in an objective standard, a person's lineage returns to the people who lived there at the time of the state's founding, colonisation, or conquest. In addition, despite their legal position, they continue to have their own social, economic, cultural, and political institutions.⁸ Whereas in the case of tribal people, in the subjective criterion, a person who identifies oneself as a member of a tribe and on the other hand, in the objective criteria, compared to other groups within the national society, they have unique social, cultural, and economic circumstances.⁹ They have their conventions, traditions, specific laws, and regulations that either entirely or partially govern their status.¹⁰ During the cold war, each nation was categorised as belonging to a specific sort of which under the following headings; The term "First World" was used to refer to states that supported NATO and capitalism, "Second World" to represent those that backed communism and the Soviet Union, and "Third World" to indicate countries that were not actively supporting either side.¹¹ These nations included the destitute former colonies of Europe and every country in Asia, Latin America, the Middle East, and Africa. Later, the phrase "Fourth World" was coined when the Third World developed to represent regions and people with meagre per capita incomes and sparse natural resources.¹² During the 1970s, Mbuto Milando (Diplomat and the first Secretary of Tanzania High Commission) in Canada and George Manuel, Chief of the National Indian Brotherhood, are credited with coining the phrase "Fourth World" for the first time in Canada (now the Assembly of First Nations).¹³

The Fourth World will exist when indigenous peoples "come into their own cultures and traditions," according to Milando.¹⁴ The citizens of the countries in the Fourth World were marginalised groups. As an illustration, though completely self-sufficient, Aboriginal tribes in South America or Australia do not engage in the global economy.¹⁵ From a global perspective, these tribes were regarded as Fourth World states despite being able to function without any outside support.¹⁶

⁷ The Way to Rainy Mountain. Albuquerque: University of New Mexico Press, 2010. Print.

⁸ 'Fourth World Conference on Women, Beijing 1995' <<https://www.un.org/womenwatch/daw/beijing/>> accessed 7 February 2023.

⁹ Alexie, Sherman. *Indian Killer*. New York: Atlantic Monthly Press, 2016. Print.

¹⁰ Allen, Chadwick. *Blood Narrative: Indigenous Identity in American Indian and Maori Literary and Activist Texts*. Durham: Duke University Press, 2002. Print

¹¹ The Bears Folk Tale in *When the Legends Die and House Made of Dawn*. *Western American Literature* 12 (2019): 275-87. Print.

¹² 'What Is the Fourth World? - India CSR' <<https://indiacr.in/what-is-the-fourth-world/>> accessed 7 February 2023.

¹³ Anthony J. Hall & Tony Hall, *The American Empire and the Fourth World* 239 (2003).

¹⁴ *Id.* at 240.

¹⁵ Brotherston, Gordon. *Book of the Fourth World: Reading the Native Americas through Their Literature*. New York: Cambridge University Press, 2012. Print.

¹⁶ Warrior, Robert Allen. *Tribal Secrets: Recovering American Indian Intellectual Traditions*. Minneapolis:

III. THE INTERPLAY BETWEEN THE FIRST, SECOND, AND THIRD WORLDS – SCHOLARS’ PERSPECTIVES

The Second World and Third World are interwoven with one another, and the First World views this as a form of prebendalism. Third-Worldism fights against the legalised dominance of international law and rejects the idea of a One-World Order in which the Third World is assimilated. He further argues that once understood, the distinction between emancipation and liberation may be used to distinguish between legitimate scholarship from the Third World and the First World's dominant muddled narratives. He also promotes the idea of a Fourth World that differs from the Third World and tries to create a form of people's law that is unique from the current state of state law.¹⁷

Ronald Dworkin¹⁸ opposes the current system of a legitimising regime based on consent in his essay, *A New Philosophy for International Law*, and instead advocates for a system based on the concept of consensus. He grounds his arguments on the idea of his morality, which is based on the premise that every state has a responsibility to advance not just its own political legitimacy but also the legitimacy of the entire international order. From this theory, he developed the Salience Principle, which takes his consensus-building strategy to a worldwide level and suggests that some international ideas will gain more legitimacy and acceptance if they are widely adopted and put into practice. He gives a hypothetical futuristic proposal with a four-pronged decision-making system to assure his idea of consensus as well as an ideal type that exemplifies his thesis and provides a variation of the prisoner's dilemma to demonstrate it.

On the other hand, Professor Upendra Baxi,¹⁹ explores what the Third World could anticipate from international law in his study examines the current structures via a post-structuralist Third World lens and, in addition to the title question, poses several significant queries. Who built the Third World and Who belongs to it are the main concerns. It criticises the West and the Eurocentric Westphalian governments that make up the First World for imposing their narratives and interpretations of International Law on the Third World by focusing on the Third World as being more than just economic status.

The First World attributes a kind of prebendalism to the Second World and the Third World since they are intertwined with one another. Third-Worldism rejects the idea of a One-World

University of Minnesota Press, 2015. Print.

¹⁷ George Manuel, Michael Posluns and Vine Deloria, *The Fourth World: An Indian Reality* (University of Minnesota Press 1974) 41 <<https://www.jstor.org/stable/10.5749/j.ctvf34hsb>> accessed 7 February 2023.

¹⁸ Ronald Dworkin, *A New Philosophy for International Law*, 41 *PHILOSOPHY & PUBLIC AFFAIRS*, 2-30, (2013).

¹⁹ Upendra Baxi, What May the 'Third World' Expect from International Law?, 27 (5) *THIRD WORLD QUARTERLY*, 713 – 725, (2006).

Order, in which the Third World is absorbed, and seeks to overthrow the legalised dominion of international law. Additionally, he contends that once grasped, the difference between emancipation and liberation may be used to discriminate between genuine scholarship from the Third World and the First World's hegemonic jumbled narratives. In addition, he advances the notion of a Fourth World as distinct from the Third World and works to develop a peoples' law that differs from the current condition of the law of the states.²⁰

Dworkin is does not dispute with the Westphalian system as a whole, but his arguments have frequently been criticised from the perspective of the Third World. Although he rejects the consent-based legitimation approach, he emphasises the legitimacy component through his novel Salience Principle and consensus model. This is completely at odds with Baxi's vision of the perfect global community. In his paper *What is TWAIL?*, Makau Mutua delves into the Third World Scholarship and claims that the international law that is dominated by eurocentrism is "... a regime and rhetoric of domination and subordination, not resistance and liberation."²¹

A Eurocentric perspective silences and marginalises the voices of Third World citizens, whose daily injustices make up the Third World. Dworkin's core tenets, Duty to Mitigate and Principle of Salience, are both derived from his fundamental moral philosophy. He asserts that it is the moral responsibility of all States to advance international law, although this notion is founded on a profoundly Eurocentric understanding of morality.²²

Baxi sums up the issue with Dworkin's conception of morality perfectly when he describes the First World as a "... vehicle, vessel, and countenance of world control." In the imperialistic age, the first world had colonised the Third World, and as Antony Anghie has argued, this colonisation is what gave rise to contemporary international law. In fact, any TWAIL scholarship, in Matua's opinion, must be oriented against international law itself. Dworkin is not actually proposing anything "new" when he tries to add a new philosophy to the framework of international law that already exists.²³

Since there is more room for majoritarianism, the Third World movement will actually suffer if consent is simply substituted for agreement. Although it may be claimed that because the Third World States are the most numerous, this should give them more power, the author thinks that

²⁰ Rudolph Ryser, Dina Gilio-Whitaker and HG Bruce, 'Fourth World Theory and Methods of Inquiry', *Handbook of Research on Theoretical Perspectives on Indigenous Knowledge Systems in Developing Countries* (2016).

²¹ George Manuel and Michael Posluns, 'The Indian World and the Fourth World' (1974) 67 *Current History* 263.

²² Makau Mutua & Antony Anghie, *What is TWAIL?*, 94 *PROCEEDINGS OF THE ANNUAL MEETING (AMERICAN SOCIETY OF INTERNATIONAL LAW)*, 31 – 40, (2000).

²³ Martin Edwin Andersen, 'Chiapas, Indigenous Rights, and the Coming Fourth World Revolution' (1994) 14 *SAIS Review* 141, 23.

the intense control the First World wields over the Third World will prevent the Third World States from banding together and will continue the oppression. His arguments for the Principle of Saliency and consensus disintegrate once the notion of Dworkin's morality based on the obligation owed by States to one another is disproved.²⁴

The ideal type and other postulates of Dworkin are based on his idea that the United Nations would be a perfect base for the implementation of his consensus model, but the UN as he envisioned it is very unlikely to ever materialise if viewed realistically. This is despite the problem of Eurocentric morality. The simple act of casting a vote in the General Assembly is merely a token representation; the actual lived experiences of the Third World's marginalised voices must be heard.²⁵

The Third World was never fully freed from colonial rule, as B. S. Chimni discusses in his study.²⁶ Despite being given the opportunity to join a group that is essentially Eurocentric, Third World countries are never given the freedom to cast their votes however they see fit.²⁷ The Third World nations are labelled as "developing," which renders them dependent on the First World due to sanctions, economic pressure, and other international issues. Dworkin concedes that the UN is biased in favour of the First World in its current form, but his suggested ideal type model leaves the First World in control of economics and, consequently, decision-making.

IV. THE FOURTH WORLD FROM THE LENS OF THE LAW

The Fourth World is "comprising those native peoples whose lands and cultures have been engulfed by the nations of the First, Second and Third Worlds. The term 'IV World' is coming into general academic use. However, unlike its precursor, the III World, it has not yet reached a level of public understanding in either North America or Europe. The emergence of concept of the IV World has arisen from:

- a) A need for social scientists to generalise about the processes and characteristics of a particular socio-political category of people and
- b) From the growing worldwide consciousness among the leaders of the very peoples to whom the term applies who, like members of the III World, wish to form cross-national

²⁴ Thomas Bustamante, *Revisiting Dworkin's Philosophy of International Law: Could the Hedgehog Have Done It Any Other Way*, 30 CANADIAN JOURNAL OF LAW & JURISPRUDENCE, 259 - 286, (2017).

²⁵ Hiroshi Fukurai, 'Fourth World Approaches to International Law (FWAIL) and Asia's Indigenous Struggles and Quests for Recognition under International Law' (2018) 5 Asian Journal of Law and Society 221, 15.

²⁶ B S Chimni, *The Past, Present and Future of International Law: A critical Third World Approach*, 8(2) MELBOURNE JOURNAL OF INTERNATIONAL LAW, 499, (2017).

²⁷ B S Chimni, *Third World Approaches to International Law: A Manifesto*, 8 INTERNATIONAL COMMUNITY LAW REVIEW, 3-27, (2006).

alliances and to demarcate themselves by a term encapsulating their unique predicaments.

Fourth-World problems are still not discussed in great detail regarding the discipline's philosophical underpinnings. Among the many meanings which have so far been attached to the IV World, the features of minority status and relative powerlessness are standard. In addition, for the term to be precise enough to be helpful, (the term III World is now so misused as to be relatively useless for social scientists. Indigenous peoples in the Fourth World typically have a unique spiritual, cultural, and historical connection to their traditional lands, which are often tied to their traditional practices, beliefs, and ways of life. This connection to the land is often central to their identity and worldview. In addition to their connection to the land, indigenous peoples in the Fourth World are often distinguished by their emically perceived "ethnie" difference from the majority population of the country in which they live. This may involve distinct languages, customs, and beliefs that set them apart from the dominant culture.

From a legal perspective, the Fourth World is not officially recognized as a distinct category under international law. However, there are a number of legal frameworks that apply to indigenous peoples and communities that can be relevant to the Fourth World. One of the most important legal instruments for indigenous peoples is the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which was adopted by the United Nations General Assembly in 2007. UNDRIP recognizes the collective rights of indigenous peoples to self-determination, land, culture, and language, among other things. Other important legal frameworks for indigenous peoples include the International Labour Organization Convention No. 169 on Indigenous and Tribal Peoples, which sets out minimum standards for the protection and participation of indigenous peoples in decision-making processes, and the African Charter on Human and Peoples' Rights, which includes provisions protecting the rights of indigenous peoples in Africa. Despite these legal frameworks, indigenous peoples and communities continue to face significant challenges in accessing justice and protecting their rights. Many countries have failed to implement these legal instruments, or have implemented them in ways that do not adequately protect the rights of indigenous peoples.

In order to address the challenges faced by the Fourth World, it is important for governments and international organizations to work with indigenous peoples and communities to ensure that their voices are heard and their rights are protected. This may involve implementing legal frameworks, providing access to justice, and promoting dialogue and collaboration between indigenous peoples and other stakeholders.

Therefore, The Fourth World aids in comprehending subjectivity structures about thinking and feeling, enabling more profound and more in-depth excavations crucial to the analysis of postcolonial studies. In the context of global formations, as they pertain to Latin America, the United States has inherited a privileged position as a new custodian of intellectual production, particularly the legacy of the protectorate of particular economic and cultural structures that are not always consistent with the formative experiences that shape the coalesced modernities that are lived.

V. EPILOGUE

Fourth World Approaches to International Law (FWAIL) is a theoretical framework that seeks to critique and expand traditional approaches to international law. This approach takes into account the experiences and perspectives of indigenous peoples and other marginalized groups that are often excluded or marginalized by dominant international legal regimes.

The term "Fourth World" refers to peoples and communities who are not recognized as states and who do not have the same political power and sovereignty as nation-states. These include indigenous peoples, minority groups, and others who have been historically oppressed and excluded. FWAIL seeks to challenge the assumptions and biases of traditional international law, which often reflects the interests and values of powerful states and institutions. It calls for a more inclusive and pluralistic approach to international law that takes into account the diverse perspectives and experiences of different communities and cultures. One of the key contributions of FWAIL is its emphasis on the importance of self-determination and cultural autonomy. It recognizes the right of indigenous peoples and other marginalized groups to maintain their distinct cultures, languages, and ways of life, and to have a say in decisions that affect their lives and communities. FWAIL also highlights the ways in which international law has been used to justify colonialism, imperialism, and other forms of domination and exploitation. It calls for a more critical and reflective approach to international law that takes into account the historical legacies of colonialism and the ongoing struggles of marginalized groups for justice and equality. The Fourth World has existed for as long as the first, second, and third worlds, but it has never found a place in popular or conventional literature. It was a discovery rather than the creation of a brand-new world. The Fourth World is for all of the world's underprivileged and successful groups; literature instils new hope. It is a protest against a long-standing, deeply ingrained social attitude toward the needy of the Fourth World rather than a challenge to the third or first world. The Fourth World includes Muslims, Dalits, American Indians, Australian Aborigines, and others. The ongoing efforts of indigenous

representatives have led to the development of the Fourth World consciousness.

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