

## INTRODUCTION TO SYMPOSIUM ON THEORIZING TWAIL ACTIVISM

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This symposium on Third World Approaches to International Law (TWAIL) is the second to result from an open call.<sup>1</sup> In the first TWAIL symposium, contributors addressed international criminal law, international humanitarian law, and the use of force.<sup>2</sup> The three contributions to this symposium on “Theorizing TWAIL Activism” reflect conceptually on actors including contemporary third-world grassroots feminist activists, third-world international lawyers in the postwar decolonization period, and TWAIL scholars themselves.

As Obiora Chinedu Okafor writes in the first essay, however broad and diverse the range of their scholarship, TWAIL scholars share an ethical commitment to the practical as well as the intellectual struggle to expose, reform, or even retrench the features of the international legal system that contribute to an unjust global order. They also share a commitment to reorient international law so as to displace the West as its center and to make the lives and experiences of the “rest” significantly more important.<sup>3</sup> In “Enacting TWAILian Praxis in Non-academic Habitats: Toward a Conceptual Framework,” Okafor introduces the TWAIL theme of “praxis,” which he uses in the sense of the “inseparability of theory and practice.”<sup>4</sup> Noting that there has been little study of the roles that TWAIL scholars could play in struggles involving politicians, diplomats, bureaucrats, peasant movements, unions, international civil society, and other nonacademic actors, Okafor seeks to further such discussions by proposing a set of conceptual guidelines for TWAIL scholars’ interventions in environments such as international institutions and local activism.

In “Inheriting a Tragic Ethos: Learning from Radhabinod Pal,” the second of the essays, Adil Hasan Khan begins from the experience of disorientation produced in the postcolonial world by the failures and reversals of “countless projects of global redemption.”<sup>5</sup> In the TWAIL tradition of learning from the practices of earlier

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<sup>2</sup> James T. Gathii & Henry J. Richardson, III, *Introduction to Symposium on TWAIL Perspectives on ICL, IHL, and Intervention*, 109 AJIL UNBOUND 252 (2016); Asad G. Kiyani, *Third World Approaches to International Criminal Law*, 109 AJIL UNBOUND 255 (2016); Parvathi Menon, *Self-Referring to the International Criminal Court: A Continuation of War by Other Means*, 109 AJIL UNBOUND 260 (2016); Ntina Tzouvala, *TWAIL and the “Unwilling or Unable” Doctrine, Continuities, and Ruptures*, 109 AJIL UNBOUND 266 (2016); Corri Zoli, *Islamic Contributions to International Humanitarian Law: Recalibrating TWAIL, Approaches for Existing Contributions and Legacies*, 109 AJIL UNBOUND 271 (2016).

<sup>3</sup> Obiora Chinedu Okafor, *Enacting TWAILian Praxis in Nonacademic Habitats: Toward a Conceptual Framework*, 110 AJIL UNBOUND 20, 20 (2016) (citing Obiora Chinedu Okafor, *Newness, Imperialism, and International Legal Reform in Our Time: A TWAIL Perspective*, 43 OS- GOODE HALL L.J. 171, 176-177(2005).

<sup>4</sup> *Id.* at 21.

<sup>5</sup> Adil Hasan Khan, *Inheriting a Tragic Ethos: Learning from Radhabinod Pal*, 110 AJIL UNBOUND 25 (2016).

third-world international lawyers, Khan turns to the “exemplary and overlooked” Indian international lawyer Radhabinod Pal (1886-1967), dissenting judge on the International Military Tribunal for the Far East (Tokyo Tribunal) and long-serving Indian member of the International Law Commission.<sup>6</sup> In his dissent, for example, Judge Pal argued that “in a world still very much under imperial control, the Tokyo Tribunal’s effort to authorize the outlawing of ‘aggression’, while undertaken in the name of the ‘universal,’ would ultimately operate to preserve the imperial *status quo* by criminalizing any anti-imperial revolt.”<sup>7</sup> A suspicion of the “universal” is among the features of what Khan analyses as Pal’s “tragic ethos.” Khan argues that Pal cultivated this ethos and that it enabled him to act in his uncertain times, when the accomplishment of decolonization did not yet seem inevitable or even “an entirely unambiguous achievement.”<sup>8</sup> In a coda, Khan laments the replacement of this third-world sensibility in later decades with narrow certainty in the promise of international development.

The third essay, “*Feminicidio: TWAIL in Action*” by sociologist Paulina García-Del Moral, draws on her fieldwork in Mexico on the struggle against the systematic abduction, murder, and sexual abuse of hundreds of women and girls in Ciudad Juárez. As a result of grassroots feminist activism engaged with international human rights law, “these murders became known as *feminicidios*. *Feminicidio* expanded the existing concept of femicide by exposing the complicity of the state in the killing of women by sustaining the institutionalization of gender inequality.”<sup>9</sup> On the one hand, García-Del Moral’s case study offers a counter-example to TWAIL critics of international human rights law, tracing how it can be an emancipatory force. On the other, she takes issue with scholars who theorize that impact simply as the “translation” of international human rights law to a local context, arguing instead that *feminicidio* was a new and radical local idea that marginalized actors succeeded in inserting into international human rights law. According to García-Del Moral, “[u]ltimately, *feminicidio* emphasizes the intersection of gender and class and its mutually constitutive relationship with neoliberal capitalist projects that are often legitimated through international law.”<sup>10</sup>

These essays demonstrate that in addition to its important theoretical work that challenges and decenters international law’s European and imperial legacy, TWAIL also embraces practical work geared towards creating and constructing a just global order. In this symposium, each essay discusses examples of everyday struggles to improve the lived circumstances of individuals and groups across a broad range of locales—including local, national, and international—that fall within the ambit of TWAIL’s activism. Even more, these essays usefully demonstrate how we can begin fruitfully conceptualizing TWAIL’s activism. After all, TWAILers have always recognized that notwithstanding international law’s colonial legacy, its emancipatory potential ought to be exploited to the hilt in real struggles such as those of third-world grassroots feminist activists, as well as those of officials and lawyers within international, regional, and subregional institutions and courts and elsewhere.

<sup>6</sup> *Id.* at 26.

<sup>7</sup> Gerry Simpson, *Writing the Tokyo Tribunal*, in *BEYOND VICTOR’S JUSTICE? THE TOKYO WAR CRIMES TRIAL REVISITED* 23, 27 (Yuki Tanaka et al. eds., 2011).

<sup>8</sup> Khan, *supra* note 5, at 26.

<sup>9</sup> Paulina García-Del Moral, *Feminicidio: TWAIL in Action*, 110 *AJIL UNBOUND* 31 (2016).

<sup>10</sup> *Id.* at 32.