

TWAIL Feminist Perspectives on Conflict

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In 2002, the Feminist Majority Foundation famously [heralded](#) the US and NATO forces as a “Coalition of Hope” that was heroically “freeing Afghan women.” In 2021, 20 years after it invaded Afghanistan, the US military pulled out of the country. The American intelligentsia lamented the fate of Afghan women in a Taliban controlled landscape – it was “a harsh new reality for Afghan women and girls” the NYTimes [declared](#). The NYTimes’s perspective reflected that of much of the liberal punditry that saw the West as safeguarding women’s interests during the occupation, and bemoaned (with little irony) the prospect of an Afghanistan without a US military presence as the champion of girls’ education. At the same time, the *Revolutionary Association of the Women of Afghanistan* (RAWA) also released a statement on that inauspicious 20th anniversary. Even while RAWA condemned what it described as the “odious Taliban regime”, it also [celebrated](#) the departure of the US saying that this departure “will pave the way for the establishment of a new justice-seeking movement”, which would “fight against fundamentalists and imperialists.”

RAWA’s prognosis of the possibilities and the risks for Afghan women in the current conjuncture resonates with TWAIL feminisms. It is informed by a foregrounding of the history of imperial and patriarchal governance and an analysis of the material and ideological structures that have facilitated oppressive governance structures, shaped their distributive impacts and legitimized hegemonic narratives of justice and women’s rights in the context of conflict. I want to highlight and focus on these two arenas of engagement – history and structure – and draw out the lines of critique, as well as the stakes of this engagement in different areas of international law and policy.

History

The myth of the state of nature (the movement from the state of nature to the social contract establishing law and political society) encapsulates the approach to history that informs liberal theories of international law. It is an approach that conveys a progress narrative regarding [the formation of international law against the backdrop of crisis](#), law’s constitutive role in establishing international political society, and its expansion, geographically and thematically, over the course of history. This core narrative (namely, crisis space dynamics and redemptive teleologies about international law’s centrality in moving from dark to light, anarchy to civilization), [recurs in different iterations](#) of international legal history telling.

Against this broad narrative, TWAIL feminist critiques have underscored how international legal history is [deeply entangled](#) with the histories of colonialism and slavery, and that the afterlives of these histories are ongoing dimensions of international law’s racial capitalist and patriarchal present. Thus international law

is [imbricated in the very crisis](#) that feminists have drawn attention to; attention to these imbrications, and critical analysis of their drivers and consequences have been core to feminist engagements in international law. In some cases, these have been engagements with the background assumptions and conceptual frameworks that have shaped international legal thinking (the work of the [public/private dichotomy](#) for instance), in other cases, these have been engagement with how particular approaches rooted in those imbrications ([civilizational narratives](#) for example) have shaped the direction of international law in ways that have further entrenched international law's [maldistributive impacts](#) in areas as diverse as international trade law and international humanitarian law.

Structure

Heterodox feminist [critiques](#) of the dominant world system also have a [critique of liberal theories](#) that see the dominant world order as laws, norms and institutions of global governance that offer neutral constraints and opportunities for international trade, resolution of conflicts and collective action to [address transnational challenges](#). Aligned with its theory of history, within liberal theory, these laws, norms and institutions are seen as essentially perfectable so that we move forward through well-ordered processes of international law and policy reform. This could take the form of institutional development (for instance, from GATT to the WTO or from the UN Commission on Human Rights to the Human Rights Council), or international legal innovation (be it through treaties such as the Convention on the Rights of Persons with Disabilities or through Security Council resolutions such as SCR 1325 on Women, Peace and Security).

Against this representation of world systems, TWAIL feminist critiques have been attentive to the work of dominant structures in terms of how they shape and reproduce [an unjust order](#), how the systemic inequalities and hierarchies that are baked into the world system interact and intersect locally and globally, [the work of resistance and solidarity](#) in the interstices of this order, and the [unexpected trajectories](#) and outcomes of the system as it unfolds. Accordingly, there has been much work exploring of the relationship between international law and the political economy of world systems. Similarly, much feminist critique has been [directed](#) at analyzing the relationship between dominant epistemologies and normative orientations and how they have shaped the professional and practice dimensions of international law. Thus [feminist critique](#) has involved unpacking the normative commonsense, tracking the distributional consequences, and imagining alternative directions for scholarly analysis and activist engagements with international law.

International Conflict Feminism

TWAIL feminisms are internally diverse and are characterized by an equally diverse range of intellectual approaches and political commitments. However, the uniting dimension of the approach to history and structure across TWAIL feminisms is starkly conveyed when contrasted with what I term International Conflict Feminism (ICF). ICF involves a complex of policy commitments that take as their starting point two notions: 1) that women are victimized by conflict; and 2) that women are excluded or marginalized in peace and security decision-making and post-

conflict recovery. ICF seeks both legal remedies for women's victimization, and interventions directed at the inclusion and empowerment of women in conflict and post-conflict contexts. ICF agendas are the dominant feminist force in multilateral agencies such as the United Nations and the European Union; in the prosecutorial and investigative policies of international courts and tribunals; in the national action plans of agencies such as the US State Department and the Foreign and Commonwealth Office of the UK; in the funding lines of donor agencies such as the Swedish International Development Agency (SIDA) and the Norwegian Agency for Development Cooperation (NORAD); and in the activists campaigns of international non-governmental organizations such as Human Rights Watch and Amnesty International. Today, the ICF vision, [including its alliance with the Pentagon](#), has served as the normative common sense understanding of gender in conflict and post-conflict environments – the NYTimes response to Afghanistan is only the most recent example – but often presents itself as always already beleaguered, marginalized, and dismissed in international affairs.

In my own work, TWAIL feminisms has been a crucial vantage point enabling me to mark ICF's achievements while also assessing the costs and consequences, intended and unintended, of this success. The twin focus on structure and history has helped critically explore global governance in areas that range from ICF supported neo-liberal economic development policies that have exacerbated the economic vulnerability of subaltern women to ICF supported lawfare that have helped legitimize imperial governance technologies. Let me briefly elaborate on the latter project. In a [recent article](#), I analyzed the [Al Hassan case](#) at the International Criminal Court (ICC) and the charges being brought against him for crimes of religious persecution and gender persecution – charges that were much celebrated in ICF circles. The case can be situated at the nexus of international criminal law, Countering Violent Extremism (CVE) initiatives by NATO countries, Islam and gender. The still ongoing Al-Hassan case was not the direct focus of that article. Rather, I was interested in how this nexus came about in creating the space for the coming together of the religious and gender persecution charges in that case, and in seeding the ground for similar cases in the name of gender justice. To this end, I adopted a wide-angle perspective of the case by describing and analyzing the history of global governance projects that contributed to the emergence of this case and defined the terms through which various atrocities in Northern Mali were understood and engaged with. In particular, I argued that there were three important and interrelated global governance projects that mapped the coordinates of this wide-angle perspective – namely, Countering Violent Extremism, Lawfare and International Conflict Feminism. These 'global governance projects' entailed an amalgam of ideologies and institutional arrangements such as hegemonic approaches to military intervention by Security Council member states (and former colonial powers) such as France, the 'war on terror' and quotidian [islamophobia](#) (including for instance, EU and US discourses on issues such as, the victimized Muslim woman, Islamic marriage, the veil and even Islamic law more generally). The imperial histories and dominant structures of global governance helped render the legitimacy and driving logics of these ideologies and institutional arrangements the default common sense for diverse groups, from feminist lawyers to military strategists to French parliamentarians.

Thus, employing a TWAIL analytics in relation to both history and structure, much of my paper was devoted to understanding how this case came about – what were the broader dynamics, the ideational structure and the institutions of global governance – that formed the backstory to the Al Hassan case. In bringing together how ICF was situated in relation to the intertwined developments of CVE and lawfare, TWAIL feminism helped me throw into relief the drivers that have birthed cases like Al-Hassan and raised questions about ICF entanglements. I argued that ICF was neither leader nor follower; instead, ICF operated in a political, legal and normative eco-system, and we needed to study that eco-system to understand how certain kinds of co-dependencies and convergences between different global governance projects become thinkable, sustainable, and from some vantage points, inevitable. Law and policy agendas coupling discourse about women’s ever-present vulnerability, alongside the ever-present threat of VE, shapes and legitimized a sexual/terrorism panic inflected role for the ICC. Concomitantly, ICF concedes or even supports hegemonic approaches to international law as a champion of secularism and liberal ‘freedoms’ against a global Islamic jihad persecuting women and minorities. TWAIL feminism helped show how this case became ‘thinkable’ through synergies between security panic, sharia panic and sex panic. These converging and mutual reinforcing ‘panics’ have become normalized as part of the infrastructure of global governance. Thus, the prosecution of Al Hassan on charges of gender and religious persecution, is the grain of sand, through which we understand the universe of the force fields of Counterterrorism, Lawfare and International Conflict Feminism.

Epilogue

Against the backdrop of the cycles of mutual legitimation and empowerment between international conflict feminism and CVE, a TWAIL feminist focus on the orientalist ideologies and imperial structures of world order helped to expose the continuities and discontinuities between everyday islamophobia as it revealed itself in domestic politics (regarding the veil ban or forced marriage and sharia hysteria etc.) and geopolitics; the islamophobia that drives the military offensive of the west in primarily Islamic countries. In a similar vein, a TWAIL feminist lens shows how one dimension of lawfare today is not just the mobilization of law as an instrument of war, but that lawfare presents itself as a battle between liberal legalism and alternative legal systems, and again, in particular, legal systems that are Islamic and rendered a system of criminality rather than legality by security council actors employing military intervention in those contexts, often in the name of the rule of law. The ICC itself has decided not to scrutinize the war crimes of Security Council Member States – in Afghanistan for instance, it has [narrowed its focus](#) to the Taliban and the Islamic State in Khorasan Province (ISKP). This perhaps takes us back to RAWA, which, unlike the ICC, was able to direct its critique against both the Taliban on the one hand, and the US on the other. [TWAIL feminisms](#) offer the intellectual resources and political grounds from which to critically question hegemonic framings of the law and policy landscape, and the imperial logics and consequences of the actions of global governance institutions.

