THE REFLECTION OF CAPITALISM CRITIQUE ON INTERNATIONAL LAW THEORIES

Dr. Caner KALAYCI

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INTRODUCTION

Contemporary international law can be defined as a system of principles and norms created through agreements between states and embedded with specific class interests (Chimni, 2004a: 9-10). The history of international law predates the emergence of capitalist production relations. However, the rise of the capitalist mode of production and its imposition of specific sets of relations upon states led to the transformation of international law under the influence of capitalism. Consequently, the historical evolution of international law is directly influenced by developments in the global economy.

States, within the context of global capitalist competition, aim to protect their national economies and use their resources efficiently and effectively against rival states. In this context, having a say in the international system dominated by the process of capitalist capital accumulation is a significant source of power for states. Thus, while there are differences in the levels of capitalist development and organizations (such as regime, law, and foreign policy) among countries, it can be argued that all capitalist countries fundamentally strive to increase their power within the same system. The competition among capital owners from different countries in various regions of the world does not differentiate them as distinct classes on a global scale. This is because the tools, methods, concepts, rules, and practices used by companies in economic, political, and legal terms within capitalist competition serve to reproduce the same capitalist system.

The capitalist system has always required an international legal order that legitimizes itself or facilitates its functioning. An example of this is the attempt to imbue international law with democratic and universal qualities during the post-colonial capitalist phase (Chimni, 2012: 36-37).

Another example is the United Nations Charter being built on the principle of the sovereign equality of all states, while practices of international intervention have continued. After the United Nations Charter, various methods have been developed to legitimize international interventions and manage the sovereignty of Third World countries. During this period, concepts such as rogue state, preventive self-defense, humanitarian intervention, the responsibility to protect, the war on terrorism, failed state, and good governance have reconstituted the dynamics of difference that originated in the past.

This study aims to reveal how the critique of capitalism is reflected in international law theories. In this context, the fundamental assumptions and arguments of approaches that examine international law through the lens of capitalism critique will be analyzed. The first part of the study will examine the fundamental assumptions and arguments of the Third World Approaches to International Law (TWAİL). After analyzing the core principles, findings, and proposals put forward by this approach, the criticisms directed at it will also be evaluated. The second part of the study will scrutinize the main arguments of the imperialist approach, which asserts that international law has had an imperialist character since its inception. This approach generally emphasizes that international law has been shaped according to the historical stages of capitalism. It also highlights that international law, by producing standards of civilization in line with historical conditions, has created new accumulation zones and ensured the continuation of colonialism. The third section discusses the hegemonic international law approach, which emphasizes that international law has always had a hegemonic character and has developed under the influence of hegemonic powers. This approach also underlines

that international law reflects the power inequalities between states. The fourth section examines the commodity form theory of international law. In analyzing this approach, both the works of Pashukanis and the studies of Mieville, who applied this approach to international law using Pashukanis's work, will be considered. The central argument of this approach is that violence and coercion are intrinsic characteristics of international law. Lastly, the Soviet Union's approach to international law, built upon a critique of capitalism, will be examined. Analyzing the Soviet Union's experience with international law will be beneficial in providing insights into whether an alternative to the capitalist international legal system could emerge.

1. Third World Approaches to International Law (TWAİL)[1]

The core claim of TWAİL (Third World Approaches to International Law) is that international law is closely linked to capitalism, and that this relationship has caused the most harm to the peoples of the Third World. For this reason, TWAİL focuses on the necessity of conducting a structural critique of capitalism before reaching the conclusion that international law aims for global good. This approach, which criticizes the developed countries for maintaining welfare capitalism in their own nations by exploiting Third World countries, also examines the capacity of capitalism to influence international law and its institutions (Chimni, 2012: 17-18). In this context, the approach develops a critical stance towards the structure, norms, and institutions of international law.

Leslie Sklair, who argues that the imperial formation is created by transnational capitalist classes, divides the transnational capitalist class

[1] This book is derived from Caner Kalaycı's doctoral dissertation titled "Kapitalist genişleme ve düzenleme aracı olarak uluslararası müdahale söylemleri/pratikleri ve uluslararası hukuk," written in 2023.

into four sections: transnational corporate executives and their local affiliates (corporate sector); the globalizing state, intergovernmental bureaucrats and politicians (state sector); globalizing professionals (technical sector); traders and media (consumer sector) (Sklair, Leslie 2002: 99). Thus, this approach acknowledges that the imperial formation shaping international law and the global economy is essentially this transnational class (Chimni, 2012: 19). Stoler accepts imperial formations not as fixed states or bounded secure areas but as macro-policies in a constant state of formation. She also notes that the imperial formation should be sought within global capitalism (Laura Stoler, Ann, 2006: 135-136). In this context, it is important to remember that the capitalist system should not be read through a single or a few countries. Furthermore, it is not possible to claim that all components of this imperial formation act as integrated and unified actors.

The class with the greatest impact on a global scale is the transnational class of the capitalist group in developed capitalist countries (Robinson and Harris, 2000: 22). This transnational capitalist class consists of transnational capital groups that own the leading means of production worldwide. However, this class, rather than being a structural relationship, has a set of relationships concretized in various fields through a certain consciousness and cultural experiences. This transnational capitalist class culture is produced by a network of influential figures in the fields of media, finance, academia, and politics on a global scale. This culture, produced in the First World countries, is imposed on Third World countries through various means (Chimni, 2004b: 4).

Mickelson (1998: 397) emphasizes that there is an integral relationship between international law and fields such as economics, human rights, or

the environment, and that international law should not be considered solely in a legal context, but must be understood within its historical context. Okafor, on the other hand, argues that in order to understand the structure of the international system, a historical perspective is needed, and therefore, the historical evolution of international law norms must be examined to uncover the disadvantages faced by Third World societies (Okafor, 2005: 178). According to Sornarajah (2001: 285), "international law, which was shaped during the colonial period, is not a neutral discipline but a tool used to control the colonized world for the benefit of colonial powers."

Mutua (2000: 31) builds TWAİL on three fundamental principles: "first, understanding that international law has been used as an instrument in the creation and maintenance of a hierarchy of international norms and institutions that subjugate non-Europeans to Europeans; second, aiming for an alternative normative structure for international governance; and third, eliminating the conditions of underdevelopment in the Third World."

The Third World approach to international law emphasizes that international law and its global institutions essentially impose a system that provides economic, political, and social benefits to colonial powers (Okoronkwo, 2005: 48), and that post-colonial activities targeting Third World societies continue through various policies such as political patronage or economic manipulation (Santos, 2004: 76).

TWAİL stresses that certain practices of international law lead to imperial practices, legitimize them, fail to prevent powerful countries from exerting pressure on weaker countries, and are unable to prevent inequalities between countries. Therefore, according to this approach, international law can only be truly considered international law if it

overcomes these negative aspects (Igwe, 2009: 28). TWAİL also emphasizes that the positivist rules of international law should transform from a repressive form into a language of liberation (Anghie and Chimni, 2003: 79). Another criticism of this approach toward international law is its incapacity to solve the problems in the areas it regulates. The ineffectiveness of international environmental law in addressing the global ecological crisis is an example of this (Chimni, 2012: 22-23).

TWAİL establishes a close relationship between the globalization of the capitalist international system and injustice and inequality. In this context, TWAİL thinkers aim to form alliances among all societies around strategies aligned with the general outlines of TWAİL to eliminate increasing injustices and inequalities. Such an alliance project is a strategy based on the victimization of the Third World and marginalized communities (Mutua, 2000: 38).

Emerging in the 1950s, TWAİL initially criticized international law for enabling the colonization of the peoples of the Third World. To substantiate this criticism, they pointed to the exclusion of non-European states from the domain of sovereignty by 19th-century international law and the unequal treaties between European powers and non-European powers. For this reason, in the early stages of this approach, the importance of the UN's principles of sovereign equality of states and non-intervention was emphasized for newly independent societies (Anghie and Chimni, 2003: 80).

The factors that contributed to the development of the approach after the Second World War were the Bandung Conference and the work of the G-77 (Mutua, 2000: 32). In the early stages of this approach, which began to take shape in the 1950s, emphasis was placed on a will focused on

independence and respect for state sovereignty (Özdemir et al., 2012: 22). During this period, emphasis on "economic and social rights, the right to self-determination, and the right to development for all peoples and states" also stood out. The work of the G-77 group in the UN General Assembly on the sovereignty of countries over their natural resources was among the topics emphasized during this period (Özdemir et al., 2012: 25).

One of the topics emphasized in the early TWAİL studies was the importance of the principle of self-determination. This emphasis essentially had the characteristic of promoting the decolonization of the international system. In other words, it was emphasized that all societies should have the freedom to create their own unique political, economic, legal, and cultural values. The early studies also stressed the need for absolute adherence to the principle of non-interference in internal affairs (Fidler, 2003: 39-40).

TWAİL's emphases can be examined in two different stages. The ideas between 1950 and 1990 focused on the importance of state sovereignty, emphasizing that powerful nations used international law as a tool of coercion to serve their global interests (Khosla, 2007: 297). In the early stages, the emphasis on the need for all countries to have a say in the structure and rules of international law was, in the 1990s, evaluated from a broader perspective that included the regulatory institutions of global capitalism (Özdemir et al., 2012: 25).

In the 1990s, this approach also focused on the roles of international financial institutions in the globalization of the free market economy and the methods by which these roles were used as tools of international law (Khosla, 2007: 299). During this period, new ideas emerged regarding the emphasis on state sovereignty, which was a focal point in the early TWAİL

studies. The second period of TWAİL studies aimed to protect backward societies from all forms of intervention, while also including women, workers, and minorities in the equation as part of their opposition to all forms of violence and authoritarianism (Anghie and Chimni, 2003: 83). In other words, they addressed sovereignty not only through states but also through all oppressed groups against violence and authority.

The second period of TWAİL thinkers also adopted a critical stance toward human rights doctrines. According to them, the defining doctrines of international law essentially serve a universalist perspective. This universalism, in turn, paved the way for colonial expansion. Therefore, the doctrines "intended to control the entire world within this universal system" essentially ensure the continuation of global power relations. For this reason, the TWAİL approach emphasized that it would be unsuccessful for Third World countries to pursue certain policies by advancing these doctrines (Anghie and Chimni, 2003: 84). After examining the fundamental assumptions of the approach, its origins, and the first and second period studies, the criticisms that this approach has developed against international law can be classified under specific principles.

1.1. Third Worldism and Anti-Hierarchicalism

The primary focus of this approach has been adherence to Third Worldist positions. It also serves as a reaction to the inequalities generated by the globalization of capitalism and the adverse conditions experienced by underdeveloped countries within the system (Özdemir et al., 2012: 21). Although there are thinkers from the Third World within this approach, it is not accurate to say that it has developed entirely within the Third World itself (Natarajan, 2008: 55-56).

Mickelson emphasizes that the Third World, generally classified as underdeveloped, developing, or peripheral compared to the Western, Northern, developed, or First World countries, receives a significantly smaller share of the global economy (Mickelson, 1998: 356). Chimni argues that understanding the Third World requires focusing on the "subjugation of Asian, African, and Latin American countries to colonialism and the subsequent underdevelopment and marginalization" (Chimni, 2006: 5).

Third World Approaches to International Law (TWAİL) contends that international law marginalizes Third World peoples, reinforces domination over them, ensures global control of hegemony, and supports oppressive practices (Özdemir et al., 2012: 22). TWAİL also highlights that Third World countries possess the majority of the world's raw materials and natural resources but do not have actual sovereignty over these resources. Consequently, the approach emphasizes the need for societies to be considered genuine actors (Özdemir et al., 2012: 28).

TWAİL asserts that the existing economic order continues to harm Third World countries, necessitating reforms in the global economic system. Therefore, political independence alone is insufficient for achieving actual independence. It stresses the importance of sovereignty over natural resources and advocates for caution regarding foreign investments (Anghie & Chimni, 2003: 82).

One of TWAİL's fundamental principles is anti-hierarchicalism. This anti-hierarchicalism is constructed around the lack of focus on the structure that allows global power to remain controlled, specifically the "class representations and the internationalization of the state" (Özdemir et al., 2012: 38). TWAİL highlights that the international legal system is

directly related to the structure of the world economy and the distribution of global power, reflecting similar trends to changes in capitalist production relations (Chimni, 2010: 33). Thus, it can be said that TWAİL approaches international law from a more integrative perspective.

It is emphasized that not all of international law, but the general structure, contains supremacy-seeking activities and is based on European superiority over non-European peoples. According to Mutua, the last five centuries of European hegemony demonstrate these colonial activities. Additionally, international law, which has been a significant tool for spreading Eurocentrism, needs to overcome these structural issues and reject othering (Mutua, 2000: 36).

The approach also addresses the concept of sovereignty through the lens of hierarchy, highlighting that perceptions and acceptances of sovereignty differ according to strong and weak states and even "environment and time." It attributes the emergence and persistence of these perceptions and acceptances to the so-called objective structures of international law (Özdemir et al., 2012: 31). In this context, it has also been suggested that Western hegemony led by the U.S. has been able to generate the right to intervene through legitimizing efforts of institutions or concepts over historical processes and create a hierarchical control regime over the rest of the world (Kelleci & Bodur Ün, 2017: 90). TWAİL has also clarified how international legal knowledge is produced, emphasizing that institutions controlled by developed countries often produce this knowledge under a dominant intellectual division of labor (Anghie & Chimni, 2003: 86).

1.2. Counter-Hegemonic Stance

A common point among thinkers who develop analytical ideas from the TWAİL perspective is the stance against hegemony. In this regard, the approach rejects the international law that has been conducted under European-centric principles and later under the control of US hegemony, for not considering the values and principles of the rest of the world's societies.

TWAİL emphasizes that the structure of the UN, especially the Security Council, is indefensible. It notes that the decisions of UN bodies are meticulously crafted to execute the foreign policies of Western powers, even bypassing these bodies in military operations that the US perceives as threats to its interests. In this context, it is highlighted that "the US's possession of nuclear weapons versus the opposition of some Third World states attempting to acquire a single nuclear weapon" indicates the existence of a hegemonic structure. Consequently, the control of organizations such as the World Bank, IMF, and WTO/GATT by the West has also been a subject of the counter-hegemonic stance. Thus, TWAİL states that international organizations conducting global administrative, political, and economic activities need to democratize both national and international governance structures (Mutua, 2000: 37).

The dominance of international organizations over global economic policies and their role in "determining the international division of labor" both demonstrate the existing inequalities among countries (Özdemir et al., 2012: 42) and make the hegemonic structure visible. Among the suggestions offered by this approach for the elimination of the hegemonic structure are "ensuring the moral equivalence of peoples and cultures, rejecting ostracism and universal reasoning patterns, recognizing

heterogeneity and multiple cultures, and democratizing structural forms that govern at global, national, and sub-national scales" (Özdemir et al., 2012: 43; Uğurlu, 2012: 51).

According to Chimni (2006: 15-16), law/international law, due to its close relationship with "rationality, impartiality, objectivity, and justice," can legitimize ideas. This legitimizing function also leads to the transformation of some ideas into rules. In other words, international law is dominated by a hegemonic culture. This culture develops concepts suitable for eras of global governance and development. Thus, there is a process in which the norms of a specific ideological culture are legitimized over the historical course. According to this approach, international institutions are also primary actors in this legitimization process, especially in "knowledge production and dissemination."

TWAİL emphasizes that the economic sovereignty of Third World states is under the control of an international law system aimed at forming a global state form, supported particularly by the unmatched military power of the USA (Chimni, 2012: 20). At the core of TWAİL is opposition to a hegemonic and unjust global order (Fidler, 2003: 30). TWAİL claims that international law targets the stability of the global order and serves a hegemonic purpose by fulfilling the objectives of powerful nations (Khosla, 2007: 295). In this context, it fundamentally rejects the cultural hierarchy that privileges Western values, ensures the stability of Western political and economic hegemony, and portrays liberal values as a global project. It can also be said that the approach aims to achieve a post-hegemonic global order (Fidler, 2003: 31).

Chimni (2006: 16-19) bases the discursive formation of the hegemonic structure of international law on the following elements:

1) Idea of Good Governance: The concept of good governance is developed in a way that emphasizes that Third World societies cannot govern themselves, paving the way for imperialist practices.
2) Sanctified Human Rights Discourse: While it is generally accepted that human rights offer a solution to all problems, it is also important to highlight that this sanctity, in a neoliberal sense, prioritizes private rights over the social and economic rights of societies.
3) Liberation Through the Internationalization of Property Rights: Neoliberal economic policies have been processing a certain state form as the rational form for years. This situation also involves the partial transfer of state sovereignty to international institutions, resulting in the privatization and internationalization of national properties.
4) Emphasis on Underdevelopment: Ideas of underdevelopment develop a project aimed at ending poverty by emphasizing the development of Third World countries. However, the practices that emerge in pursuit of this goal are often the implementation of structural adjustment programs and neoliberal policies, thereby more tightly binding undeveloped societies to the hegemonic order.
5) Use of Force: Although it is thought that powerful states dominate all structural elements, it must also be acknowledged that sometimes they use force to demonstrate their military superiority or to eliminate potential that contradicts their global interests.

1.3. Attitude Against Universalist Discourses

TWAİL asserts that all rules, councils, and sanctions forming the international law system are centered around European values. At this

point, a common agreement within the approach is its stance against the universality of Eurocentrism. Thus, this approach emphasizes that law does not only consist of social relations but also significantly involves culture and language in the determination and interpretation of legal rules (Özdemir et al., 2012: 44-45).

TWAİL rejects the assumption that European norms and practices are universal and that such norms should become mandatory for non-European societies. In other words, it does not accept that legal rules involving free markets and private property are superior to human values. According to this approach, if the international law system does not rid itself of these problems, powerful countries can continue to exert their economic and military interests over global societies (Mutua, 2000: 37-38). Accordingly, the approach emphasizes that Western dominance over international law continuously creates dynamics of difference through its spatial, economic, cultural, and political values (Eslava and Sundhya, 2012: 197).

This approach foregrounds dialogue among cultures instead of "universalizing certain cultures under the guise of global order, peace, and security." Therefore, it opposes the imposition of specific "intellectual, historical, and cultural experiences" (Mutua, 2000: 36-37). The approach also opposes the universalism of the liberal consensus. The liberal defense of the international economy relies on the flexibility and expansion of free-market initiatives. In this context, the approach stands against liberal economic thought and advocates for the restructuring of the international economic system. This approach, rejecting international dominance over natural resources, also emphasizes the need to review the unjust international trade conditions that developing countries face. Consequently, it adopts a stance against the universal dominance of the

liberal/conservative understanding in international law (Gathii, 2000: 2067).

Okafor has emphasized that claims of universality have long facilitated Europe's colonization of the Third World (Okafor, 2005: 179). TWAİL thinkers do not solely focus on liberating international law from its Eurocentric origins. In this context, Gathii highlights that "international law is not only Eurocentric but also constitutes the post-colonial state as a social and political entity" (Gathii, 2000: 266).

According to Mutua, the construction and universalization of international law were used to subjugate non-European peoples until the 20th century (Mutua, 2000: 31). Later, dominance continued through international law methodologies producing contemporary concepts such as development, democratization, human rights, and good governance (Anghie and Chimni, 2003: 86). What legitimization methods does international law use while subjugating Third World countries? Foremost among these methods is the "civilizing mission," which posits non-European peoples as needing to be civilized, saved, developed, and controlled. This completes the construction of the Other and legitimizes recourse to violence if necessary. In other words, this mission has continuously justified Western interventions in Third World societies and became a part of colonialism (Anghie and Chimni, 2003: 85). In this context, it can be said that international law has continuously produced new civilizing missions and supported these missions with various doctrines. The fact that powerful states can advance these doctrines to justify interventions, including the use of force, while less powerful or underdeveloped countries cannot use these doctrines in any way, indicates that these dynamics of difference continue. In summary, one side can

advance these doctrines under the guise of humanity and take action, while the others, being neither civilized nor developed, cannot initiate action from the outset.

1.4. Critical Stance Towards International Institutions

Since the 1990s, TWAİL has focused on the roles of international financial institutions (Khosla, 2007: 293). The functions of these institutions cannot be understood without considering the global order. This approach views international organizations neither as a reflection of state power and interests within a realist context nor as independent actors solving global problems in a neoliberal context. Instead, it considers international organizations through the lens of coalitions formed by powerful social classes and states, recognizing the ideological role these institutions play in shaping and legitimizing policies (Chimni, 2004b: 3-4). In summary, this approach does not evaluate international institutions simply as dominions of state power or as independent problem solvers.

To achieve the objectives of transnational capitalist capital, basic strategies such as the legalization of international economic regulatory rules are adopted. Additionally, one of the strategies of the transnational capitalist class is to also shape rational economic policies through structures regulating commodity transfers. In other words, global regulation takes a specific form through international economic organizations (Attar, 2012: 190).

The TWAİL approach criticizes international institutions for idealizing and legitimizing the neoliberal model, thereby limiting the sovereignty of the Third World and shaping the world order. The neoliberal model, proposed to state parties after international interventions, conflicts, or

wars, operates in favor of international capital. States that do not conform to this model are considered failures in terms of accountability and integration into the world economy, thus being seen as undesirable members of the international system (Chimni, 2004b: 15-16).

Mutua believes that Third World countries are controlled by international organizations, multinational corporations, or Western states, and that their resources are managed through Western capital's development programs (Mutua, 2000: 35). The control of national fiscal policies of Third World countries by international financial organizations demonstrates the power of these institutions. The economic policies set for these countries are based on neoliberal strategy and ideology. TWAİL thus emphasizes that the economic, political, and social areas of Third World states are governed by the directives of developed countries (Attar, 2012: 193-194). Practices of international organizations such as the IMF, World Bank, and WTO are prime examples of this.

International financial institutions promote policies (such as the liberalization of trade and increased privatization) to Third World countries that can harm their economic growth. These institutions, not independent of the control of powerful countries, impose specific conditions on Third World countries, including the management of certain public services in those countries (Okoronkwo, 2005: 49). Chimni states that sovereign economic powers limit the independent development projects of Third World states through international financial institutions, thus serving the interests of a transnational ruling elite (Chimni, 2006: 7).

Rajagopal has articulated that the activities of international financial institutions represent another form of violence: "The economic violence of structural adjustment and debt crises mediated by the IMF and World Bank

has replaced the physical violence of Western intervention" (Rajagopal, 1999: 20-21). It can be said that the use of military force retains its place in the system, but force is no longer the only method employed due to the proliferation of instruments of violence.

According to Chimni, the purpose of international financial institutions is the stability and expansion of the global capitalist system. Additionally, the changing policies of these institutions over time, which derive their authority from international law, reflect the changing needs of capitalism and help realize the interests of developed capitalist states. In this context, the approach emphasizes that international law institutions are relatively autonomous from member states and that this autonomy focuses not on the interests of specific states but on those of the global capitalist system. The approach also notes that the powers of international organizations are limited by terms that facilitate interpretations aligned with global capitalist policies (Chimni, 2010: 31-34).

Within the limits of international law, international institutions restrict the autonomy of sovereign states in all areas of international relations. Particularly, the creation of economic policies has been transferred from states to international economic institutions such as the WTO, IMF, and World Bank. The primary task of these institutions is to create suitable economic and social conditions to facilitate the operation of transnational capital. Many civil society organizations have begun to participate in norm-setting and decision-making processes within the organization of international institutions, contributing to the operation of transnational capital with goal of forming a 'global civil society' using tools like the International Chamber of Commerce or the World Economic Forum. International organizations also have significant effects in terms of

producing knowledge or doctrines (Chimni, 2004b: 2-3). It is emphasized that international institutions and the global economic order they manage are predominantly under the control of First World-origin international capital, which facilitates the transfer of global governance from nation-states (Attar, 2012: 204). In this direction, it can be said that as the powers and numbers of international financial institutions increase, the role of states is being taken over by structures regulating capitalist production relations.

The global economic arena is regulated by international financial institutions such as the WTO, IMF, and World Bank to meet the standards favorable to the capital accumulation process. Compliance with the rules set by these institutions facilitates the capital accumulation process. Thus, it is possible to say that international financial institutions operating under international law are instrumentalized in favor of the capital accumulation process.

The policies of international financial institutions cause political and social domination in Third World countries (Santos, 2004: 76). In a sense, the activities of international financial institutions can be considered as the modern form of tutelage systems on a global scale (Okoronkwo, 2005: 52). Indeed, in a globalized and interdependent capitalist system, powerful states need the operations of international financial institutions to shape the international economic system according to their own objectives (Anghie, 2000: 269; Cited by: Okoronkwo, 2005: 50).

Perkins highlights that debt practices are at the forefront of economic manipulation methods. According to him, these debt practices facilitate the reduction of political maneuvering space for states, exposure to political pressure, and interference in internal affairs (Perkins, 2019).

Recommendations of the Third World Approach to International Law (TWAİL) (Chimni, 2006: 23-26; Chimni, 2012: 20; Chimni, 2008: 68-69; Anghie and Chimni, 2003: 95; Chimni, 2010: 34; Fidler, 2003: 46):

1) Increasing Transparency and Accountability of International Organizations
2) Increasing Accountability of Transnational Corporations
3) Conceptualizing Sovereignty as a Right of Peoples, Not States
4) Activating the Use of the Language of Rights
5) Including the Interests of the People in International Legal Regulations
6) Truly Protecting Economic Sovereignty Through International Law
7) Ensuring Sustainable Development with Consideration for Justice and Equality
8) Facilitating Human Mobility: As the circulation of money, goods, and financial capital becomes more flexible globally, the spatial restriction of labor should not exist.
9) Implementing a Major Reform of Global Capitalism and International Law for the Common Good: The capitalist system and its international law, favoring the capitalist class, cannot promote the common good of all societies.
10) Enhancing Dialogue Opportunities Among Societies: Banning all forms of coercion, including economic and diplomatic, in international negotiations and ensuring full participation in all processes of the international law system—treaties, international organizations, etc.—through the approval and consultation rights of the peoples' elected representatives.

11) Centering the Concerns of Third World Countries and Peoples in the Formulation and Interpretation of International Organization Policies
12) Restructuring the International Economic Order

After discussing TWAİL's findings and recommendations, it is also necessary to address criticisms of this approach. One criticism is that the emphasis on imperialism is expressed through cultural notions rather than capitalist production relations, distancing the approach from economic-political dynamics (Uğurlu, 2012: 85). Another criticism is that while TWAİL criticizes Western dominance and the discourses it produces, it overlooks the dynamics that generate these discourses, thus potentially undermining the likelihood of achieving improvements for the Third World by excluding the "representational relationships" that international lawyers are involved in (Uğurlu, 2012: 73-74). In other words, not all countries possess the same power to develop the techniques and interpretations of international law. As a result, the examination of production relations that fundamentally influence international law is often overlooked. The classes that dominate these production relations also exert control over international law.

TWAİL addresses the evolution of international law through the lens of the relationship between capitalism and imperialism, placing a colonialist approach at the center of international law. TWAİL also highlights that liberal critiques of capitalism and international law fail to adequately address the phenomenon of imperialism. Chimni finds it unsurprising that the term imperialism is often absent in most books on international law. According to him, as long as the link between capitalism and imperialism remains unbroken, capitalism cannot promote the global common good (Chimni, 2012: 26-27).

The Third World Approach to International Law aims for a transformation of the international law system based on a justice emphasis for underdeveloped societies. In this context, the approach highlights the growing disparities in power and wealth among societies (Özdemir et al., 2012: 23). Advocating for the creation of a "New International Economic Order," the approach emphasizes the role of international law in preventing powerful countries from using international law as a tool in areas such as foreign direct investment, trade law, and maritime law, thus aiming to open up opportunities for national control of natural resources and local development (Fidler, 2003: 46).

According to this approach, post-1945, international law has embraced a liberal political and economic project rather than a pluralistic project (Fidler, 2003: 75). However, the approach still aims to overcome entrenched problems in international law (Özdemir et al., 2012: 46). Although TWAİL adopts a critical stance towards international law, it emphasizes that international law has the potential to provide true and lasting justice for everyone (Santos, 2004: 86).

In light of these assessments, notable features of TWAİL include its opposition to hierarchy and hegemony, its skepticism towards universal truths and beliefs, and its efforts to form alliances against projects that create disparities among peoples (Mutua, 2000: 36-38). This approach is beneficial in revealing how old techniques of international law continue to persist. TWAİL also emphasizes that a true law will emerge once international law is rid of its problems, despite its critical stance (Mutua, 2000: 36-38). Ultimately, this approach highlights that international law contains various dynamics of difference or dichotomies, including racial distinctions, and that the representation of cultures outside the West in institutions and bodies is not

visible, and neoliberal economic policies are not a panacea for the economies of all societies.

2. Imperialist Approach to International Law

The control of one state's sovereignty by another through various methods represents an imperial relationship. Control over another country's sovereignty can be achieved through coercive methods, political cooperation, or economic, social, or cultural dependency. In this context, imperialism can be defined as the process or policy of establishing or maintaining control over other societies (Doyle, 1986: 45).

A fundamental argument of modern Marxist approaches is that international law reflects the contradictions of capitalism and thus is shaped according to capitalist dynamics. It is important to add that international law not only legitimizes capitalist ideology but also facilitates the concentration of capitalist power, leading to the fragmentation and oppression of societies (Carty, 2007: 163). Thus, this approach seeks international law within the market economy, the liberal state system upon which this market is based, and the trends of internationalization of these relations (Brink, 2014: 203).

Mieville considers law through the relationships between subjects based on private property and coercion. According to him, law encompasses elements of power and violence (Mieville, 2005: 318). Therefore, international law also includes imperialist politics and unequal power relations (Brink, 2014: 206). Mieville (2005: 293) explains the inherently violent, imperialist character of international law as follows: "International law provides the opportunity to create relationships that have legal consequences for one of the subjects through coercive power. This process presupposes imperialism in its universalized form. There can be no legal form

without violence. Thus, it follows that there can be no international law without imperialism."

The development of legal relations with colonies has established sovereignty as a form of political organization, where colonies were recognized either as sovereign states or as societies owned by a European state. This relationship revealed that sovereignty could be achieved as an outcome, which later continued with the Mandate System (Knox, 2014: 204).

This perspective establishes a direct link between the history of international relations and the historical dynamics of capitalism. Accordingly, the universalization of capitalist production relations as the world's economic production mode has led to the emergence of certain relations among nations. Therefore, international law itself should be considered within the logic of capitalist capital (Chimni, 2017: 477-478).

The cultural hierarchy that has existed since the emergence of international law has also found its place in the international human rights regime established after 1945 (Balcı, 2016: 63). This scenario unfolds as follows: first, a country is designated as uncivilized; then, its leader or government is recognized as oppressing its people; and finally, Western powers act as heroes to end human rights violations in that country. This cultural hierarchy is often the subject of imperialism and international law studies due to its implications for the human rights regime.

With the globalization of neoliberal economic policies in the 1980s, opening up countries outside the market to global trade and the free market became a significant objective. Economic sanctions and direct intervention practices have been importantly underpinned by human rights rhetoric in achieving this goal (Balcı, 2016: 69-70). In other words, human rights rhetoric has served as a regulatory strategy for the expansion of capitalist capital.

Mutua considers the apolitical appearance of human rights law to mask its character and the cultural nature of the norms it seeks to universalize. In other words, Mutua believes the political character of the norms and principles of human rights law remains hidden. According to him, the international law regime, including human rights law, is dominated by political and cultural liberalism, essentially lacking diversity and variety. Thus, any potential diversity in this legal system can only exist within a liberal paradigm (Mutua, 2002: 1-4). Consequently, while hegemony establishes dominance worldwide with military power, it also constructs the legitimacy of the rhetorical space with concepts such as "democracy, economic development, and freedom" (Balcı, 2016: 73).

The human rights system not only universalizes liberal culture but also neutralizes the cultures or objections of Third World countries (Balcı, 2016: 63). Instances where excessive force is used against civilians in Western interventions or where the people of a country suffer due to commercial and financial pressures are not seen as human rights violations but rather accepted as collateral damage (Asad, 2003: 128).

International financial institutions have also been instrumental in creating dependency relationships. Organizations such as the IMF, World Bank, and WTO, along with multinational corporations, define the new political structure of the global economy from labor processes to market regulation. Thus, these financial powers produce not only commodities but also subjectivities, including social relationships, needs, and ideas (Hardt and Negri, 2003: 57).

One of the key points emphasized by those who highlight the imperialist character of international law is the critique that mainstream approaches wrongly strip this legal field of its historical context. These approaches accept

the 1648 Peace of Westphalia as the starting point for international law, assuming that before 1648, international law and inter-state relations were based on imperial legitimacy. This view holds that the mutual recognition of sovereignty among some European countries in 1648 introduced the concept of universal sovereign equality. Over the years, the European sovereignty model established by the Peace of Westphalia has spread outside Europe and even globally (Weeramantry and Berman, 1999: 1523). Critics of international law who approach it from an imperialist critique often highlight the mistake of dehistoricizing international law made by mainstream approaches. These flawed approaches trace the origins of international law to inter-state relations in antiquity, the Peace of Westphalia, or the Treaty of Kadesh. However, all these arguments adopt a philosophy that states have remained unchanged throughout history. Indeed, there are numerous differences between modern international law and the treaties mentioned. For instance, while those treaties were made between rulers, post-1945 international treaties have been made between states. Additionally, the validity of treaties made between states post-1945 is not affected by government changes, which was not the case in the 1600s or 1700s. Therefore, international law must be evaluated based on the emergence of capitalist production relations and historical transformations (Demirli and Özdemir, 2019: 57-59).

2.1. Periodizing International Law in the Context of the Historical Phases of Capitalism

One of the contradictions of capitalism is the issue of increasingly accumulated capital needing to reinvest in an ever-shrinking market (Carty, 2007: 173). To overcome this challenge, there is a need to expand across all

areas and sectors globally. International law plays a functional role in providing the infrastructure for these expansion opportunities.

Chimni argues that the capitalist mode of production originated in Europe and subsequently began to create a global market by incorporating various nation-states. This process of creating a global market has integrated non-capitalist local economies with the world economy, bringing about a certain division of labor among nations (Chimni, 2017: 479).

Table 1. Periodization of International Law According to the Changing World Economy (Chimni, 2017: 480)

1.	1500–1760 Old Colonialism	Feudal Law to Bourgeois International Law Transition
2.	1760– 1875 New Colonialism	Bourgeois (Colonial) International Law
3.	1875– 1945 Imperialism	Bourgeois (Imperialist) International Law
4.	1945–1985 Post-Colonialism	Bourgeois Democratic International Law
5.	1985– Global Imperialism	Global Imperialist International Law

Chimni's periodization offers valuable insights into the expansionary nature of capitalist capital, the impact of this expansionary nature on the international system, and the relationship between international law and the world economy and imperialism. This approach argues that international law is directly linked to the primitive accumulation process of capitalism, which emerged in Europe and led to the gradual disappearance of other production relations (Demirli and Özdemir, 2019: 60). Therefore, to evaluate the international law of the post-1945 period through the lens of the capitalist world economy, it is necessary to

understand these different stages of capitalism and how they have developed and transformed.

Considering international law from the perspective of primitive accumulation would be more meaningful. Marx (1976: 915-916) summarizes the emergence of the primitive accumulation process as follows: "The discovery of gold and silver in America, the enslavement of the native population, and the plunder of India characterize the beginning of the age of capitalist production. These developments were the starting points of primitive accumulation. After these developments, the commercial wars of the European nations began. These developments, including colonies, national debt, and the tax system, became systematic in the 17th century. Thus, the transition from the feudal mode of production to the capitalist mode of production accelerated, and force and violence were used to further accelerate this transition." Luxemburg has emphasized that capitalism has always waged a war of destruction against every historical natural economic form it has encountered, such as the slave economy, feudalism, primitive communism, or the peasant economy (Luxemburg, 2003: 349). Paul Sweezy, following Luxemburg's lead, has highlighted that "capitalism, unlike closed systems, requires expansion for capital accumulation" (Sweezy, 1962: 202). In this context, analyzing international law through capitalist production relations necessitates focusing primarily on primitive accumulation and the expansionary nature of capitalism.

Neocleous discusses the most fundamental logic of the process as not merely creating racial superiority through othering but rather the violent acquisition of lands and resources for capital accumulation. This violence during the periods of primitive accumulation facilitated the establishment

of the capitalist order, and international law became the regulatory element of this violence. In the periods when capitalist production relations began to spread in Europe, legal regulations were required to manage relationships after the conquest of foreign peoples' lands. What actually happened in this process, where international law came into play, was the forcible acquisition of land and resources for capital accumulation (Neocleous, 2012: 950, 954). During these periods, the moral justification for colonization was the idea that resources should belong to those who could develop them best, rather than being wasted. This opened the way for the occupation of lands of peoples who were deemed incapable of managing resources. Neocleous has emphasized that these ideas formed the origin of international law. According to him, the foundation of property rights was laid with the enclosure of common areas to prevent the wastage of lands and to improve their use (Neocleous, 2012: 955).

Nations that chose not to use their fertile lands were thought to harm other nations, and thus the occupiability of the lands of nations that wasted their lands gained rhetorical legitimacy. The increase in colonial activities facilitated the emergence of just war theories that would legitimize these actions. The spread of these just war theories was facilitated by the international law thinkers of the time (Cited by: Neocleous, 2012: 957). Thus, Neocleous emphasizes that at the heart of imperialism is not just a single powerful country but the logic of capital accumulation (Neocleous, 2012: 960).

During the transition from the feudal mode of production to the capitalist mode of production, experiences such as "the transformation of direct producers into wage laborers, the transformation of means of production and money into capital, and the transformation of wealth from

outside Europe into capital" occurred. In other words, during this process, the riches of the East were sold in Europe to realize capital accumulation (Chimni, 2017: 481, 486).

The main determinant of what Chimni calls the new colonialism era was England's imperial policies. During this period, with the Industrial Revolution, international trade increased, and the search for new markets continued to ensure this trade's continuation. The establishment of colonies in various parts of the world during this period accelerated capitalist competition. In this context, it can be said that the resources obtained from India played a significant role in making England the most powerful country of the period (Chimni, 2017: 486-487).

During this period, mass production developed, industrial capital increased, and non-capitalist societies were transformed both for the market and for trade. The strategies of this transformation process included the protection of private property, the expansion of the use of money and exchange, the destruction of the local economy, and the creation of cultural differences (Magdoff, 1978: 106). Magdoff has emphasized that the transformation of production styles of powerful countries to other countries was achieved "by the use of force or the threat of force, and this use of force established the most beneficial division of labor for the powerful country" (Magdoff, 1978: 107-108). During this period, colonies also became the subject of international law, and international law took a shape centered around European/Christian culture. International law focused on protecting the economic interests of European traders, signing unequal agreements with non-European societies, and legitimizing the use of force against non-European societies. These developments also led to

the emergence of cultural difference dynamics (civilized/uncivilized) (Chimni, 2017: 489).

The period Chimni defines as the imperialism era, 1875-1945, was a time when the League of Nations' mandate system continued colonialism through new methods, thereby highlighting the mechanisms of international organizations (Anghie, 2004: 10). Anghie characterizes this period as one in which international law was Eurocentric, protection systems for non-European states expanded, unequal agreements between European states and colonies existed, and capitulation agreements increased (Anghie, 2004: 54-87). This period is primarily characterized by the strengthening of capital within nation-states and the desire for global growth. In a sense, a struggle for expansion and growth among countries prevailed. During this period, nation-states also resorted to practices, including invasion, to increase raw materials and market opportunities worldwide. The economic growth achieved by powerful states invading others was facilitated by international law agreements or customs (Özdemir et al., 2012: 32).

The post-1945 period, known as the new colonialism era, developed new dependency relationships under US hegemony and saw the emergence of different methods of capital accumulation. Even though colonialism disappeared, new methods were discovered. "Transnational corporations, banks, unequal exchange, a conditionality system envisioned by international financial institutions, and manipulative aids" are among these new methods (Chimni, 2017: 497). Although international law underwent some transformations post-1945, it managed to legitimize the same imperial activities through different methods and practices. Even though colonial countries gained independence during this period, it is important

to emphasize that this did not mark the end of imperialism. During this period, "the global investment and credit order, the activities of multinational corporations, the legalization of the global economy, structural adjustment programs introducing guiding conditions, financial liberalization, privatizations, humanitarian interventions" and many other different methods were invented (Özdemir et al., 2012: 32). In this context, international law has taken on a character that ensures the legitimate establishment of such activities. Post-1945 international law has shown developments compatible with some fundamental characteristics of the capitalist world economy. Various legal regulations related to "financial liberalization, profit transfer, intellectual property, international arbitration, international trade, international investment, customs" are among these developments. The main purpose of these international law developments is essentially to serve the regulation of the global operational conditions of capitalist capital (Özdemir et al., 2012: 32). Thus, imperialist approaches argue that capitalist international law has also globalized with the globalization of capitalism. Since capitalist capital has internationalized, the processes of production and consumption have become more flexible, and barriers to free trade have been removed, it is impossible for a corresponding international law not to develop in such an environment.

The post-1985 period is acknowledged as one in which international law developed under the control of global imperialism. With the collapse of the Soviet Union during this period, US cultural hegemony rapidly spread worldwide. The US has now become the only actor involved in various roles in addressing global issues and present in many different regions. Thus, as a global power, the US has developed an interpretation

in line with its interests, started exporting its human rights culture, and become the actor that facilitates civilization (Mutua, 2002: 6). With the globalization of neoliberal economic policies during this period, the process of global economic integration accelerated, global production and consumption chains were formed, state forms suitable for these conditions developed, and the roles of international financial institutions increased. The primary purpose of the international law of the period was to remove obstacles in front of "the free movement of goods, capital, and services" in the direction of economic global integration (Chimni, 2017: 507). Additionally, regulatory strategies such as the privatization of natural resources in peripheral countries were employed, and these strategies were usually implemented under the direction of international financial institutions like the IMF or the World Bank. During this period, the creation of a global state form aimed at facilitating the liberalization of international trade and the removal of protective policies was also targeted (Chimni, 2017: 511). In this regard, it can be said that treaties, a significant source of international law, aim to secure foreign investments against political risks and to ensure that this security gains legal bindingness.

2.2. The Reproduction of Civilization Standards

One of the most significant assertions made by those who consider international law to have an imperialist nature is that it continuously reproduces civilization standards centered on Europe. In this context, by establishing standards among societies, international law has facilitated the ongoing exploitation of certain communities. This has perpetuated the notion that once the exploited societies become civilized, they could be considered equal to those that are already civilized. However, why these

societies need to achieve civilization remains a central question of debate (Özdemir et al., 2012: 31).

It is emphasized that international law primarily develops 'dynamics of difference' suitable for the spirit of the times. Accordingly, international law has set criteria on how certain states can be considered civilized, and has developed guardianship systems that legitimize colonial practices. Anghie constructs the relationship of international law with colonialism on the mission to liberate and civilize non-European, underdeveloped countries. This civilizing mission, also known as 'cultural difference' within international law, has justified the perception of non-European societies as backward and legitimized the conquest or control of these societies by Europe's powerful countries. Therefore, Anghie argues that the colonial project should not be explained in legal terms and considers international law, as it emerged in Europe, to be unreliable (Anghie, 2004: 3-9).

Oppenheim's emphasis that international law is a Christian civilization, that Christian societies can adhere to international law, and that non-Christian societies lack the culture and capacities to apply international law (Cited: Balcı, 2016: 63-64) serves as evidence that dynamics of difference have existed since the inception of international law. Civilization standards essentially place the civilizations that have Western-style state forms on one side and the rest of the world on the other (Demirli and Özdemir, 2019: 62). The creation of a civilization standard has been built on the civilization of non-Western societies. This effort to establish standards continues to be part of the operation of international law.

Table 2. The Impact of the Civilization Standard (Fidler, 2001: 142)

Relationship	Impact
Individual - State	Introduction of state obligations to protect the fundamental individual rights of Western citizens
Market - State	Liberalization of trade, empowerment of private actors, and restriction of government's role in trade and commercial activities
State - State	Imposition of the apparatus of inter-state relations on non-Western countries, forcing non-Western countries into political and economic relations with the West, and making adherence to international law mandatory
State - International Community	Forcing non-Western countries to adopt the common interests and values that characterize Western civilization

Anghie states that international law has constructed legitimizing dynamics of difference based on various discourses. He provides an old example of these dynamics from Vitoria, a 16th-century international jurist. Vitoria argued that Native Americans lacked civil and juridical personality and needed to be civilized, based on natural law, thereby facilitating the legitimization of international intervention towards Native Americans (Anghie, 2004: 13-31). Anghie not only cites examples from the 16th century but also from the 19th century, when the race for colonization was at its peak. During this period, the mission to civilize the non-European world was built upon the positivist international law prevalent at the time, through doctrines such as the consent of the governed and recognition (Anghie, 2004: 9-10).

The discourses of the civilizing mission have been created to mask the economic purposes of colonization. Indeed, the development of international trade has been linked with the progress of civilization.

Essentially, this process can also be considered a mission of capital expansion. Various discourses such as development and democracy have updated this mission, accelerating the spread of capital (Baars, 2012: 99). Orford notes that narratives built around concepts like "freedom, creativity, authority, civilization, power, democracy, sovereignty, and wealth" reproduce the Western civilizing mission (Orford, 1999: 687). Those lacking core European values have often been differentiated as societies incapable of self-governance and valuing human life (Hardt and Negri, 2003: 144).

A fundamental contradiction within the international law system is the coexistence of an expansive reformist logic, urging non-Western governments to undertake comprehensive internal reforms as if they are to become Western, while at the same time producing immutable cultural differences, fostering a divisive attitude. In essence, this represents the simultaneous existence of integration and separation ideas. In this context, international law can be said to mediate the contradictions of capitalism, which both homogenizes and stratifies countries (Tzouvala, 2000: i). In Tzouvala's approach to international law, the concept of 'civilization' plays a significant role. She interprets civilization through the logics of "amelioration" and "biology." The amelioration logic refers to the progressive universalism of international law, while the biology logic points to the immutable cultural differences among countries. According to Tzouvala, the system treats the "uncivilized" countries as parts of a dissonance, highlighting their need for reform (Kroncke, 2021).

Edward Said has emphasized that geographical sectors like the East or West are constructs of humans and are not immutable features of nature (Said, 1979: 4-5). From this perspective, it can be stated that the dynamics

of difference are not fixed and are historically produced. Thus, exclusionary dynamics of difference have been manufactured by the West and exported globally. Mutua underscores that this European-centric cultural hierarchy and dynamics of difference have persisted historically (Mutua, 2002: 11-12). According to old civilization standards, for a state to be considered civilized, it must have fundamental rights that protect the rights of foreigners, an organized political bureaucracy, a Western-style legal system, diplomatic institutions capable of maintaining international relations, and adherence to the customs, norms, and rules of international law of Western societies (Fidler, 2001: 141). The civilizing mission has progressed through human rights discourses instead of anti-communism and modernization narratives since the 1990s. Although military power has maintained its importance, economic dominance has become a more effective position (Koshy, 1999: 1). The primary problem in universalizing the conceptual and cultural canon of the West is the demonization and othering of the non-Western (Mutua, 2002: 15). This situation also shows that human rights discourses cannot be separated from global power relations (Balcı, 2016: 65).

International jurists have continuously renewed the fundamental duality between the civilized and uncivilized through various concepts. Furthermore, in pursuit of this goal, they have formulated legal doctrines and developed numerous legitimization techniques. Anghie uses the term 'dynamics of difference' to illustrate how one culture is considered universal and civilized, and the other particular and uncivilized. Anghie's core argument is that this dynamic of difference provides a framework that can activate the transformation of many doctrines of international law, including the doctrine of sovereignty, at any moment (Anghie, 2004: 4).

This approach emphasizes that international law has evolved to accommodate the necessities of the global capitalist order, citing the development of international legality frameworks protecting foreigners' property rights as an example. The harmonization of internal laws in countries intervened by imperial powers serves as a further illustration (Özdemir v.d., 2012: 31). The harmonization of domestic law can be achieved in various ways. The first is through the unilateral "declaration by the imperial country that it will apply its own laws to its nationals; the second, through mechanisms within the intervened country; and the third, through international agreements" (Özdemir v.d., 2012: 31).

Imperialist approaches to international law emphasize that colonialism has shaped the fundamental structures of international law and that only by recognizing this fact can the international law system be reconsidered (Anghie, 2004: 12). In this context, addressing issues like the war on terror or humanitarian intervention within the framework of international law violations is a misguided approach, as it misses the central issue. Instead, it is more appropriate to view such rhetoric and doctrines through the lens of neoliberalism, focusing on the control of resources (Neocleous, 2012: 960), privatizations, control of economic sovereignty through international financial institutions, gaining geopolitical advantage, and modifying the state form to suit the conditions of the capital accumulation process.

Table 3: New Civilization Standard in International Law (Fidler, 2001: 148)

Relationship	Impact of International Law
Individual - State	• Comprehensive international human rights law applicable to all individuals regardless of national origin, covering civil and political rights

	• Strengthening of civil society groups in the formation and monitoring of national and international law.
Market - State	• Liberalization of trade in goods and services under international trade law. • Protection of intellectual property rights under international trade law. • Liberalization of foreign investment regimes through networks of bilateral investment treaties. • Use of structural adjustment policies by international financial institutions to support liberal economic policies. • Development of international law on combating corruption.
State - State	• Development of concepts related to the illegitimacy of government under international law.
State - International Community	• The common interests and values of the international community, reflected in international law, are predominantly liberal in origin and direction.

Differentiation dynamics such as Civilized/Barbarian, Christian/Non-Christian, White/Black, or Advanced/Primitive were employed during the colonial period of the 19th century, and the international law of that era legitimized these dynamics. With the 20th century, these dichotomies have continued under concepts such as Developed/Developing, Core/Periphery, Advanced/Emerging, or Rich/Poor, facilitating the expansion of a particular economic system (Eslava and Sundhya, 2012: 195-196).

The international law system legitimizes the international political, legal, and economic order. In other words, while playing a significant role

in solving global problems, international law also contributes to the stability of the capitalist system (Chimni, 2012: 39). Ikenberry believes that China and other rising major powers, instead of opposing the fundamental rules and principles of the liberal international order, desire more authority and leadership within the system and have deep interests in preserving it (Ikenberry, 2011: 57). In this context, it can be said that there is a multipolar neoliberal order and there is no strong opposition to its continuation or legitimacy.

This approach claims that the logic of international law is a part of the capital accumulation processes. It links the civilizing mission in international law with the expansion and intensification of capital. The approach therefore argues that imperialism is intrinsic to the international law system (Knox, 2014: 196). It also considers international law central to ensuring uninterrupted dispossession and colonization for uninterrupted capital accumulation (Neocleous, 2012: 961). Furthermore, international law has consistently protected the interests of powerful states as capitalist production relations emerged. Weaker states have lacked representation in this process, been forced to sell their assets, and coerced into a dependent structure (Demirli and Özdemir, 2019: 65).

Table 4. Comparison of Old and New Standards of Civilization (Fidler, 2001: 150)

Features of the Old Civilization Standard	**Features of the New Civilization Standard**
Emphasizes the protection of fundamental human rights such as life, liberty, property, travel, trade, and freedom of religion for Western citizens	Emphasizes the protection of fundamental civil and political rights as outlined in instruments like the European Convention on

	Human Rights and the International Covenant on Civil and Political Rights
Advocates for the opening of domestic markets to foreign merchants and traders	Advocates for the liberalization of markets for trade in goods, services, and investment capital
Relies on organized and effective state bureaucracy	Relies on "good governance" and anti-corruption measures
A Western-style domestic legal system is present	Emphasizes "rule of law" within countries and links government legitimacy to the presence of democracy
Seeks the ability to engage in international relations and comply with international law	Seeks the ability of the state to participate in globalization processes and follow international legal regimes to address globalization issues
Encourages the adoption of Western traditions and norms	Exerts pressure to adopt Western individualism, consumerism, and secularism over traditional practices
International law sources central to the application of the old civilization standard to non-Western countries	International law sources and the associated international legal regimes are central to the global application of the new civilization standard

3. Hegemonic Approach to International Law

Those who consider international law to possess a hegemonic structure view it as a tool of the capitalist class that controls the state. In other words, a group formed around their interests within the state apparatus controls the law. But how can this analytical framework be explained on the international level? To answer this, one must examine the relationships the dominant power of the capitalist economic system establishes with other states in the international system and the methods of dominance employed in these relationships (Carty, 2007: 179).

In international relations literature, there are many different approaches to hegemony. Some emphasize that hegemony is based on military power, while others build it on economic strength and the stability of the liberal economic order (Kınacıoğlu, 2012: 69). It is necessary to recognize that hegemony stems from the ways of thinking shaped by the social relations dominated by the ruling powers, and that neither military nor economic power alone is sufficient; cultural and ideological supremacy also plays a significant role. Thus, it can be said that the hegemonic order imposes certain limits on the behavior of states (Cox and Sinclair, 1996: 516-517).

To demonstrate that international law has always possessed a hegemonic structure throughout its historical process, it is useful to recall Gramsci's conceptualization of hegemony. Approaches based on Gramsci's theory of hegemony argue that law protects the economic interests of the ruling class, and legal rules are imposed on the governed classes through both coercion and consent to maintain the economic interests of the ruling class. For these approaches, the state represents the coercive and punitive power of a country's legal order. It is also accepted that law, as part of civil society, plays an educational role that presents oppression as freedom and ensures the homogeneity of the ruling group (Cutler, 2005: 529). The first element highlighted by Gramsci's approach to hegemony is the primacy of the superstructure with a specific ideology over the economic structure. The second element is the precedence of civil society, which acts around the same values, over the coercive political society (Mouffe, 1979: 3). Gramsci emphasized that socio-cultural formations are also effective in maintaining dominance relations. According to him, the dominant power maintains its superiority not only through coercive force but also through the element of consent produced

by civil society. At this point, law intervenes when the control of hegemony begins to weaken. In such a situation, legal rules act as a defensive line for the hegemonic power (Durst, 2005: 175-176). In other words, during periods when hegemonic power weakens, the legal order previously established by the ruling power can ensure the continuation of hegemony for a certain period.

Liberal approaches to international law argue that states have equal rights. However, when the rights of all states are violated, their options are not equal. On a rhetorical level, they may appear equal in terms of which tools they can use against rights violations. However, while powerful states have the potential to cause harm or exert pressure, weaker states either choose passive resistance or submission (Mieville, 2004: 293). In other words, this formal equality does not align with reality.

There are certain dilemmas in the relationship between international law and politics. The first is the reluctance of powerful states, which dominate global operations, to comply with international legal rules. The second is the lack of ability of international law to constrain powerful states without a real balance of power. In this context, it can be said that international law is an arena of struggle dominated by power asymmetries (Krish, 2005: 370).

This approach argues that hegemonic powers use international law as a tool of regulation for the stability of the order they dominate, but when international legal rules intersect with their political interests, they avoid complying with them and instead transform international law to better reflect their hegemonic superiority. Additionally, it is accepted that when hegemonic powers encounter obstacles in some international legal rules, they overcome these points of stagnation either through domestic law or

bilateral or multilateral agreements (Krish, 2005: 371). This approach, which emphasizes that international law reflects power asymmetries and has a nature that conceals these asymmetries, provides a useful analytical framework for understanding the commodified and marketized social processes of world order (Cutler, 2005: 538).

Hegemonic powers aim to normalize the international order and subject other actors to comprehensive constraints through the development of legitimacy concepts via international law. Another aspect showing the hegemonic character of international law is the unequal participation in the law-making processes or the differing influence capacities of the participating countries (Krish, 2005: 377-379). Koskenniemi also argues that "what is considered law, humanity, or morality" is determined by an authority according to Western principles (Koskenniemi, 2002: 171).

Koskenniemi contends that the form of international law is always expressed by a particular power, based on the assumption that universal values are constructed only through a state, organization, or political movement. Therefore, the main question that should be asked before discussing the contributions of international law is whose expression the form of international law represents. Proceeding from the concept of hegemonic competition, Koskenniemi emphasized that the technique of international law has always emerged through political actors (Koskenniemi, 2011: 221-222).

According to Koskenniemi (2004: 200), "law is a hegemonic battlefield where rival powers engage in hegemonic practices, attempting to pull rules, principles, and institutions to their side while ensuring that they do not support their rival powers." Chimni noted that international law has hindered democratization since the early days of the capitalist world

economy and that the structure of international law harbors entrenched doctrines of power and interest. In this context, Chimni proposed an ethical consensus centered on the general interests of all parties rather than a consensus structured by power or hegemony (Chimni, 2004: 4). Koskenniemi considers the reflection of the concept of "hegemonic competition" in international law through the struggle over rules and principles. Accordingly, the legal qualities in international law, such as aggression, self-determination, self-defense, and terrorist, reflect hegemonic and political struggles (Koskenniemi, 2011: 222). In other words, no matter how universal the language may be, since the application technique and interpretations of the law are the product of political struggle, international law is used as a tool to legitimize hegemony.

International law is also regarded as a field where dominant powers present their value systems and other countries act according to the behavioral patterns of this value system (Roth-Isigkeit, 2013: 452). In this context, it can be emphasized that international law possesses a hierarchical character. Koskenniemi argues that the concept of universal international law is created by a particular actor and that this is a hegemonic technique. Koskenniemi also emphasizes that there is a political struggle over what legal concepts like aggression, self-determination, self-defense, and terrorist mean in international law (Koskenniemi, 2004: 199). The meanings assigned to these concepts are usually built upon theses produced by hegemonic powers as a result of this political struggle.

Rajagopal highlighted the hierarchical structure of international law that legitimizes the imperial power of the United States and emphasized that universal discourses such as human rights and development have

integrated the Third World into the hegemonic international legal order (Rajagopal, 2006: 768). Rajagopal also argued that the U.S. interventions in Afghanistan and Iraq should be evaluated in this context, building on Clausewitz's argument that "war is the continuation of politics by other means." He believes that security and economic interests are closely connected since the acceptance of the U.S. as a victim of the 9/11 attacks opened the door for the U.S. to exert pressure in many trade negotiations (Rajagopal, 2006: 771).

Multilateral international institutions have also been an element functioning for the stability of hegemony. The functions of international institutions in favor of hegemony can be examined under three headings: "regulation, pacification, and stabilization" (Martin, 1992: 783). The regulatory function of international institutions facilitates the participation of many different countries in an agreement, thus reducing operational costs. In other words, the phase of negotiating separately with each country is eliminated. The pacification function relates to the passive position of undeveloped or underdeveloped states by complying with the framework agreements of international institutions. The stabilization function concerns the continuation of the legal order that maintains stability for hegemony in case its power weakens in subsequent years (Krish, 2005: 373). In other words, the normative rules network of international law simultaneously contains the authority of hegemony and its legitimacy. Thus, asymmetric power differences and the existing status quo are rationalized and internalized (Krish, 2005: 374-375). The increasing number of international organizations in the 1990s played important roles in the stability of the hegemonic order. The superiority of the U.S. in international organizations after 1945 primarily enhances its own

dominance. But more importantly, it creates the impression that the legitimacy of the established order is provided by multilateral institutions (Kınacıoğlu, 2012: 71). In this context, it is possible to say that international institutions serve functions that ensure the continuation of the cultural and ideological dominance of hegemony.

Hegemonic powers do not prefer to restrict their own maneuverability through international legal rules. These powers can disregard a treaty they are party to or an international legal rule they are bound by if it does not align with their interests (Alvarez, 2003: 873). In other words, hegemonic powers are not inclined to completely withdraw from the international legal order due to the risk of undermining the mechanism that legitimizes the order (Krish, 2005: 378-379). Instead of withdrawing from the legal framework, it is more strategic for dominant powers to pursue a transformation that aligns with their own interests.

Hegemonic powers generally do not want to abandon the legal framework entirely and operate solely in the political sphere. Thus, they often pursue legal transformations first. However, if such transformation efforts fail, they may then resort to domestic law (Krish, 2005: 380).

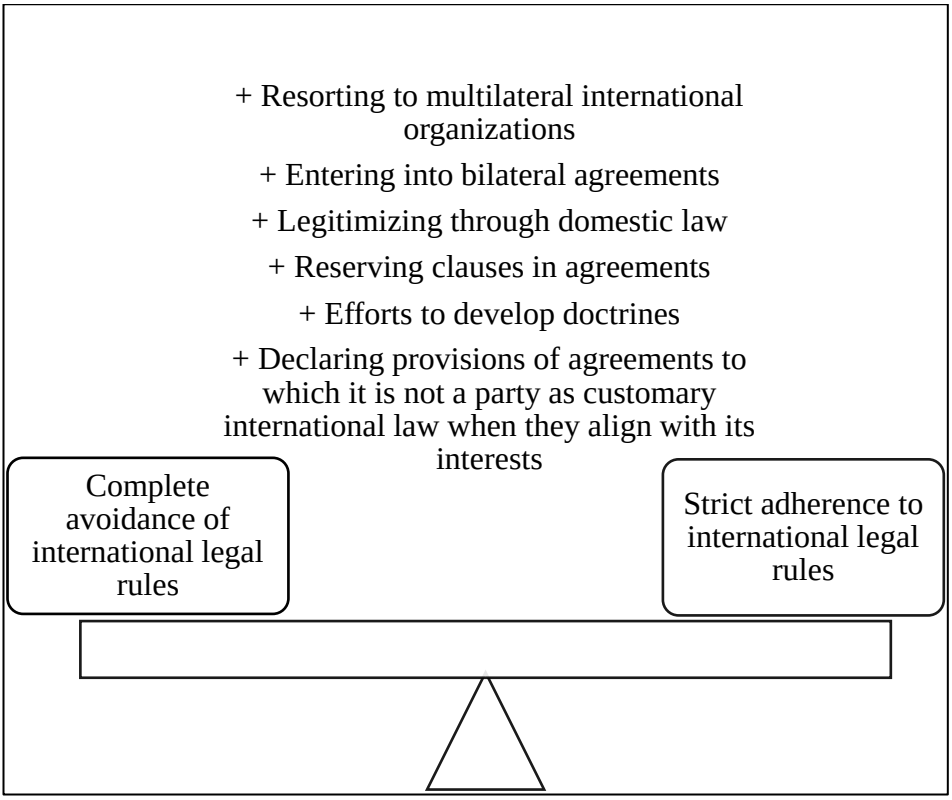
When it comes to ensuring that other countries accept the limitations imposed by international legal rules, hegemonic powers prefer the internalization of legitimacy rather than the use of coercive methods. Liberal thinkers have played a crucial role in helping the international community internalize the legitimacy of the hegemonic international legal order. These thinkers, for instance, viewed Britain's dominance over India and many of the United States' interventions after 1990 as morally and politically legitimate (Rajagopal, 2006: 771-773). In this sense, these

thinkers have acted as what Gramsci called the "organic intellectuals" of hegemony, being part of civil society.

Hegemonic powers approach treaties with caution because such agreements can impose restrictions on their unilateral capacity for action. Through international regimes or treaties, other states could form coalitions that weaken the hegemon's power (Vagts, 2001: 846). Therefore, hegemonic powers need to appear as though they are adhering to international legal rules while simultaneously ensuring that they are not bound by the limitations these rules might impose. Only in this way can they maintain the stability of the order they have established (Kınacıoğlu, 2012: 71).

The hegemonic approach to international law argues that international law, through various doctrines and principles such as land acquisition, recognition, and state responsibility, perpetuates colonialism. This approach also emphasizes that specific powers control international law, that the relationship between colonialism and international law persists, and that these legal rules, through their techniques and interpretations, serve as a tool to legitimize colonialism. It is even added that this mindset has not changed throughout the history of international law (Chimni, 2008: 61). The historical process shows that international legal norms are not independent of global power relations and practices. In other words, the hegemonic power has primarily acted in line with its economic and commercial interests, instrumentalizing international legal rules and aiming to develop legal norms that suit its own order (Vagts, 2001: 845).

Table 5. The Balance Strategy of Hegemony in International Law



The example of Spain resisting changes to international legal rules to maintain its maritime dominance in the 16th century, and Britain's excessive emphasis on the validity of treaties between states in the 19th century, which later led to the establishment of Permanent Arbitration Courts, are cited as examples of how international law has historically had a hegemonic structure (Krish, 2005: 382-383). From the Middle Ages to 1919—Spain (1494-1648), France (1648-1815), and England (1815-1919)—hegemonic powers were Europe-centric. All these powers played a leading role in shaping the international legal rules of their time. After 1945, it is accepted that the United States, with its economic and military power, rose to the position of the hegemonic power (Vagts, 2001: 844).

After World War II, Britain's dominance over the global economy significantly diminished, marking the beginning of U.S. dominance over the world economy. With the globalization of neoliberal policies that emerged in the 1970s, the global dominance of U.S. economic policies was realized. Since the 1980s, the general framework of international politics has increasingly been shaped by neoliberal economic policies. Controlling global economic instruments, regulating the entire operation of international financial institutions, and establishing global governance mechanisms, the U.S. has become the primary actor in international law (Carty, 2007: 170). In this process, the U.S. has both rejected certain international legal rules and declined to participate in certain agreements while advocating the validity of international legal rules over the rest of the world (Krish, 2005: 370). In other words, the relationship between the dominant power and law differs from the relationship between the rest of the world and law.

The U.S. has shown more reluctance than other countries in the world to become a party to international treaties through international institutions. However, it has been observed that the U.S. has not shown this reluctance in areas regulating free trade, investment, and the international economy; rather, it has taken a proactive stance. While there are many examples of this, NAFTA, the WTO, and bilateral or multilateral investment agreements are the main examples (Krish, 2005: 384).

The U.S.'s hesitant attitude toward developments in international law outside the areas of trade and investment is also evident in the examples of the Convention on Biological Diversity, the Comprehensive Nuclear-Test-Ban Treaty, the convention on landmines, the Statute of the International Criminal Court, and the Kyoto Protocol. Besides avoiding

treaties, the U.S. has often included reservations in the treaties it does sign, with some reservations so extensive that they render the obligations of the treaty meaningless (Krish, 2005: 388). Additionally, the U.S. has either avoided or placed reservations on many treaties such as the Law of the Sea Convention and the Vienna Convention on the Law of Treaties. Another option for the hegemonic power has been to declare parts of treaties it has not signed but that align with its interests as customary international law while ignoring other parts of the treaty. The U.S.'s occasional claims that its domestic legal rules supersede international legal rules can also be considered an indicator of the hegemonic nature of international law (Vagts, 2001: 846-847).

The U.S.'s attempt to expand the concept of "self-defense" in Article 51 of the UN Charter, which refers to "armed attack," to include "preemptive rights" against potential threats can be considered within the context of hegemonic exceptionalism (Koskenniemi, 2004: 203). The U.S.'s refusal to ratify the Statute of the International Criminal Court and instead signing bilateral agreements with many countries on the same subject (Bolton, 2011) can be seen as a middle-ground strategy that both avoids international legal rules that do not align with its interests and ensures that the legitimizing aspect of these legal rules remains intact.

The hegemonic approach to international law explains the U.S.'s development of doctrines such as preemptive self-defense and the war on terrorism, as well as its expansion of military bases across various countries and regions through bilateral agreements, in terms of U.S. global hegemony. This hegemonic power of the U.S. is clearly seen in its military operations conducted without the approval of the UN and even without waiting for the support of NATO (Carty, 2007: 181). Another factor

controlled by hegemonic powers is their dominance in international courts. This is exemplified by the fact that these international courts often find themselves competent to judge the actions of certain countries but fail to act when it comes to the actions of Western powers (Koskenniemi, 2004: 208-209).

It is believed that international law provides interpretive flexibility to justify international intervention by powerful states. In this context, international intervention carried out by the military force of an imperial state plays a crucial role in the expansion of transnational capital. In this regard, the U.S. has established numerous military bases worldwide and positioned NATO (Chimni, 2004a: 28). Harvey considers the U.S.'s use of military solutions for economic growth within this context. Examples of the U.S.'s unilateral interventions also serve to maintain its political supremacy. Accordingly, when it comes to U.S. interests, international legal rules cannot be invoked. The U.S.'s geopolitical dominance over Middle Eastern oil following its intervention in Iraq once again demonstrates the hegemonic nature of international law (Harvey, 2003: 75). The exceptional power of hegemony in matters of intervention is not a new development. Additionally, this exceptional power has always found its place within international law through legal concepts (Knox, 2014: 207-208).

Since the 1970s, transnational capitalist capital has expanded globally, and the hegemonic nature of international law has become more apparent (Chimni, 2008: 61). During this process, the U.S., which became a superpower, increased its power with the collapse of the Soviet Union, and the neoliberal state form and free-market doctrine began to globalize. The legal framework of standby agreements or regional integration projects

played important roles in this objective. Thus, international law has also become part of the process of producing "consent and coercion" (Demirli and Özdemir, 2019: 65). The article published by U.S. Trade Representative Zoellick in the Washington Post explains the connection between hegemony, the international economy, and international law. Zoellick stated that “economic power is both the hard and soft power of the U.S. both domestically and abroad, that the U.S.'s leadership in the international trade and economic system is vitally important, that the U.S.'s interests are tied to the global economy, and that the purpose of the 9/11 attacks was to negatively affect the bilateral free trade agreements and the processes of countries joining the WTO that the U.S. was planning” (Zoellick, 2001). Additionally, then-National Security Advisor Rice’s emphasis that the 9/11 attacks created new opportunities for the U.S. and that the U.S. should take action (cited in Rajagopal, 2006: 771) serves as evidence that war or international intervention was used as a strategy.

Historical examples have shown that hegemonic powers possess a hierarchical understanding of international law and, in some cases, attempt to soften legal rules. These examples have shown that hegemonic powers place more importance on their flexibility rather than strictly restricting other countries. In other words, it can be said that hegemonic powers are not subject to international law but rather are positioned above it (Krish, 2005: 390, 399).

“The ability of the global superpower during the Cold War to intervene in different parts of the world whenever it wanted, based on its economic and political interests, shows that hegemony is part of the objective reality of the international order” (Rasulov, 2010: 457). The increasing development and spread of international legal rules in various fields such

as human rights, international trade, and the international economy facilitate the integration of the rest of the world into the hegemonic order. While international legal rules restrict the actions of certain countries, it is unlikely that powerful countries are affected by these restrictions. In this context, it can be said that international law has a hierarchical structure. In other words, it is possible to say that international law is used as a hegemonic tool that embodies power asymmetries.

It is not possible for every country to gain the same share from the growing world economy. Therefore, an economic crisis in one country may coincide with economic growth in another. The economic dominance of the United States has imposed the free-market version of capitalism on underdeveloped or developing countries, particularly through international institutions dominated by the U.S. (Fulcher, 2004: 125-126). As a result, countries that navigate crises in the capitalist system with larger capital reserves in a more advantageous manner compared to others maintain these advantages in interstate relations and in shaping international policies. This economic power allows them to resist certain decisions in areas such as international trade or international law or to implement different decisions.

The penetration of hegemonic ideology and culture into international law erases the traces of dominance over peripheral countries. In other words, the international order normalizes in favor of hegemony, and this normalization is achieved through the activities of international courts and doctrines such as good governance, the spread of democracy, the rule of law, and human rights (Krish, 2005: 404).

In conclusion, throughout the historical process, the hegemonic powers of the international system have exhibited certain common attitudes

towards international law. In this context, hegemonic powers have sometimes instrumentalized international law for their own interests and at other times avoided adhering to international legal rules. Moving between using international law as a tool and avoiding the application of legal rules, hegemonic powers have also tried to soften or change these legal rules according to their interests. During these attempts, they have turned to either bilateral and multilateral agreements or to legitimization through domestic law. By these methods, they have managed to both avoid international legal rules and ensure that the legitimacy of international law is not undermined.

4. From Pashukanis to Miéville: The Commodity-Form Theory of International Law

The commodity-form theory examines international law through the lens of capitalist exchange relationships and the development of private property, which ensures ownership of commodities. Miéville's works have led the development of such an approach to international law; However, Miéville derives the fundamental framework of his approach from the Soviet jurist Pashukanis. Therefore, it is necessary to address Pashukanis's ideas first.

The first claim in Pashukanis's legal thought is that economic factors are paramount in the process of social life. According to him, law is moral rules while institutions are elements of the superstructure that reflect the economic relations of society. Pashukanis's second claim is that, in the event of achieving a communist social life, law and the state will fade away (Dalar, 2021: 546-547). Pashukanis base the legal form that governs social life on material exchange relations. According to him, the nature of the

legal superstructure is rooted in the material mode of production of social life and thus in the exchange relations between people. The continuation of this entire production and exchange process is made possible by the legal form. The fact that a commodity has value transforms the people who own it into legal subjects. Therefore, according to him, legal forms regulate the relations between subjects (Pashukanis, 2003: 13-14).

Pashukanis, who argues that law is the product of the political superstructure, believes that the legal superstructure is directly related to property relations. According to him, the state also develops within the valid production relations of political class domination (Pashukanis, 2002: 89). Pashukanis further emphasized that law reflects ideological formations through production relations based on commodity exchange and that the system of commodities and value would lose its meaning in the transition to a different mode of production (Pashukanis, 2002: 70). For Pashukanis, the nature of law is inherently contentious. He argued that in exchange processes, a special social arrangement and method of resolution are needed to settle disputes between parties. This abstract and systematic structure based on the equality of subjects develops around capitalist production relations (Miéville, 2004: 282). This approach bases the legal form on a specific relationship. Thus, legal rules stem not from the will of the state but from the aforementioned relationship (Çelebi and Özdemir, 2010: 80). Çelebi and Özdemir (2010: 80) provide the following example: “The creditor demands payment from the debtor independently of the ‘pay’ order in the relevant enforcement law. The presence of the ‘pay’ order in the law owes its existence to the concrete level of development of exchange relations at a specific time and place.”

Pashukanis first rejects the positivist approaches that claim that the attributes of individuals who own commodities, such as being "free, equal, and sovereign," are granted by the legal system. According to him, these attributes arise from the results of exchange relationships between two different parties in the economic relations of social life. With the emergence of capitalist production relations in social life, this exchange relationship has become inevitable. Thus, it can be said that what brings law into existence is not the will of power but the existing production relations (Uğurlu, 2012: 71; Pashukanis, 2002). Pashukanis also emphasized that to obtain a Marxist legal theory, it is not enough to simply add “class struggle” to the analytical structure. According to him, focusing solely on class struggle would create "legal institutions history" or an "economic forms history" adorned with law rather than a general legal theory (Pashukanis, 2002: 47-48).

Miéville emphasized that the element of force and coercion, which Pashukanis overlooked, must also be taken into account. According to him, violence or coercion must be at the center of the commodity-form theory in a system where private property prevails. This explains why a commodity belongs to one person and not to others. The factor ensuring this is the system that enforces the application of power. Without this, the individual’s ownership of a commodity would have no meaning, and there would be no factor preventing the commodity from belonging to others. In this context, it can also be said that the force or coercion that sustains this system is not overt but concealed (Miéville, 2008: 113).

According to the commodity-form theory, legal form and rules are derived from a specific social relationship. This approach considers that legal relationships emerge from the relationships people have with their

commodities and with each other. In other words, legal rules cannot be abstracted from the realities of social life (Miéville, 2004: 283-284). Çelebi and Özdemir (2010: 80) explain this process as follows: “The existence of a market will develop exchange relations, and thus legal categories such as contracts of sale and ownership will arise alongside the market. Thus, the logic of the commodity form is identical to the logic of the legal form.” In other words, capitalism initially required a specific legal form. This legal form was intended to protect the operation of capital. With the expansion and globalization of capitalism among states, the commodified and marketized form of international law emerged (Cutler, 2005: 539-540).

Miéville emphasized that all ideas, concepts, and theoretical structures must be considered in the context of specific material production relations. Based on this, Miéville builds his approach on the following foundations (Miéville, 2008: 98):

1) Social reality should be approached not through the complexity of ontologically distinct phenomena but rather through a structure that is interconnected, contradictory, and holistic.
2) To understand social changes, it is necessary to grasp the dialectic of contradictory dynamics within a whole.
3) Understanding social reality, including international law, is achieved by comprehending the specific and contradictory contexts of modes of production and production relations.
4) The struggles occurring within capitalist production relations can only be understood through the lens of class and inter-class conflict.

Mieville, who believes that imperialism continues to persist, explains that the tendencies of imperialism manifest in two forms: "1) the

intensification and centralization of the integration between private monopolistic capital and the state; 2) the internationalization of productive forces compelling capital to compete globally for markets, investments, and raw materials" (Mieville, 2005: 228). He then elaborates on the consequences of these tendencies, citing Callinicos: "1) competition among capitals takes the form of military competition between nation-states. 2) The relationships between nation-states are unequal; the uneven and combined development of capitalism allows a few advanced capitalist states to dominate the rest of the world through their productive resources and military power. 3) Uneven development during the imperialist period intensifies military competition, leading to wars both among imperialist powers and between imperialist powers and oppressed nations" (Callinicos, 1994: 16-17, as cited in Mieville, 2005: 228).

Miéville, also, critiques those who consider law merely as an ideological construct. According to him, even if the law has an ideological function, the primary focus should be on political economy and material production relations. He argues that focusing solely on ideology and the ideas stemming from this ideology will not suffice to grasp the underlying logic of historical change (Miéville, 2004: 279).

Miéville states that the class nature of international law is rooted in principles and policies. According to him, what makes law an effective tool for a class is the fact that the content of legal forms is created and enforced by the ruling classes (Miéville, 2008: 104-105). He notes that in the system encompassing international law, the primary actors in the struggle are not social forces or classes but states. However, this determination does not imply that different legal subjects do not emerge in the constantly evolving system of international law. According to Miéville,

international law is a system centered on states but composed of many collective entities rather than individuals. From Miéville's perspective, it can be concluded that capitalism becomes more socialized as it develops and accumulation increasingly occurs through collective organs, leading to the development of international institutions (Knox, 2009: 419).

For Miéville, the capitalist production relations that organize the social and economic life of individuals have also permeated inter-state relations. The reason for this is that since the emergence of inter-state relations and thus international law, states have also been regarded as property owners (Miéville, 2004: 274). So how does the commodity-form theory interpret international law through exchange relations? The answer can be found by examining transformations of the world economy. In the 17th and 18th centuries, the increase in international trade led to changes in the structures of the powerful European states of the time. These changes universalized the legal relations that facilitated international trade. It can be said that modern international law emerged through these relations between states. As a result, international trade became globalized, and the international order thus gained a legal form. A consequence of this mercantilist phase was the transition to the capitalist world economy (Miéville, 2004: 285).

One factor that contributed to the development of the commodity form among states was the occurrence of capitalist competition. The search for international markets, an important element of capitalist competition, led to the development of international trade. This development led to military competition to protect the markets. The competition that began among the imperial states of Europe also led to the legalization of the international order. Moreover, 17th-century mercantilism became the first step in the globalization of capitalism. This development also led to the evolution of

international trade and maritime law (Pal, 2012: 68). Thus, the approach extended the economic relations based on the exchange of commodities between individuals to international relations. This shows that the source of international law is the exchange relations that occur between states (Çelebi and Özdemir, 2010: 79).

Miéville also points out that the concept of commodity ownership and the element of coercion that maintains ownership among individuals in social life are also valid in the international community. According to him, what legitimizes these production relations in international relations is sovereignty. In other words, thanks to the norms and principles of international law, states assert their ownership of commodities such as land and natural resources to other states (Miéville, 2005: 54).

One way to understand the commodity-form theory is to focus on its differences from mainstream approaches to international law. According to Miéville, while there are many critical approaches to international law, these approaches often overlook the critique of the origins of international law. In other words, the capitalist social relations that underpin international law have not been sufficiently emphasized by critical approaches. Most of these approaches believe in the reformative potential of the international legal system, while Miéville does not believe that international law has any progressive potential. Mainstream approaches to international law produce repetitive explanations without questioning the origins of international law. In a sense, mainstream international law approaches attribute the state of war, disorder, and violence to the non-application of international law or the insufficient functionality of legal mechanisms. They argue that international law is being abused by hegemonic power and therefore needs to be restructured. In contrast,

Miéville argues that reforming the international legal system will not end the state of violence or war (Miéville, 2005: 1-3).

Criticizing mainstream international law approaches, Miéville uses Koskenniemi's discussions of legal indeterminacy as an example. He examines this indeterminacy through the concept of reprisals. According to him, there are arguments that both consider reprisals illegal and argue that they are consistent with the UN system. This indeterminate situation serves to produce legitimizing claims based on the fundamental principles of international law (Miéville, 2004: 273). Finally, Miéville argues that international law is a tool of struggle, and therefore, war and violence are part of international law (Miéville, 2005: 148). Thus, from this perspective, the liberal theses that build on the idea that international legal norms will end war and violence are unlikely to materialize.

Miéville, who believes that a specific legal situation requires support by force, argues that since the greatest capacity for force lies with imperialist states, no progressive outcome can emerge from international law. According to him, for a progressive outcome to emerge from the legal form, inequalities in political and military power must first be eliminated (Knox, 2009: 423).

In summary, according to the commodity-form approach to international law, liberal legal approaches ignore how the abstract norms and principles of law have been socialized throughout history. In other words, mainstream liberal philosophy among international legal approaches focuses on the development of legal rules through ideas while leaving economic and political conditions outside the analytical framework. Miéville’s commodity-form theory, on the other hand, focuses on exchange relations, expanding the buying and selling relationships

between people to the ownership of commodities among states, thereby creating an international law approach. In other words, while Pashukanis focused on the commodity form of general law, Miéville adapted this approach to international law. As a result, the commodity relationships that occur between individuals have also begun to occur between states, and thus the international legal order has emerged.

5. The Soviet Experience in International Law Built on Criticism of Capitalism

Despite the existence of numerous approaches, both classical and modern, built on the critique of capitalism, there have been very few state practices that developed an international law approach based on this critique. Examining the Soviet Union's experience in international law, which can be considered an example of such an application, is valuable in this regard. To understand the Soviet Union's experience in international law, it is necessary to explore how the Classical Marxist works before the October Revolution of 1917 influenced Soviet jurists and the legacy they left behind.

5.1. The Legacy of Classical Marxist Works on Soviet Law

To understand how the critique of capitalism has influenced modern approaches to international law, it is first useful to examine the early Marxist works that underpin the methodological foundations of these approaches. In this context, it is necessary to explore how thinkers like Marx, Engels, and Lenin conceptualized law.

Marx described capitalist society as an environment governed by political-economic laws, where individuals participate unknowingly and

believe they act freely (Schlesinger, 1974: 24). He also emphasized that "the actual relationship emerging through exchange subsequently takes on its legal form in contracts and similar legal structures" (Marx, Engels, 2013: 53). Marx and Engels viewed law as a reflection of production relations (Dalar, 2021: 544) and noted that the source of law, once considered divine, later came to reside in the church, the state, and individuals (Marx and Engels, 2013: 104). In other words, according to this classical view, law can be seen as a product of the dominant structure of social relations. Lenin's perspective, meanwhile, posited that law reflects the interests of the ruling class, operates through the organized power of this class, and regulates relations between classes (Hildebrand, 1968: 150).

Marxist approaches argue that the prevailing production relations in society determine its social structure and processes. According to this classical view, social events and developments form the base, while elements influenced by this base—such as religion, law, and culture—constitute the superstructure (Dalar, 2021: 543). In other words, production relations form the economic base of societies, and elements like law and politics are built upon this base.

Collins, who debates whether a Marxist theory of law exists, emphasizes that the Marxist approach focuses on society's power structures and the economic base on which this power rests. He argues that because Marxism does not center on law, it has not fully developed a theory of law (Collins, 2016: 20). This lack of focus on law is generally attributed to Marx and Engels' thesis that history is determined by economics (Lenin, n.d.: 139). Marxist studies, which analyze social phenomena through the lens of historical materialism, link the evolution

of social structures, including law, to developments in production relations and argue that law serves to legitimize this system of production relations (Collins, 2016: 38).

Although Marxism is not thought to provide a comprehensive theory of law, the works of Marx and Engels laid the groundwork for such an approach. Classical Marxist perspectives were initially considered to be opposed to law and the state (Dalar, 2021: 543). When broadly interpreted, this classical approach suggests that law is created by external, non-rational forces. For this reason, classical Marxist works reject natural law doctrines (Karahanoğulları, 2003: 201). This classical approach sees law as the raison d'être of the state and emphasizes that the legal structure develops around the state. According to this perspective, the state is a product of class struggle, controlled by the ruling class that dominates social production. Accordingly, law develops in relation to the economic interests of classes (Schlesinger, 1974: 26-27).

Classical Marxist approaches to law examine it through three distinct social stages: bourgeois society, the society of revolutionary transition, and communist society. The bourgeois society stage is characterized by a social structure where law is used as an instrument of oppression and the state dominates. During this stage, it does not matter whether legal rules originate from courts or customs. The revolutionary transition stage is a period in which the dominance of the bourgeois state and its law weakens. The communist society stage refers to a period when the state and law have disappeared (Karahanoğulları, 2003: 201-202).

Some Marxists approach law by focusing on its close relationship with ideology. In this context, the view considers law as a social construct with no corresponding reality, created by a central authority, and an ideological

fabrication. Thus, law is sought not in socio-economic developments or material relations but in ideology (Mieville, 2008: 102). While it is necessary to acknowledge the natural connection between law and hegemonic ideology, it is also important to recognize that legal developments do not progress solely through ideology.

Classical Marxist works construct legal systems on the assumption that they reflect the prevailing economic relations. These works also argue that legal rules emerge to meet the needs of the economic order and are based on a specific authority. Accordingly, changes in capitalism's historical trajectory are directly linked to the instability of law throughout history. In this context, a change in the economic order will lead to a change in the legal order. Marx argued that law does not create society; rather, society creates law, and if a legal rule does not align with existing social relations, it will eventually be discarded. Thus, it can be concluded that legal rules are not the creators of the economic order but its product (Moore, 1989: 33, 43-44). This classical approach also argues that the existence of states will make law the will of the ruling class rather than the will of society (Lodhi, 1975: 36).

Marx explained the fundamental flaw of mainstream legal approaches as follows: "Since the state is a form in which the individuals of the ruling class assert their common interests, and in which the entire bourgeois society of a particular period is summarized, all common institutions assume a political form through the state. This is the origin of the illusion that law is based on a free will detached from its real foundation. In short, law is reduced again to legislation" (Marx, Engels, 2013: 86). Additionally, Marx and Engels explained how mainstream legal approaches base legal rules on the state's formal laws: "Commodity exchange relations create

contract relations and therefore require 'general rules that can be established by society (legal rules determined by the state)' " (Marx and Engels, 2013: 104-105).

It can also be said that classical Marxist works' understanding of law is grounded in the sociology of law. According to this view, individuals within society engage in vital interactions with one another. These interactions primarily create legal forms. Once established, these legal forms gain continuity through the ruling class, which dominates social processes (Hildebrand, 1968: 152). How, then, can classical Marxist approaches conceptualize international law? According to the methodology offered by this approach, international law can be defined as "a superstructure of norms and principles that arise in the process of relations between different societies and are based on the economic organization of social life" (Hildebrand, 1968: 150-151).

Having discussed how early Marxist works conceptualized law, it is valuable to examine how the legacy of this approach influenced the Soviet Union's international legal perspectives to understand how this legal approach developed in practice.

5.2. The Soviet Union's Approach to International Law

The international law approach of Tsarist Russia in the 19th century was based on doctrines derived from European international law. However, the October Revolution of 1917 changed this, leading to a stance against Western liberal legal discourse. During this period, Soviet international law scholars aimed to develop an international law approach with a socialist character (Malksoo, 2008: 213-214). After the October Revolution of 1917, Soviet international law scholars focused on how two

different social systems in the world would engage in legal relations. The key issue was how capitalist and socialist societies would coexist within an international legal order. In other words, would the Soviets establish a new international legal system, or would they accept the existing international order? (Hildebrand, 1968: 154-155). The Soviet Union needed to develop an international legal system to guide its diplomatic activities, but without compromising its socialist principles or the political goals of the Soviet state (Snyder and Bracht, 1958: 55). Following the October Revolution of 1917, Russia transitioned to a socialist state system. From that point on, Soviet international law thought was divided into two main ideas: the idea of universal peace, which led to the principle of "peaceful coexistence," and the idea of world revolution, which led to the concept of "socialist internationalism" (Cherviatsova and Yarmysh, 2017: 297).

The October Revolution of 1917 impacted both international relations and international law. After the revolution, it was expected that peace-oriented and anti-imperialist policies would come to the forefront. Tunkin (1974: 3-4) stated that the international law of that period operated on three different levels: "1) the principles of socialist internationalism in relations among socialist states; 2) the principles of equality and self-determination for peoples opposed to colonialism, oppression, and inequality; and 3) the principles of peaceful coexistence among states with different social systems." During this time, the main issue for the Soviets was how to develop an international law understanding within an international system where both capitalist and socialist societies existed (Oliver, 1972: 7).

After the October Revolution of 1917, Soviet leader Lenin believed that capitalist law was based on unequal relations, but that it was still an

important arena for struggle that could force concessions from the ruling classes. Lenin also believed that the law could be useful in spreading the socialist program. In his view, the socialist understanding of law was fundamentally different from the colonialist legal understanding of the time. Additionally, he argued that once the transition from capitalism to communism was complete, the conditions that produced the law would also disappear (Beirne and Hunt, 1988: 577-578). Lenin rejected the prevailing international legal system of the time, which had enabled the West's imperialist activities for years. This Eurocentric law was imperialist in nature and protected capitalist interests. He believed that the newly established Soviet state needed a new international law to ensure its security (Hazard, 1990: 4). The Leninist view asserted that the law reflected the interests of the ruling class, operated through the organized power of that class, and regulated relations between classes (Hildebrand, 1968: 150).

Korovin, who sought to build the Soviet international law approach of the time, argued that universal international law was impossible, that existing international law was a tool of the great powers, and that international law could only be used during the transition from socialism to communism (Malksoo, 2008: 226). Drawing on Lenin, Korovin articulated his thoughts on international law in his work "International Law in the Transition Period." According to Korovin, international law could only arise when one power was balanced by another. Thus, international law was reduced to a balance of power. The absence of power on one side of this balance, he argued, meant that international law was under threat. Rejecting the universal international legal system, Korovin believed that international law reflected imperial activities driven by economic interests

and the temporary rules of conflicting societies. In his view, there could only be transitional international law between different social structures (capitalist/socialist). Thus, Korovin argued that capitalist societies and the Soviet society could not coexist in a common order, that capitalism needed to be abolished and a proletarian revolution achieved, and that law would wither away once this was accomplished (Snyder and Bracht, 1958: 56-57). Korovin's development of a transitional international law between two different systems was driven by the Soviet state's policy of reviving the economy. According to this view, the transitional law would end when the capitalist encirclement threatening the Soviet state was eliminated (Snyder and Bracht, 1958: 58-59).

Korovin stated that existing international law created a class-based order and that regulations involving the exploitation of labor were therefore unacceptable (Hildebrand, 1968: 157). Although he believed that capitalist and socialist societies could not share a common culture, he argued that limited cooperation could occur on non-political issues such as combating epidemics (Snyder and Bracht, 1958: 57). He emphasized that treaties were the most reliable source of international law and recognized actors such as "workers' associations, proletarian organizations, the Vatican, the League of Nations, and the Red Cross" as subjects of international law alongside states. However, Korovin's views were not accepted by Stalin, who believed in the necessity of a strong Soviet state (Hildebrand, 1968: 159-160).

Stalin's rise to power as Soviet leader in 1924 led to changes in the approach to international law. Stalin believed that defeating the capitalists required first securing socialism in a single country—Russia—rather than relying on all societies transitioning to socialism. Stalin's belief in the

necessity of a strong state led to the development of the idea that the state should be the sole subject of international law (Hildebrand, 1968: 162-164). In line with this goal, the Soviet government created a new constitution in 1936, reflecting the perspective that a strong state was essential. This view also influenced the Soviet legal system (Snyder and Bracht, 1958: 63).

In the 1930s, Soviet legal scholars were forced to revise their initial approaches due to Stalin's foreign policy strategies, which were based on "socialism in one country." Indeed, many intellectuals, including international legal scholars, who opposed Stalin's policies were executed in the early years of the Soviet Union (Cherviatsova and Yarmysh, 2017: 312-313). Stalin's concept of "socialism in one country" was based on the idea that the revolution must first succeed domestically. This concept led to strategies such as ensuring territorial integrity, resulting in a strong and authoritarian state structure (Dalar, 2021: 555). The most important emphasis of Soviet international law during this period was that the Soviet state was under capitalist siege and that weakening state sovereignty would not benefit socialist society.

Korovin, who revised his views from the 1920s, aimed to develop an approach suited to the conditions of the time by stating that "international law is a body of rules governing relations between states in the process of conflict and cooperation, ensuring the peaceful coexistence of societies, expressing the will of the ruling classes of states, and enforced when necessary through coercion" (McWhinney, 1963: 42). Similarly, Pashukanis also revised his views from the 1920s, arguing that there could be an international legal system that prioritized the state and allowed for

legal arguments in the name of national interests (Hildebrand, 1968: 165; Snyder and Bracht, 1958: 62).

As the world moved toward World War II, the turmoil in the international system prompted the Soviet Union to accept a certain order. In this context, an approach was adopted that rejected undemocratic and non-progressive rules in the international legal system, but allowed for temporary cooperation to ensure the coexistence of different social systems (Lodhi, 1975: 36). In the late 1930s, a development occurred that would change the Soviet approach to international law. The Soviet state began to accept that even if socialism was achieved, capitalist institutions might continue for a time. The growing threat of Nazi Germany in Europe was cited as the reason for this change (Hildebrand, 1968: 166-167). In 1939, Stalin declared that the Soviet state had now achieved socialism. However, he emphasized that reaching socialism did not mean the end of the state and law. According to him, the abolition of law would only occur once the capitalist encirclement ended. Thus, an approach focused on the continuity of the Soviet state took hold. These developments led to the emergence of a new approach to international law that aligned with the new policy (Snyder and Bracht, 1958: 64). In this context, it can be said that Soviet approaches to international law were transformed according to state policies and that principles were adopted in line with the spirit of the times. Additionally, the temporary nature of international law that had prevailed until Stalin came to power began to evolve into a more permanent form. The most emphasized aspects during this period were the sanctification of state sovereignty and the acceptance of the state as the sole subject of international law. In other words, by the 1930s, international law was no longer considered merely a battleground between states with

different social structures. Instead, it began to be seen as a field that could create opportunities for cooperation between states with different systems. However, for such cooperation to occur, the Soviet state would have the authority to review all international legal rules and practices. In other words, not all international legal rules would necessarily be accepted by the Soviet state. In summary, Soviet international law began to be viewed as the superstructure of an international society with both socialist and capitalist economic structures. This shift marked a departure from the understanding centered on classical Marxist philosophy that had dominated from 1917 to 1924 (Snyder and Bracht, 1958: 66-67). Thus, the Soviet approach to international law evolved from an initial understanding based on the temporary compromise between groups with different economic systems to one focused on continuous cooperation. This new understanding of international law was defined by Vyshinsky as follows: "International law expresses the will of the ruling classes of states, is protected by the coercion exercised by states, and establishes the rules governing relations between states." Thus, the emphasis was placed on the state as the primary actor in international law (Hildebrand, 1968: 171-172).

Kozhevnikov, a Soviet international law scholar of the post-World War II era, emphasized that international law neither had a single historical nor spatial form, with many norms being interpreted differently across various countries. Consequently, he argued that this legal system could not establish general rules that would define the behavior of states. Kozhevnikov also asserted that international law was the law of civilized nations, yet he did not specify the criteria for civilization. His approach was more influenced by Russian nationalism, and he viewed the Soviet

Union's fight against Germany and Japan in World War II as a historical duty aimed at securing international peace (Malksoo, 2008: 226-227).

During the Cold War, the structure of the international system changed, and with Khrushchev's succession after Stalin, the Soviet approach to international law also shifted. Initially, Khrushchev adopted a moderate, passive, or defensive perspective. As one of the two poles of the international system, the Soviet Union adopted a more realist viewpoint during this period. In this context, international law was approached from a balance of power perspective, with the acknowledgment that the concept of unlimited war was irrelevant (McWhinney, 1963: 47). Under Khrushchev, the Soviet Union began to embrace principles such as respect for each other's territorial integrity and sovereignty, mutual non-aggression, non-interference in domestic affairs, equality, mutual benefit, and peaceful coexistence (Lapenna, 1963: 737). Although peaceful principles were declared, the structure of the international system further aligned the Soviet approach to international law with a realist perspective.

Tunkin, a more liberal Soviet international law scholar, emphasized that the Soviet international legal system could regulate relations between states and that focusing on peace could lead to progressive developments (Malksoo, 2008: 229). Tunkin also argued that there were not two separate international legal systems for capitalist and socialist systems, but rather two different forms. According to him, one side maintained adherence to legal norms, while the other systematically violated even the most basic principles. Tunkin suggested that a new model of international law could be constructed through political cooperation among the states in the democratic camp that upheld adherence to norms (Soviet Theories of International Law, 1953: 335). With the concept of "consensus of wills,"

he argued that a common ground could be found between two different groups of states, allowing for the existence of international law. Thus, Tunkin's views closely aligned with the transitional international law theory that emerged during the early Soviet period (Hazard, 1990: 11).

Some Soviet legal scholars of the period also developed ideas regarding international intervention. According to these scholars, revolutionary intervention could be deemed legitimate if class struggle transcended state borders and was progressive. For Korovin, Soviet intervention had a progressive potential, while interventions by capitalist states were considered imperialist. Korovin cited the Red Army's interventions in the Baltic region and the Caucasus to promote socialism as examples of progressive intervention. The Soviet intervention in Czechoslovakia during the Brezhnev era in the 1960s was also based on this understanding of progressive intervention (Cherviatsova and Yarmysh, 2017: 311). The legitimacy of the Czechoslovakia intervention was further defended with arguments that de facto sovereignty could only develop in a socialist environment and that anti-socialist threats had to be prevented (Cherviatsova, Yarmysh, 2017: 321-322). In the subsequent period, the Soviet Union's interventions not only in Eastern Bloc countries but also in Afghanistan indicated that the Soviet approach to international law was evolving toward mainstream international legal approaches. In this context, it can be said that the early Soviet understanding of international law, which was developed around principles such as "Peaceful Coexistence," state sovereignty, territorial integrity, and the right to self-determination, was abandoned after Stalin came to power. In other words, with the Cold War, the Soviet approach to international law evolved around

assessments based on the balance of power and national interests (Dalar, 2021: 559).

It is also necessary to address the differences between Soviet approaches to international law and those of Western international law approaches of the time. One of these differences was the inclusion of not only states but also the working class and nations not recognized as states as actors in international law. However, this understanding changed in subsequent periods in line with the spirit of the times (Uslu, 2004: 146). The differences between Soviet international law and Western approaches immediately after the October Revolution included an emphasis on state sovereignty, adherence to international legal norms based on treaties or the explicit consent of states, and a tendency to use international law as a means of defense (Butler, 1970: 222). Regarding the sources of international law, Soviet jurists emphasized that treaties were the primary source. Although the Soviet Union accepted treaties as the principal source of international law, it considered treaties contrary to its principles to be null and void. Examples of such treaties included NATO, the Southeast Asia Treaty Organization (SEATO), the Marshall Plan, and agreements signed by the United States with Japan and Nationalist China. In addition to treaties, customary international law rules were also recognized as fundamental sources of international law, provided they passed the scrutiny of the Soviet state. The acceptance of customary international law as a source emerged from the expectation in the 1930s that the coexistence of states with two different economic systems would continue (Gönlübol, 1961: 69-75).

The fundamental principles of Soviet approaches to international law can be summarized as follows: the importance given to state sovereignty

and equality, emphasis on the right to self-determination, the idea that the will of states should be the basis of international law, and the understanding that states are the sole subjects of international law (Gönlübol, 1961: 75-88).

In evaluating the general experiences of the Soviet Union in international law, the most striking feature is that the state's changing foreign policies also altered its perspective on international law. The Soviet approach to international law evolved over the years, with the most significant factor being its alignment with the internal and external policies of the USSR. With Stalin's rise to power in 1924, the foreign policy of the period had a profound impact on international legal approaches, and this influence extended to the Soviet Union's approaches during the Cold War years. In other words, the international law approaches exhibited from the October Revolution until Lenin's death were developed in the context of criticism of the capitalist system. However, with Stalin, the approach was never the same as it was between 1917 and 1924. Overall, Soviet approaches to international law changed throughout history to create conditions suitable for the legal claims pursued by the Russian state in its foreign policy. Therefore, it can be said that these approaches were essentially developed in line with the state's foreign policy understandings and programs. In this context, the capitalist critique that Soviet approaches directed toward international law gradually diminished over time.

In conclusion, Soviet international law theorists contributed more to aligning with Soviet foreign policies than to advancing international law. In a sense, they evaluated law within a political framework and sought to develop international legal arguments to persuade the Soviet state (Gönlübol, 1961: 89). Mieville also emphasized that Soviet international

law scholars developed ideas similar to those of mainstream international law, failed to establish a theoretical foundation, and therefore did not provide a useful contribution to a Marxist approach to international law (Mieville, 2004: 277).

REFERENCES

Alvarez, J. E. (2003), Hegemonic International Law Revisited, The American Journal of International Law, Vol. 97, No. 4, s. 873-888.

Anghie, A. (2004), Imperialism, Sovereignty and the Making of International Law, Cambridge University Press.

Anghie, A. ve Chimni, B. S. (2003), Third World Approaches to International Law and Individual Responsibility in Internal Conflict, Chinese J.I.L., 2(1), s. 77-103.

Asad, T. (2003), Formations of the Secular: Christianity, Islam, Modernity, Stanford University Press, Stanford.

Attar, M. A. (2012), Third World Approaches to International Law and The Rethinkıng of International Legal Education in The 21st Century, Yayınlanmamış Doktora Tezi, York University, Kanada.

Baars, G. (2012), Law(yers) congealing capitalism: On the (im)possibility of restraining business in conflict through international criminal law, Yayınlanmamış Doktora Tezi.

Balcı, A. (2016), İnsan Hakları Rejimi, Batı ve Yeni-Sömürgecilik: Evrensel İnsan Hakları Ne İşe Yarar?, Türkiye Ortadoğu Çalışmaları Dergisi, Cilt: 3, Sayı: 2, s. 58-75.

Bolton, J. R. (2011), "John Bolton on Law, "International Law," and American Sovereignty", AEI: 12.12.2022 tarihinde https://www.aei.org/articles/john-bolton-on-law-international-law-and-american-sovereignty/ adresinden alındı.

Brink, T. T. (2014), Global Political Economy and the Modern State System, (çev.) Jeff Bale, BRILL, Leiden and Boston.

Butler, W. E. (1970), "American Research on Soviet Approaches to Public International Law", Columbia Law Review, 70(2), s. 218-235.

Carty, A. (2007), Philosophy of International Law, Edinburg University Press, Edinburg.

Cherviatsova, A. ve Yarmysh, O. (2017), Soviet International Law: Between Slogans and Practice, Journal of the history of International Law, 19, s. 296-327.

Chimni, B. S. (2004), An Outline of a Marxist Course on Public International Law, Leiden Journal of International Law, 17, s. 1-30.

Chimni, B. S. (2004a), An Outline of a Marxist Course on Public International Law. Leiden Journal of International Law, 17, pp 1-30.

Chimni, B. S. (2004b), International Institutions Today: An Imperial Global State in the Making, EJIL, Vol. 15 No. 1, 1–37.

Chimni, B. S. (2006), Third World Approaches to International Law: A Manifesto, International Community Law Review, 8(1), s. 3–27.

Chimni, B. S. (2010), International Financial Institutions and International Law: A Third World Perspective, Daniel D. Bradlow and David B. Hunter (eds.), International Financial Institutions and International Law, Kluwer Law International, The Netherlands, s. 31-62.

Chimni, B. S. (2012), Capitalism, Imperialism, and International Law in the Twenty-First Century, Oregon Review of International Law, Vol. 14/1 s. 17-45.

Chimni, B. S. (2017), International Law and World Order: A Critique of Contemporary Approaches, Second Edition, Cambridge University Press, Cambridge.

Collins, H. (2016), Marksizm ve Hukuk, (Çev.) Umut Deniz Tuna, Dipnot Yayınları, Ankara.

Cox, R. W. ve Sinclair, T. J. (1996), Approaches to World Order, Cambridge University Press, Cambridge.

Cutler, A. C. (2005), Gramsci, Law, and the Culture of Global Capitalism, Critical Review of International Social and Political Philosophy, 8(4), s. 527-542.

Çelebi, H. ve Özdemir, A. M. (2010), "Uluslararası Hukukta Eleştirel Yaklaşımlar", Uluslararası İlişkiler, Cilt 7, Sayı 25, s. 69-90.

Dalar, M. (2021), Marksizm'in Uluslararası Hukuk Yaklaşımı, International Journal of Social Inquiry, Cilt: 14, Sayı: 2, s. 541-568.

Demirli, A. ve Özdemir, A. M. (2019), "Uluslararası Hukuku Dönemselleştirmek: Pozitivist Söylem ve Ötesi", Uluslararası İlişkiler, Cilt 16, Sayı 63, s. 51-67.

Doyle, M. (1986), Empires, Cornell University Press, Ithaca and London.

Doyle, M. W. (1986), Liberalism and World Politics, The American Political Science Review, Vol. 80, No. 4, s. 1151-1169.

Durst, D. C. (2005), Hegel's Conception of the Ethical and Gramsci's Notion of Hegemony, Contemporary Political Theory, 4, s. 175-191.

Eslava, L. ve Pahuja, S. (2012), Beyond the (Post)Colonial: TWAIL and the Everyday Life of International Law, Law and Politics in Africa, Asia and LatinAmerica, Nomos, Vol. 45, No. 2 (2012), s. 195-221.

Fidler, D. (2001), The Return of the Standard of Civilization, Chicago Journal of International Law, Vol. 2, No. 1, s. 137-157.

Fidler, D. (2003), Revolt Against or From Within the West? TWAIL, the Developing World, and the Future Direction of International Law, Chinese JIL, s. 29-76.

Fulcher, J. (2004), Capitalism: A Very Short Introduction, Oxford University Press, New York.

Gathii, J. T. (2000), Rejoinder: Twailing International Law, Michigan Law Review, Vol. 98, s. 2066-2071.

Gönlübol, M. (1961), Devletler Hukukunda Sovyet Görüşü, Ankara Üniversitesi SBF Dergisi, Cilt 16, Sayı 03, s. 55-89.

Hardt, M. ve Negri, A. (2003), İmparatorluk, (Çev: Abdullah Yılmaz), İstanbul: Ayrıntı Yayınları.

Harvey, D. (2003), The New Imperialism, Oxford University Press.

Hazard, J. N. (1990), "New Thinking" in Soviet Approaches to International Politics and Law", Pace International Law Review, 2(1), s. 1-19.

Hildebrand, J. (1968), Soviet International Law: An Exemplar for Optimal Decision Theory Analysis, 20(1), Case Western Reserve Law Review, s. 141-250.

Igwe, C. S. (2009), Dehumanising International Law or Responding To A New Reality?: A Critical Analysis Of Post-9/11 Suggested Changes to The Laws of War, A Dissertatıon Submitted to The Faculty of Graduate

Ikenberry, J. (2011), The Future of the Liberal World Order: Internationalism After America, Foreign Affairs, Vol. 90, No. 3 pp. 56-68.

Karahanoğulları, O. (2003), "Marksizm ve Hukuk" Yazın İncelemesi", Ankara Üniversitesi Siyasal Bilgiler Fakültesi Dergisi, 58(3), s. 197-231.

Karahanoğulları, O. (2003), "Marksizm ve Hukuk", (ed.) Marksizm ve …, İmge Yayınevi, 1. Baskı, s. 45-95.

Kelleci, T. ve Bodur Ün, M. (2017), TWAIL ve Yeni Bir Hâkimiyet Aracı Olarak Koruma Sorumluluğu (R2P): Libya Örneği, Uluslararası İlişkiler, Cilt 14, Sayı 56, s. 89-104.

Khosla, M. (2007), The TWAIL Discourse: The Emergence of a New Phase, International Community Law Review, 9, s. 291–304.

Kınacıoğlu, M. (2012), 'War on Terror' and Hegemony: International Law-Making Regarding Terrorism After 9/11, Uluslararası İlişkiler, Volume: 8, No: 32, s. 67-83.

Knox, R. (2009), Marxism, International Law, and Political Strategy, Leiden Journal of International Law, 22, s. 413-436.

Knox, R. (2014), Critical Examination of the Concept of Imperialism in Marxist and Third World Approaches to International Law, Yayınlanmamış Doktora Tezi, Department of Law of the London School of Economics, London.

Koshy, S. (1999), "From Cold War to Trade War: Neocolonialism and Human Rights", Social Text, 58, s. 1-32.

Koskenniemi, M. (2002), 'The Lady Doth Protest Too Much' Kosovo, and the Turn to Ethics in International Law, The Modern Law Review, Vol. 65, No. 2, s. 159-175.

Koskenniemi, M. (2004), International Law and Hegemony: a Reconfiguration, Cambridge Review of International Affairs, 17(2), s. 197-218.

Koskenniemi, M. (2011), The Politics of International Law, Hart Publishing, Oxford.

Krisch, N. (2005), International Law in Times of Hegemony: Unequal Power and the Shaping of the International Legal Order, The European Journal of International Law Vol. 16 no.3, s. 369–408.

Kroncke, J. (2021), There is no International Legal Order Beyond Capitalism, 12.12.2021 tarihinde Legal History-JOTWELL: https://legalhist.jotwell.com/there-is-no-international-legal-order-beyond-capitalism/, adresinden alındı.

Lapenna, I. (1963), "The Legal Aspects and Political Significance of the Soviet Concept of Co-existence", The International and Comparative Law Quarterly, 12(3), s.737-778.

Laura Stoler, A. (2006), On Degrees of Imperial Sovereignty, Public Culture, 18(1), s.125–146.

Lenin, V. (Tarihsiz), Karl Marks'ın Hayatı, Felsefesi Sosyolojisi, (Çev. Hikmet Kıvılcımlı), Bozkurt Matbaası, İstanbul.

Lodhi, A. (1975), Soviet Concept of International Law and International Relations, Pakistan Horizon, Vol. 28, No. 3, s. 3-37.

Luxemburg, R. (2003), The Accumulation of Capital, (Çev.) Agnes Schwarzschild, Routledge, London and New York.

Luxemburg, R. (2003), The Accumulation of Capital, Routledge Classics, London and New York.

Magdoff, H. (1978), Imperialism: From the Colonial Age to the Present, Monthly Review Press.

Malksoo, L. (2008), "The History of International Legal Theory in Russia: A Civilizational Dialogue with Europe", The European Journal of International Law, 19(1), s. 211-232.

Martin, L. L. (1992), Interests, power, and multilateralism, International Organization, 46, s. 765-792.

Marx, K. (1976), Capital: A Critique of Political Economy, Volume 1, (Çev.) Ben Fowkes, Penguin Books.

Marx, K. ve Engels, F. (2013), Devlet ve Hukuk Üzerine, (Çev.) ve (Der.) Rona Serozan, Çağdaş Hukukçular Derneği Yayınları, İstanbul.

McWhinney, E. (1963) "Soviet and Western International Law and the Cold War in the Era of Bipolarity: Inter-Block Law in a Nuclear Age", The Canadian Yearbook of International Law, 1, s. 40-81.

Mickelson, K. (1998), Rhetoric and Rage: Third World Voices in International Legal Discourse, Wisconsin International Law Journal, Vol. 16, No. 2, s. 353-419.

Mieville, C. (2004), The Commodity-Form Theory of International Law: An Introduction, Leiden Journal of International Law, 17, s. 271–302.

Mieville, C. (2005), Between Equal Rights: A Marxist Theory of International Law, Brill Academic Publishers. Leiden.

Mieville, C. (2008), The Commodity-Form Theory of International Law, (Ed.) Marx, Susan, International Law on the Left, Cambridge University Press, Cambridge, s. 92-131.

Moore, S. W. (1989), Marx, Engels ve Lenin'de Devlet Kuramı, (Çev.) Ahmet Cumhur Aytulun, Simge Yayınları, İstanbul.

Mouffe, C. (1979), "Introduction", (Ed.) Mouffe, Chantal, Gramsci and Marxist Theory, Routledge and Kegan Paul, London, s. 1-29.

Mouffe, C. (1979), Hegemony and Ideology in Gramsci, (der.) Chantal Mouffe, Gramsci and Marxist Theory, Routledge, London.

Mutua, M. (2000), "What is TWAIL?", 94 Proceedings of the ASIL Ann. Meeting 31, s. 31-38.

Mutua, M. (2002), Human Rights: A Political and Cultural Critique, University of Pennsylvania Press, Philedelphia.

Natarajan, U. (2007), A Third World Approach to Debating the Legality of the Iraq War, International Community Law Review, 9, s. 405–426.

Natarajan, U. (2008), The 2003 Iraq Invasion and the Nature of International Law: Third World Approaches to the Legal Debate, Yayınlanmamış Doktora Tezi, Australian National University.

Neocleous, M. (2012), International Law as Primitive Accumulation; Or, the Secret of Systematic Colonization, The European Journal of International Law Vol. 23, no. 4, s. 941-962.

Okafor, O. C. (2005), Newness, Imperialism, and International Legal Reform in Our Time: A Twail Perspective, Osgoode Hall Law Journal, Vol. 43, s. 171-19.

Okoronkwo, P. L. (2005), Economic Globalization, Refugee Production, and The Undermining of International Law: A Third World Perspective, Yayınlanmamış Doktora Tezi, York University, Kanada.

Oliver, R. D. (1972), Soviet international law: theory and practice, Honors Theses, Paper 660.

Orford, A. (1999), Muscular Humanitarianism: Reading the Narratives of the New Interventionism, EJIL, Vol.10, No.4, s.679-711.

Özdemir, A. M. v.d., (2012), Üçüncü Dünyacılık Küreselleşirken?: Uluslararası Düzenlemenin Değişen Eleştirisi, Amme İdaresi Dergisi, Cilt 45, Sayı 1, s.21-50.

Pal, M. (2012), The Politics of Extraterritoriality: A Historical Sociology of Public International Law, Yayınlanmamış Doktora Tezi, Unıversity of Sussex, England.

Pasukanis, E. (2002), Genel Hukuk Teorisi ve Marksizm, (Çev.) Onur Karahanoğulları, Birikim Yayınları, İstanbul.

Pasukanis, E. (2003), The General Theory of Law and Marxism, Transaction Publishers, New Brunswick (U.S.A.) and London (U.K.).

Perkins, J. (2019), Bir Ekonomik Tetikçinin İtirafları, (Çev.) Murat Kayı, Aprıl Yayıncılık, İstanbul.

Rajagopal, B. (1999), International Law and the Development Encounter: Violence and Resistance at the Margins, Proceedings of the Annual Meeting (American Society of International Law), Vol. 93, s.16-27.

Rajagopal, B. (2006), Counter-hegemonic International Law: rethinking human rights and development as a Third World strategy, Third World Quarterly, Vol. 27, No. 5, s. 767-783.

Rasulov, A. (2010), Writing about empire: remarks on the logic of a discourse, Leiden Journal of International Law, 23 (2), s. 449-471.

Robinson, W. I. ve Harris, J. (2000), Towards a Global Ruling Class? Globalization and the Transnational Capitalist Class, Science & Society, Vol. 64, No. 1, s. 11-54.

Roth-Isigkeit, D. (2013), Conceptualizing Inequalities? The Politics of Hegemony and the Choice of International Law, Transnational Legal Theory, 4(3), s. 452-455.

Said, E. (1979), Orientalism, Vintage Books, New York.

Santos, M. D. (2004), Human Rights and Migrant Domestic Work: A Comparative Analysis of The Socio-Legal Status of Filipina Migrant Domestic Workers in Canada and Hong Kong, Yayınlanmamış Doktora Tezi, York University, Kanada.

Schlesinger, R. (1974), Marksizm ve Sovyet Hukuk Teorisi, Sinan Yayınları, İstanbul.

Sklair, L. (2002), Globalization: Capitalism and its Alternatives, Oxford University Press, New York.

Snyder, E. A. ve Bracht, H. W. (1958), "Coexistence and International Law", The International and Comparative Law Quarterly, 7(1), s. 54-77.

Sornarajah, M. (2001), The Asian Perspective to International Law in the Age of Globalization, Singapore Journal of International & Comparative Law, 5, s. 284-313.

Soviet Theories of International Law (1953), Soviet Studies, 4(3), s. 334-338.

Sweezy, P. (1962), The Theory of Capitalist Development: Principles of Marxian Political Economy, Dennis Dobson Limited, London.

Tunkin, G. I. (1974), Theory of International Law, (Çev.) William E. Butler, Harvard University Press.

Tzouvala, N. (2020), Capitalism as Civilisation: A History of International Law, Cambridge University Press.

Uğurlu, G. (2012), Uluslararası Hukuka Üçüncü Dünya Yaklaşımları, Hacettepe Üniversitesi Sosyal Bilimler Enstitüsü, Uluslararası İlişkiler Anabilim Dalı, Yayınlanmamış Yüksek Lisans Tezi, Ankara.

Uslu, A. (2004), Sovyet Hukuk Doktrininde Uluslararası Hukuk Teorileri, Praksis, 11, s. 145-168.

Vagts, D. F. (2001), Hegemonic International Law, The American Journal of International Law, Vol. 95, s. 843-848.

Weeramantry, C. ve Berman, N. (1999), The Grotius Lecture Series, American University International Law Review, 14(6), s. 1515-1569.

Zoellick, R. B. (2001), Countering Terror with Trade, Office of the United States Trade Representative Archive: 25.11.2022 tarihinde, https://ustr.gov/archive/Document_Library/Opeds/2001/Countering_Terror_with_Trade.html adresinden alındı.