

## Military Intervention from a Global South Perspective

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### A TWAIL analysis

*This paper aims to present the Global South's perspective on military intervention by applying a TWAIL analysis. The main focus areas will be the social, political, and economic consequences of military intervention for the states of the Global South and their citizens. The paper argues that current international laws, and in particular international practices in relation to military intervention, are based on an unjust, inequitable, and hierarchical international system that continually seeks to subordinate the Global South and its population for the advancement of the Global North's economic and political hegemony over the "developing world." The paper will analyze what role the practices of international organizations such as the International Monetary Fund (IMF), the World Bank (WB), and the United Nations (UN) play in applying military interventions in the Global South under the guise of promoting democracy, human rights, and progressive standards of living. The paper maintains that there persists what TWAIL scholars have termed a "legitimacy deficit" in the current international system. Legitimacy awards international rules and practices their viability and therefore is crucial for the future of international law, insofar as the survival of the international system and its institutions and rules depend on legitimacy. Thus, to address the "legitimacy deficit" and restore faith in international law, this paper, in line with TWAIL scholars, proposes the revision of the current international system to adopt anti-hierarchical, post-hegemonic, and pluralistic practices that promote equity and embrace the diversity of the multiple nation-states. To this end, the works of renowned TWAIL scholars such as Orford, Okafor, Mutua, and Fidler, in addition to specific case studies and examples such as those from Rwanda and Yugoslavia, have proven invaluable.*

Military intervention has been a part of international law for centuries and has been often employed, according to its proponents, as the only method through which to respond to various forms of international crises, ranging from the spread

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of religious fundamentalism to natural disasters.<sup>1</sup> Nonetheless, despite the unfortunate, albeit common, fear-mongering and outright support for military intervention by politicians and the mainstream media in general—often citing as their justification concerns for “national security” or facilitating human rights and a democratic government for the people<sup>2</sup>—there have always been those that reject military intervention as a legitimate form of international law to the extent that they doubt its efficacy to extend human rights, democracy, and peace. However, much like other aspects of international law, the story of, and justification for, military intervention has been predominantly narrated from the Global North’s perspective. Hence, this paper aims to present the Global South’s perspective utilizing Third World Approach to International Law (TWAIL) pedagogy, and in particular its critical approach to common international practices—such as military intervention and its social, political, and economic consequences for both the states of the Global South and their citizens. Thus, the position assumed by this paper is that present international law, and more specifically military intervention, is based on an unjust, inequitable, and hierarchical international system that perpetually seeks to subordinate and disadvantage the Global South and its population in order to further the Global North’s economic and political hegemony over the marginalized. Moreover, the paper will illustrate how military intervention is justified under the guise of advancing democracy, human rights, and progressive standards of living for the Global South’s population, through the practices of international organizations such as the International Monetary Fund (IMF), the World Bank (WB), and the United Nations (UN).

In its endeavour to illustrate its thesis this paper relies on the works of TWAIL scholars such as Orford, Okafor, Fidler, and Mutua. It furthermore utilizes examples of previous military interventions such as those in Rwanda and Yugoslavia in the 1990s to illustrate how the contemporary limitations of international law manifest themselves. The paper is especially indebted to Orford’s article entitled “Locating the International” in which the author offers a sophisticated analysis of military intervention and provides the perspectives and arguments of both pro-interventionists and those who oppose military intervention. Additionally, Orford presents an immensely useful case study of the military intervention in Yugoslavia in the early 1990s as a response to the civil war and genocide unfolding there between 1992 and 1995, assessing what factors—domestic and international—may have caused them. On the other hand, Okafor’s article entitled “Is There a Legitimacy Deficit in the International Legal Scholarship and Practices?” also proved immensely useful as it provided the research of this paper with valuable analysis on the history and efficacy of military intervention in the Global South. Okafor additionally utilizes concepts and terms such as “legitimacy deficit,” the “Southern psyche,” and “voluntary compliance” to international law in order to illustrate what he identifies as the limitations of

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contemporary international law, arming this paper with terminology and concepts that help to efficiently communicate relevant issues.

Following the end of World War II, it seemed as though humanity had finally learned its lesson regarding the true costs of war as the world made strenuous efforts to ensure that such a catastrophe might never happen again. During this period a number of international institutions were formed<sup>3</sup> for the purposes of international peace and co-operation, human rights, and nation building, to name but a few. For example the Charter of the United Nations (1945) expresses its determination “to save succeeding generations from the scourge of war, ... to reaffirm faith in fundamental human rights, ... in the equal rights ... of nations large and small, and to establish conditions under which justice ... can be maintained” (preamble, para. 1-4). Most importantly, citizens and leaders had faith in these institutions’ abilities to provide human rights and democracy, for they were deemed impartial and benevolent (Orford, 1997, p. 477), having been created for the sole purpose of assisting states when in need. Okafor (1997) argues that it is the very faith in these institutions that gives them legitimacy (p. 93).

Nonetheless, scholars have scrutinized these institutions, arguing that they have previously been taken for granted as not enough research has been conducted towards their contribution to the very instability and humanitarian crises that they purport to prevent or to alleviate. However, this trend has changed as an increasing number of concerns have been expressed over international institutions’ impact on popular sovereignty, substantive democracy, and human rights (Orford, 1997, p. 464). Okafor (1997) argues, therefore, that because of the current errors present in the international system that enable the injustice and inequality to continue, the entire system lacks legitimacy (pp. 101-103). Legitimacy is imperative for the future of international law, insofar as the survival of the international system and its institutions and rules depend on it (Okafor, 1997, p. 94). Thus, TWAIL scholars propose the revision of the current international system to incorporate anti-hierarchical, post-hegemonic, and pluralistic practices that promote true equality and embrace the diversity of the multiple nation-states.

Yet, in the post-Cold War period, as liberal democracy emerged the victor and “the end of history” was posited (Fukuyama, 1989, p. 4), changes in the international system were imposed in the name of liberal democracy. Meanwhile, modernization theory foretold of a linear political, social, and economic developmental process of the largely “backwards” and “traditional” South to, eventually, a governance system akin to a Western liberal democracy. Having “won” the Cold War, ideologies and processes supported by the Western democracies, such as neoliberal ideals on economic development, governance, and human rights, were increasingly asserted as the standard against which states’ performances were measured, and the violation of which could provide grounds for intervention (Orford, 1997, pp. 450, 480-482). After the Cold War there was

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renewed enthusiasm in Washington for the U.S. to play a leading role in promoting human rights and democracy in the Global South, advancing what President George H. W. Bush envisaged as the “new world order” (Meredith, 2005, p. 475). At the same time the Global South’s role in the international decision-making process was declining as the Global North was no longer ideologically divided, enabling it to promote a more unified and homogenous approach to international relations, as opposed to the hitherto competition for allies in the newly decolonized world between the world’s two Super Powers (Fidler, 2003, p. 49). It therefore comes as no surprise that the UN Security Council expanded its mandate after the Cold War, now regarding failure to guarantee democracy—specifically liberal democracy—and human rights as a threat to both domestic and international peace (Orford, 1997, p. 450). This view, regardless of the “1970 UN’s General Assembly declaration on friendly relations—which promotes non-intervention and awards states the inalienable right to choose their economic, political, social and cultural system” (Fidler, 2003, p. 39)—justified intervention in the face of religious fundamentalism, local dictators, and other related international humanitarian crises. Orford, in her assessment of the legitimacy of military intervention, explores the dichotomy of action vs. inaction. Orford considers the viewpoints of pro-interventionists who argue that while intervention may come with its own set of undesirable consequences and may challenge the core concept of democracy, non-intervention carries an even greater risk insofar as it can, according to pro-interventionists considered in Orford’s paper, “render the international community and the UN to the same fate as the League of Nations” (Orford, 1997, p. 447-448). Moreover, Fernando R. Tesón goes as far as suggesting “anti-intervention not only rewards tyrants but it betrays the purposes of the very international order they claim to protect ... [for] states have a moral imperative to act collectively to intervene in such situations using force if necessary” (Tesón, 1996, p. 342; cited in Orford, 1997, pp. 448-450). The dichotomy of action vs. inaction has created considerable ambiguity in the debate over intervention as even non-interventionists feel that by opposing such measures, they are opposing the only realistic method of ending humanitarian crises. This, Orford (1997) argues, stems from the assumption that the threat to peace comes mainly from the “local level” (p. 444), thus justifying the collective security system in the name of restoring peace, stability, and human rights to the deviant states. These assumptions have led to a range of consequences in the conduct of international law such as the expansion of the roles of international institutions, the narrow and neoliberal interpretation of democracy and human rights, and the continual under-representation of the views of ordinary people in political affairs—especially the “Southern psyche”—as the opinions of “experts” and technocrats are what is valued and predominantly relied upon (Okafor, 1997, p. 101).

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While pro-interventionists hailed these developments, TWAIL scholars conveyed significant doubts, pointing instead to the various consequences to which increased intervention would lead. For example, TWAIL scholars argue that pro-interventionists fail to provide details on what sort of democracy and human rights policies military intervention will advance (Orford, 1997, p. 461), and that only the broad ideals of liberal democracy and human rights are offered as an explanation. Mutua (2001) discusses the irony inherent in a noble, yet broad, concept such as human rights, questioning how the preamble of the UN Charter can demand universal adherence to “fundamental human rights” and recognition of the “dignity and worth of the human person” when a universal consensus on what these phrases entail is lacking (p. 206). Hence, as a result of pro-interventionists’ narrow and vague application of democracy and human rights, current forms of intervention are accused of advancing political and civil rights at the cost of marginalizing social, economic, and cultural rights (Orford, 1997, pp. 460-463). One cannot help but to wonder what the use of political rights is if individuals are not awarded their social rights to education and thus cannot utilize their political rights critically.

With regard to increased military intervention, scholars point to the “merely rhetorical nature” of the UN Security Council’s commitment to democracy and human rights (Orford, 1997, p. 447). This is evident through various points in history. Take Rwanda for example: between the mid-1960s up until 1991, this relatively small African country enjoyed substantial political stability, economic development, and generous foreign aid. However, local tension began to mount in 1991 as politicians and authority figures manipulated the ethnic tension in existence between the two major tribes—Hutu and Tutsi—that was borne out of the country’s brutal colonial past with Belgium (Meredith, 2005, pp. 157-61, 486). In summary, the UN’s commitment to democracy and human rights was tested by the Rwandan genocide and failed to measure up to its discourse. The UN, for the most part, stood idly by and ignored ample warnings and evidence of genocide in efforts to avoid another Somali “Black Hawk Down” fiasco, while over 800,000 civilians were murdered in a span of 100 days—the quickest “mass killing in recorded history” (Meredith, 2005, pp. 500-518, 523). This resulted largely because of the limited mandate and resources authorized by the Security Council for the United Nations Assistance Mission for Rwanda (UNAMIR), and because the international community was largely unwilling to cooperate with the UN. For instance, UNAMIR had virtually no intelligence-gathering capacity, but, in the months leading up to the genocide, some Western diplomats that were stationed in Kigali were aware of the tension between the major ethnic groups in Rwanda and the potential for this tension to erupt in mass murder, and yet chose not to share this intelligence with UNAMIR. According to Meredith (2005) “A CIA analysis in January 1994 predicting that the Arusha Accords would fail, leading to hostilities in which half a

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million people would die, was not passed on until after the genocide was over" (p. 503).

If the debate over action vs. inaction were to be applied here, advocating on behalf of inaction would mean closing off the only possible avenue of ending the genocide; however, the Rwandan genocide reveals that advocating for action did not do much to end the crisis either, as it was the Rwandan Patriotic Front (RPF)—mainly composed of exiled Rwandans—that closed in on the *genocidaires* and worked to bring this horrific crisis to an end (Meredith, 2005, p. 517, 522). Although there were UN attempts at negotiation, they proved to be largely unsuccessful. This is not to dismiss the contribution made by previous military interventions towards maintaining international peace, but rather to examine the topic from an alternate perspective. Thus, Okafor (1997) warns that the incoherent and selective application of international law carries significant implications for the future of the international system insofar as it contributes to what he has branded the "legitimacy deficit" (p. 96).

Legitimacy is the factor that awards international rules and practices their viability, and leads to "voluntary compliance" (Okafor, 1997, p. 93) because "those addressed believe that the rule or institution has come into being and operates in accordance with generally accepted principles of *right process*" (Okafor, 1997, p. 95), without which power politics would be the only viable alternative. Okafor (1997) illustrates how this legitimacy is largely lacking in what he terms the "Southern psyche"—which refers to the "intensely negative reaction of the [Global South's population] to the existence of a descriptive institutional selectivity in the international system, and the consequences that this negative reaction may have on the ... viability of international action" (p. 102). Okafor rejects the descriptive approach to legitimacy arguing that it accepts the apparent majority as conclusive of legitimacy, leading to the illusion of harmony between the external index of belief, and the internal index of belief, which can vary substantially (Okafor, 1997, p. 94). This leads to the under-representation of the Southern psyche in international decision-making. In his view, the "Black Hawk Down" fiasco took place in Somalia because of a legitimacy deficit in the Southern psyche. The article links this theory to colonial practices, stating that the legitimacy deficit in the Southern psyche finds its root in colonialism, for not only was the natives' homeland exploited for resources for the colonizer, but colonialism robbed the native of his/her political, social, and economic right to self-determination under the guise of "the white man's burden"—ostensibly for the ultimate good of the natives (Okafor, 1997, pp. 102-105). After decolonization, the Global South's population had, for the first time, real prospects for self-determination, which carried with them the expectations of claiming its uniquely independent spot in the international community, thereby redeeming its dignity (Fanon, 1961, p. 78). Consequently, the Global North's continual involvement in the internal affairs of

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the Global South's sovereign states following decolonization is regarded with suspicion by the Southern psyche, even when justified under humanitarian assistance, for the reason that history compels them to be critical of the interventionists' intentions.

Another concern TWAIL scholars have expressed with regard to military intervention is the expanded role of International Financial Institutions (IFIs), and Orford offers a detailed account of a case study on Yugoslavia's genocide to illustrate this point. While acknowledging that there are domestic causes to the genocide, Orford's (1997) case study provides unique insight into how IFIs such as the IMF and WB can contribute to the humanitarian crises that they purport to solve (pp. 452-453), for their conditional development loan programs pressure local governments to apply unpopular policy reforms,<sup>4</sup> which disproportionately burden the poor and the disenfranchised—in efforts to gain access to international monetary assistance. While these reforms were presented by the institutions as economic in nature, they carried political implications which then led to the reshaping of Yugoslav politics and constitutional reforms. Some of these include, but are not limited to, the shift from a “de-centralized to a re-centralized government and national bank,” “destruction of the system of worker participation in decision-making,” and removal of “procedural protections against large-scale unemployment and cutting public expenditure” (Orford, 1997, p. 454). When the proposed Structural Adjustment Program (SAP) reforms failed to produce the desired results, they created insecurity and social instability, thereby challenging the legitimacy of the Yugoslav government to the extent that the united Yugoslav community, in the sense of Anderson's “imagined community,” was replaced with fervent ethnic nationalism (Orford, 1997, p. 457). The state lost legitimacy because pressure from IFIs for access to loans forced it to implement policies that challenged its ability to provide “economic or administrative support,” forcing civilians to look for it elsewhere (Orford, 1997, p. 457). According to Okafor (1997), the extent to which a rule is obeyed determines its legitimacy and “the greater the number of [individuals] the rule attracts to voluntary compliance, the more legitimate the rule” (p. 96). Hence, evidence of the Yugoslav governments challenged legitimacy was found in mass demonstrations and ethnic tensions developing by the late 1980s (Orford, 1997, p. 457).

Yet another concern resulting from the expanded role of IFIs is caused by the apparent U.S. domination of these institutions. Perkins, in his revealing book *Confessions of an Economic Hit Man*, discusses the United States' tendency to support tyrants and local dictators, provided that the particular tyrant is sympathetic to American interests. It is common knowledge that Saudi Arabia, by far one of the most fundamentally religious and undemocratic states in the world, is one of the U.S.'s main allies in the Middle East. In exchange for securing American interests, especially in terms of guaranteeing “to maintain oil supply” at prices that remain

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“acceptable,” the U.S. awards special treatment to the house of Saud in the international arena (Perkins, 2004, pp. 89-90, 96-98). For instance, even though the royal family openly funds organizations that can easily be identified as terrorist groups, the U.S. conveniently turns a blind eye to that fact, and its domination of the Security Council and the UN in general permits the U.S. to apply pressure on other states to extend the same courtesy to its allies (Perkins, 2004, pp. 96-98, 183). Additionally, U.S. domination of the UN Security Council is evident in what is widely viewed as its illegal declaration of war on Iraq. Even though the U.S. pursued the war in direct opposition to the UN, it suffered no significant consequence as a result (Ricks, 2006, pp. 60-61).

This addresses one of the main points of focus in TWAIL research interests, which is that international practices and institutions are a hierarchal system manipulated, willy-nilly, by the Global North to maintain its hegemony over the Global South at a very dear cost to the Global South’s inhabitants. Under the current system, the strong do what they can while the weak suffer what they must. For instance, during the Rwandan genocide, France was unwilling to look past its friendship with Habyarimana’s Hutu regime and its interest in preserving its influence in “la Francophonie Africaine”<sup>5</sup> (Meredith, 2005, pp. 493, 519). For this reason, even after it was established that the Rwandan government was executing an ethnic cleansing campaign, France continued supporting this rogue government going as far as evacuating leading members of the genocidal regime to France and offering financial assistance all in the name of Rwandan war victim relief (Meredith, 2005, pp. 509-510). Similarly, Perkins (2004) explains the irony of the war in Iraq given that Saddam Hussein, initially trained by the CIA, was put into power by the U.S. to promote its interests in the region since General Kassem was proving to be difficult to appease (pp. 182-184). Thus, the U.S. assumed that once one of its trained personnel assumed power, it would have another important ally in the region, similar to Saudi Arabia, thereby guaranteeing the much-needed “continued oil supply” (Perkins, 2004, p. 183). As it became increasingly apparent that this was not the order in which events would unravel, the U.S. quickly switched its policy towards Saddam Hussein’s regime. It was not the fact that Saddam was a brutal and bloody dictator, “that he had the blood of mass murders on his hands,” writes Perkins, but rather his betrayal of the U.S. in securing its interests in the region when it comes to Iraq’s generous oil and fresh water supplies that led to Saddam’s demise (Perkins, 2004, pp. 183-184).

Mutua (2000), with regard to the apparent neutrality of the international system, argues that there is no such thing. He explains that after World War II, Bretton Woods institutions and the UN were set up to ensure the continuation of the unequal North-South relations (pp. 31, 34). To elaborate, Mutua (2000) points to the structure of the UN: if the organization is neutral and impartial, the dominance of the Security Council over the General Assembly and features such as the



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council's veto power "make a mockery" out of the notion of equality and justice in the international system (p. 34). This critique is espoused by other theorists such as Fanon (1961), who argues that there is a "tiny role reserved for the third world," while the Security Council holds the veto and thus a disproportionately powerful tool through which to enforce global events (pp. 77-78). Furthermore, Article 24 of the UN charter (1945) confers "primary responsibility" to the Security Council in maintaining international peace and security and urges the Council, in carrying out its duty, to act on behalf of and in the best interests of the states concerned (para. 83). This is naïve, to say the least, as one would expect the Security Council, when exercising its power, to secure its members' interests first even though they might go against international peace and security. This practice not only fails to ensure that the Security Council act on behalf of the state concerned, but also effectively handicaps the state concerned from taking any meaningful action in its own interests with the same weight as the Security Council's.

Okafor (1997), on the topic of equality in the international arena, discusses the role—or lack thereof—occupied by the majority of the Global South's population. He argues that the majority of the Global South's population has been excluded from international decision-making leading to serious consequences in the legitimacy of the entire system (p. 101). The Southern psyche has become increasingly important over the years as the policies and practices of international institutions predominantly address the states in the South and thus affect the daily lives of the Global South's populations (Okafor, 1997, pp. 105-106). For instance, policy reforms that result from the application of the SAPs have been known to affect wage levels, education and health policies, and food prices (Orford, 1997, pp. 466-468). The IFIs employ economic experts to assess the situation of a particular state and where "procedures and practices fall short of best international practices," the IMF applies its "technical assistance program" carried out by experts and technocrats; the local population, for the most part, is largely excluded from the decision-making process (International Monetary Fund news brief, 1997, para. 17) to foster economic development in their own nation-states. While it is acknowledged that local elites have some role in the decision-making process of their states, scholars such as Fanon (1961) and Okafor (1997) are critical of the role played by these elites in promoting the interest of the average Global South citizen, arguing that they are "comprador elites" who advance Western interests and resemble a sort of neo-colonial puppet (Fanon, p. 118; Okafor, p. 103). Furthermore, after largely ignoring the Southern psyche in the decision-making process, if the policies implemented should prove to be unsuccessful, it is this initially excluded and disadvantaged group of people that has to bear the cost of the mistakes. To advance legitimacy in the international arena, Okafor (1997) cites Thomas M. Franck's (1988) four components that have to be present for a rule to become legitimate or viable: determinacy, symbolic validation, coherence, and

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adherence (Franck, p. 712; cited in Okafor, pp. 95-96). However, scholars argue that this does not resolve the issue at hand since what is important is not that these components foster legitimacy, but rather to find out what it is about these components that leads to the voluntary compliance of rules (Okafor, 1997, p. 97).

Finally, typical of TWAIL scholars, both Okafor and Orford, in their respective articles, propose the rethinking of current international practices. The authors argue in the same vein as Fidler (2003) that the current international system has its roots in the Westphalian Civilization and colonial practices, which has asserted European norms as universally accepted (p. 56). This has led to a narrow approach in international relations, promoting neoliberal ideals of human rights and democracy at the cost of undermining the credibility of unique domestic practices. Orford (1997) advocates pluralism and unity in diversity as she calls for the recognition of the diverse development, governance, and human-rights approaches available in the Global South (p. 467). One does not need to follow a single strict path to development but can rather adopt an approach uniquely suited to its conditions and circumstances. However, Orford's article fails to provide what sort of pluralism, or "unity in diversity," to advance, or how to advance it. One idea that has been proposed for quite some time now amongst scholars of international relations and politicians alike—and which would likely destabilize the current international order—is the rearranging of the permanent members of the UN Security Council. Although this is not a new concept, if this should occur, one cannot help but wonder if the Global South would be presented with a better opportunity to address its concerns in the international arena, or if the new members would succumb to the same temptations of the current permanent members of the Council. Perhaps a more appropriate question would be: do the current limitations of the UN stem from who belongs permanently in the Security Council or is the problem a systemic one? But on a simpler note, Orford (1997) proposes the close monitoring of the international institutions and the assessment of their actions advanced under the guise of promoting the Global South's interests (p. 484), which in itself is a flawed notion insofar as it carries the colonial connotation of assisting in governance those who cannot govern themselves. Finally, while Orford (1997) ends with stating "measures other than increased military intervention are demanded of the international community in the name of humanitarian action, post-cold war era" (p. 485), Okafor (1997) emphasizes the importance of incorporating the Southern psyche in the current theories of legitimacy (p. 101). He argues that this is imperative as legitimacy "will enlighten international policies and strengthen the hands of the machinery of enforcement contributing to international peace and co-operation" (Okafor, 1997, p. 106).

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<sup>1</sup> As exemplified by “Operation Unified Response” when in 2010, the U.S. sent troops to Haiti in response to the earthquake, or the present deployment of troops by the United States, United Kingdom, and France to parts of West Africa that are facing a recent outbreak of the Ebola virus.

<sup>2</sup> As was the case when the United States invaded Iraq in 2003 under the pretense of eliminating a threat to its national security by neutralizing Saddam Hussein’s Weapons of Mass Destruction (WMD), while at the same time facilitating the creation of a democratic government for Iraqis.

<sup>3</sup> Such as the aforementioned IMF, WB, and UN.

<sup>4</sup> Such as shrinking the social safety nets, liberalizing trade, eliminating or lowering tariffs, privatization, and so on; in other words Structural Adjustment Programs (SAPs)

<sup>5</sup> Franco-African family.