

Theorizing Transnational Resistance “From the Inside Out”

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Ama Ruth Francis, [Global Southerners in the North](#), 93 **Temp. L. Rev.** 689 (2021).

In *Global Southerners in the North*, Ama Ruth Francis offers a new theoretical angle on the long-standing and crucial question of how to mobilize popular opinion and legal power on behalf of migrants who lack political voice. Her contribution decenters the state as the key actor in international law, and suggests instead that scholars concentrate on individuals and sub-state spaces. Focusing on climate change migration, Francis suggests that the way to address the severe power asymmetries between those responsible for and those most impacted by the changing climate is to reconceptualize the Global South to include all people and spaces rendered expendable by racial capitalism. She builds on the [Third World Approaches to International Law](#) (TWAIL) literature to argue that international law should be theorized as a shared commitment that can be furthered by political agents – in other words, that states are not the only actors capable of creating international law.

Francis begins her analysis by noting that the Global South is not a monolithic bloc; there are vast differences across and within states. For example, among the BRICS nations (Brazil, Russia, India, China, and South Africa), China is a major emitter even though it remains part of the Global South. Moreover, within states in the Global North and the Global South, racial capitalism creates significant gulfs between rich and poor that underlie disparities in both emissions and community resilience in the face of climate change. She describes the TWAIL literature on international environmental law that discusses the history of colonial expansion and domination linked to environmental degradation, and explains how this project of global economic inequality was justified and continues to be bolstered by international law.

Francis underlines the importance of this groundwork, but suggests that the Global South should be defined by material conditions rather than geographic terms, a move that encompasses individuals and sub-state spaces. Drawing from Balakrishnan Rajagopal’s framing of the Global South as a contestation of power formations, she suggests that we can think of the Global South as deterritorialized political practice that creates space for counterhegemonic discourse. Francis describes these Global Souths in the north as racial capitalism’s externalities, highlighting the glaring expendability of some individuals and spaces in the climate change context, and noting how those distinctions are drawn on racial grounds.

Though Francis is perhaps more sanguine than I am about the promise of international human rights law, and in particular of the [Teitiotia decision](#), she demonstrates ably the ways in which climate migration highlights the limits of that body of law. Despite obligations to protect individuals’ human rights regardless of immigration status, we see expendability drawn along racial lines. Francis explains that human rights law is incapable of enforcing the rights of climate migrants because such a step would require calling out Global North responsibility for climate change.

To bridge that gap, Francis suggests a transnational alliance of Global Southerners as political agents

with the capacity to shift international law. Drawing from Harold Koh's transnational legal process theory, she explains that "international law is constituted through a dynamic interplay between domestic and international legal norms, and those domestic norms are created through domestic political processes." Francis argues that Global Southerners in the North can leverage rights discourse to begin to shift international legal norms through domestic legal processes. I would add that they might even start to frame climate justice measures as duties, perhaps drawing on the right to solidarity. Francis suggests measures to operationalize the theory, including climate action in domestic courts, transnational advocacy efforts, and drafting domestic legislation. In other words, rather than invoking international law in domestic courts, she makes the case for transnational coordination of domestic climate efforts as a means of reforming international legal standards over time.

Francis offers an interesting and creative route forward for climate migrants seeking redress under international law. This article strikes me as a promising first step in a broader research agenda. A follow-on article, for example, could engage in more detail with both the idea of Souths and Southerners in the Global North as well as Norths and Northerners in the Global South. It could also expand on the operational component: if the Global North is defined as the defense of global capitalism and economic inequality, how do we identify the actors opposed to that approach and what steps can be taken to mobilize a unified political voice amongst them? Perhaps most importantly for this readership, Francis offers a role for scholars in identifying, describing, and uplifting the role of social movements in shaping not just legal discourse but also international law and policy.

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