BOOK REVIEW

Multiregional International Law in a Multipolar World?[*]

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To cite: Marochkin, S., & Racheva, S. (2025). Multiregional International Law in a Multipolar World? *BRICS Law Journal*, *12*(1), 200–207.

The opposing strengths of universalism and regionalism have become a defining feature of the early decades of the 21st century. Cooperation in addressing the universal issues has sharply slowed down, if not stagnated. The conflict between states, especially the superpowers, has increased and reached its extreme point. States are unsuccessful in addressing and tackling common global problems due to a high degree of mistrust, opposition, and ambitious aspirations. The world is going through times of turbulence and uncertainty, marked by global "tectonic shifts" from a unipolar to a multipolar structure of international society.

International communication tends to shift from universal to group and regional cooperation, resulting in the creation of regional and interregional structures and organizations. Developing countries are actively looking to pursue their own paths that are determined by geopolitical specifics. Eurocentrism has changed its trajectory to the study of different regions, countries, and ethnic groups' peculiarities.

All the above-mentioned tendencies are mirrored in the current impact and functioning of the international legal system, particularly in international law

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[*]   Reviewed book: Wiebusch M. (2024). *A Theory on Africanizing International Law* (xxiv + pp. 178). Pretoria University Law Press. ISBN: 978-1-7764485-7-9 (Paperback).

(hereinafter IL). Universal IL is currently in a state of general crisis, faced with the conflict between states and groups of states. Regional and interregional IL now has more opportunities to develop in today's world. There are numerous attempts to explore whether IL should no longer be a legal system 'made in Europe'. There also exist different ways to interpret the understanding of IL from various regional perspectives, such as Third World Approaches to IL and Second World Approaches to IL (TWAIL and SWAIL, respectively), and "Asia's ambivalence" on IL.

Not so much has been written about African IL. The book by Micha Wiebusch, *A Theory of Africanizing International Law,* contributes significantly to understanding the role and place of IL in the legal life of African countries and the essence of the "Africanization of international law" process. From this perspective, it can be interpreted as an additional regionalization of IL.

The book is published by one of Africa's most respected presses, the Pretoria University Law Press, which aims to publish and make available innovative, high-quality scholarly texts on law. The text is preceded by numerous standpoints (reviews) of reputed officials and scholars articulating its significance and relevance, for example: "a sophisticated and thoughtful publication, exploring how international law has been 'Africanized,' what 'Africa' means in this context, the role of the Organization of African Unity and now African Union, and how 'African International law' can provide African solutions to African problems" (*Rachel Murray*); and "an ambitious, erudite, empirically informed, and theoretically rich explication of how the African Union is charting an African – centered vision of an international law that might meet the ambitions, physiological, social and cultural needs and the self-actualization desires of African peoples" (*Karen J. Alter*). One of those reviewers, C.M. Peter, fairly remarks: "... the author proves beyond any doubt that Africa has crossed the bridge from being an object to a proper subject of international law today as of right."

The study's methodological feature is interdisciplinarity – the author periodically resorts to various fields of knowledge such as geography, cartography, arts, the theory of knowledge, the idea of relativity, and even physics, such as Newton's laws. Despite being not so large in volume, the book is very rich in its cited literature and has an extensive bibliography. The author's study of international legal norms, their implementation, and subjects of legal relations is grounded in his extensive knowledge in the field of fundamental sciences, as well as in practical jurisprudence.

Above all, the book is very illustrative – enriched with figures (spirals and panoramas), charts, graphs, schemes, photos, and even a painting. A sophisticated and symbolic artwork for the cover reveals a number of sensibilities that rhyme with the approach and rationale underlying this volume. This is a rare feature for books on law and can be seen as an indisputable advantage. All of this shows that Wiebusch is immersed into the research issue.

A meticulous structure, rigorous research, and effective communication of findings are a beneficial mark of the book. The text consists of the prologue identifying the

audience (*Who is the imagined audience?*) and five chapters: The Development of an African International Law (*What does Africanization mean?*), Theorizing African International Legal Knowledge Production (*How to make sense of African international law*), A Geography of African International Law (*Why does African international law matter?*), African International Legal Governance Laboratories (*How does African international law work?*), and The Frontiers of African International Law *(What is the future of African international law?*). Interestingly, every chapter is accompanied by a clarifying question that reflects its main focus and encourages the readers to pursue the answer.

The author acknowledges that he aims to answer the question, "What is African about African IL?" by developing a theory on how and why IL is Africanized. Correspondingly, the objective of the book is to elaborate a framework that lays out a way of thinking about the construction and transformation of international legal agendas to provide solutions to problems that presume, appropriate, and produce a degree of "Africanness."

"Africanization of IL" indicated in the title of the book is a key term of the study, which implies that this process of "Africanization" may be understood as a collective effort to imagine and organize an international legal-political project based on a continentally defined identity.

Wiebusch sets his sights on exploring the various ways in which Africa has become a knowable and manageable space. Respectively, one of the goals of the book is to research the geography of African IL, i.e. to analyze the interrelations between geographical spaces and the people inhabiting them. Within this context, the author prioritizes the development of international legal strategies and programs that help regulate this spatial configuration. The author focuses the reader's attention on the rational nature and technologies utilized in Africa's state and interstate governance. Thus, the study aims to examine how the African Union considers the role of law in the broader process of African governance.

The book begins by introducing the author's comprehension of how African international legal programs and practices are developing, how justifications for the development of African IL occur, and how these justifications are formulated in the intervention programs. Wiebusch proceeds from the fact that these programs and practices collectively represent a complex system of mechanisms, knowledge, strategies, methods, and procedures that help implement the ambitions of the "African project" in the field of IL.

In Chapter 1, *"The Development of an African International Law,"* Wiebusch thoroughly explores "international legal instruments through which ambitions are acted on to create a safe, healthy, and economically and socially prosperous environment for the diverse inhabitants of this space called "Africa". Among them are more than 60 multilateral treaties, where Africa is the subject of legal relations, as well as a significant number of decisions made by international African organizations that provide a sufficient empirical basis for the research and conclusions.

The author aspires both to study the rulemaking of African international organizations and to analyze the implementation of the adopted norms, i.e. the efficacy of law. He entitles his work "A Theory…" but actually focuses on IL expertise and "on the practice of African international law rather than merely analyzing its rules and precepts." This approach deserves attention. The author examines the efficiency of the African Union's main organs' activity by conducting a statistical analysis of the number and pace of these institutions' decision-making and provides a comprehensive picture of the trends in African international law-making. He logically forms a sound conclusion that "over the past half century there has been an increasingly greater 'supply' of African international law."

Chapter 2, "*Theorizing African International Legal Knowledge Production*," is accompanied by a clarifying question "How to Make Sense of African International Law?" and is divided into seven parts: "Legal Relativity Theory," "Redefining the Struggle," "Solutionization," "Hypocrisy," "A *luta continua* Influence Framework," "Guerrilla Lawfare," and "So What," which is the concluding part that reckons up the key assumptions.

The chapter's scope aims to provide a broad view of the essence of African IL and the various principles and conditions underpinning its development. Wiebusch introduces the general framing device as a tool to accentuate the instability of absolute knowledge claims concerning its development and to enhance the reader's understanding of African IL; for instance, the inductive and comparative nature of knowledge production, which provides some of the vital tools to help expose biases and myths about African IL and its operationalization.

Driven by the intention to theorize the knowledge production processes related to the development of African IL, the author considers relativity to be a significant factor as regards the theory of knowledge that can help understand African IL. Specifically, the author states: "a key assumption in this work and one of the consequences thereof is that relativity presupposes reference points with which certain relations are established."

M. Wiebusch clarifies the key tenets of his viewpoint on this, introducing and explaining the logical interconnections of all the conceptual building blocks in a reasoned manner. In an attempt to do this, the author provides meaningful insights into the core principles of knowledge production – observation, induction, and comparison – to facilitate a clear comprehension of the African IL's evolution. In particular, he dwells upon the nature of knowledge, presumes it all to be inductive and comparative, and explicates that the inductive nature of knowledge presupposes its creation through perception. He then proceeds to state that all knowledge is comparative "in the sense that it is through comparison that we know something is *new* or that something is *different*."

Logically, the author establishes law as a knowledge product as well as other social constructs and concepts and clarifies its three-step structure. The first step is an inductive recognition of certain patterns (of physical behavior); the second is

the stabilization of the meaning of these patterns (develop laws of physics); and the third is the deduction of other ideas and actions (conduct experiments and devise alternative forms of application).

It is worth emphasizing that the author's assumption of the inductive and comparative nature of knowledge correlates to the idea of "relativity" that essentially means that "all knowledge and production of new knowledge is only possible in relation to what was known before". Onward, the author analyzes the determinants of high and low quality of knowledge production and lists among them the scope of observation (large or narrow), ability to gather information (significant or minimal), competence to make distinctions between information (considerable or limited), and competence to establish relationships between information (considerable or limited). Having estimated the determinants, the author deduces that

> the speed and the value of knowledge depend on the quality and the quantity of induction and comparison processes. The larger the scope of observation and the ability to collect vast amounts of information, and the greater the aptitude to make relevant distinctions among these masses of information and establish relationships among these organized categories of information, the higher the quality and usefulness of the knowledge resulting from these operations.

The author assumes the fight for equality to be impossible and inevitably biased and outlines the approach that centers on "the process of continual identification of 'problems' or sites of inequality that are subjected to deliberate constructive thought and action to avoid or mitigate the endurance of these particular forms of inequality." Wiebusch suggests a shift from "the notion of inequality and the structural conditions shaping the absence of equality" to a "deliberate study of a solution-focused approach oriented towards addressing inequalities." Instead of focusing on inequality as an *outcome*, he proposes taking aim at the *process* of creating states of inequality.

The author devotes the conceptual building block Solutionization to the advancement of the approach that postulates the necessity "to transcend the ubiquitous habit in academia to problematize." He conducts a thorough examination of the axioms regarding the indeterminacy of the future and the relative uniqueness of the human being and concludes that

> taken together, they lead towards a more productive process of solution generation (solutionization) oriented towards avoiding or mitigating mistakes rather than prescribing fixed sets of positive action.

He then discusses what constitutes a "mistake", analyzes the way it is determined, and advocates the value of mistakes as essential learning tools. To conclude Chapter 2, he focuses on the concept of "law" and rejects a unidimensional conceptual understanding of law as simply a tool to shape the social world and simultaneously be shaped by it, and instead holds a unique standpoint - a three-dimensional (3D) approach to law including norms, actors, and processes that create a framework to understand how law operates and develops. It is characterized by "a triple capacity as

having a normative role (with distributive effects), a procedural role (with decisional effects), and an institutional role (with constitutive effects)". Upon closer examination, the author advances a controversial idea of law as an amoral instrument that is beyond moralistic judgment. In line with his conception, law itself, like any other instrument, can be utilized in the service of or in the achieving of some objective; therefore, it cannot be estimated as good or bad, right or wrong. The quality of the objectives can be morally evaluated, but law as a tool can be assessed in terms of its efficiency and effectiveness in achieving these objectives.

Having readily acknowledged that his views cannot be universally shared, he remains persuasive and clarifies that his "preference lies with more transparency about the instrumental feature of law, exposition of the ends to be achieved, and open declarations about what the role of law is in achieving those goals." The author elucidates that this "teleological view of law, in the sense of analyzing what its purpose is," provides more clarity about the ideals held by those who operationalize law; therefore, it facilitates the understanding of how and why law develops and, in particular, how and why African IL develops.

We do not agree with such a "technical" or "instrumental" role of law as just a tool. In suggesting this approach to understanding the nature of law, Wiebusch willingly or unwillingly mixes two different meanings and notions of law and inserts misunderstanding. He discusses statutory (positive) law (such as acts of legislation and IL treaties), which is developed by authorities for "achieving their objectives." All things considered, the laws of a state (statutes) cannot convey the essence of "law itself" as a criterion of morality, equality, and justice. Nevertheless, laws (legislation) can still serve as an "efficient" tool in the hands of state powers. In authoritarian (totalitarian) states, they can even serve as a "hammer" upon people. However, they have nothing to do with law, or in other words, these laws are not law. The very principle of "the rule of law" means the supremacy of the basics of law over state authority and its laws.

In summing up the essences of the second chapter, M. Wiebusch brings to life the idea of empowerment that stems from conscious reflection and critical perception of various norms and practices; it is grounded on a detailed study of African IL's past and present and is accompanied by a thoughtful analysis of the mistakes. In compliance with the author's standpoint, it "uncovers unintended consequences of African international law programs and practices" and "opens space to imagine new frames of thought for further innovation, critique and action."

Chapter 3, "*A Geography of African International Law*," answers the question "Why Does African International Law Matter?" by consistently pursuing the idea of the socio-economic nature of law, i.e. the idea that law can be studied and understood only in the context of the society and time it was in force. The author thoroughly explores the examples of the United Nations Models and (O)AU equivalents' imitations in regard to norms and institutions. He states that this significant extent of emulative practices challenges the narrative of "African solutions to African problems" and "suggests a tension between the (O)AU's desire to devise solutions tailored to

local circumstances and the heavy influence of foreign ideas that may or may not be suitable to those contexts. There are no universal forms of law". In the author's opinion, the adoption of foreign legal regulation models "will lead to unfavorable distortions and transplant rejections." Meanwhile, Wiebusch dwells in detail on two forms of African international legal innovations, namely, new regulatory innovations and those that are aimed at expanding the scope of developments in the already-existing international legal acts.

Chapter 4 titled "*African International Legal Governance Laboratories*" focuses on the question "How does African International Law Work?" and is divided into two parts: "Governing Africa" (encompassing sub-sections "legislation," "judicialization," and "technocratization") and "The Performance of African International Law" (covering sub-sections "norms," "actors," and "processes"). In the final section "*So What*," the author summarizes the key ideas of the chapter in the context of the book's purpose – further clarifying and elucidating the ways and means by which African IL develops. Additionally, his identification of a few key biases and challenges in the field of African IL is especially valuable, as it promotes further research.

Undoubtedly, no research work is absolute since it is a journey rather than a "golden finish." This book also contains some shortcomings, gaps, and unbalances as well as areas for improvement and development. Here we mention just a few. It is worth noting that certain legal instruments of the African Union receive unequal coverage. In sub-section "*1.1. Legalization*," the author identifies treaties, decisions of authoritative institutions, and other documents as well as provides a full-fledged analysis of these treaties and other documents. As for the decisions of the bodies, Wiebusch refers only to the statistics, merely noting that "it is beyond the scope of this book to adequately give a full overview" of them. It also appears that in Chapter 2 the author provides a much too redundantly extensive analysis of such theoretical issues as "a mistake, responsibility, accountability, and influence," distracting the readers' focus from the essentials of Chapters 3 and 4.

We believe that theorizing through a review of different measurement and assessment methods, institutional practices of "knowledge generation," and a wide range of performance indicators would be more illustrative if applied to practice and life. This is a reasonable assertion given Wiebusch's extensive practical experience as a senior legal officer at the African Court on Human and Peoples' Rights and a constitutional expert for African Union Election Observation Missions.

Last but not least, taking into account that he mentions some African treaties and human rights institutions, one of the proper realms for such an application seems to be the human rights issue. There are various universal and different regional approaches (European, Eurasian, American, etc.) to the concept and mechanisms of this issue. What is the position of African IL in this regard? At the very least, this can be an opportunity to develop this book further.

In the end, M. Wiebusch has done a good job, having examined, analyzed, and described one of the multiregional (continental) aspects of modern international law, while having also made a new contribution to IL theory.

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