

ARTICLE

Political Economy of BRICS+ Law: A Call for Counter-Hegemony and Good Sense

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Abstract. The article argues the need for a political economy of law approach as a first fundamental step in understanding of BRICS+ as a global institution. Countries in the BRICS + area display a tremendous amount of legal variation that has to be understood in its own terms outside of the judgmental mentality that has characterized Western Comparative Law. Only through such systematic effort of fundamental knowledge, it will be possible to facilitate the development of and institutional setting based on principles of cooperation, respect and mutual recognition. A list of some basic research and methodological questions, the first published description of the Chinese-Russian-Italian TOLZUMO project and a call for scholarly mobilization and participation in this dramatic phase of change in global hegemony complete the article.

Keywords: BRICS+; comparative law; hegemony; counter-hegemony; political economy of law; international legality; mutual respect; principles.

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Introduction

I've witnessed US legal hegemony's decline, which began in the immediate aftermath of September 11, 2001. Early on, I predicted¹ that the inordinate response to the annihilation of the Twin Towers at the *Center of the World*²—including US-led Operation Enduring Freedom and NATO-led International Security Assistance Force, neither of which involved the United Nations; the so-called War on Terror;³ demise of civil rights; and metastasis of surveillance apparatus (e.g., US Department of Homeland Security, of which the notorious Immigration and Customs Enforcement, "ICE," is a branch)—would destroy the international credibility of Western-centric rule of law rhetoric, the most powerful aspect of the ideology of "the end of history."⁴

Hegemony without ideology capable of persuading subalterns of the beneficial nature of power quickly morphs into brutality. What the world is watching now, from genocide in Gaza, to assault on the Venezuelan Executive, to siege of Cuba, to slaughter of US citizens protesting peacefully against ICE on the streets of Minneapolis, is merely the climax of a phase of transformation of Western capitalism into authoritarianism predicted more than a century ago.⁵

1. Hegemony v. Counter-Hegemony

When hegemony declines, possible outcomes fall into two categories. Either a new hegemon eventually arrives, imposing a new common sense, usually after war provoked by the previous hegemon (as in the demise of the Third Reich in

¹ See Mattei, U. (2003). A theory of imperial law: A study on U.S. Hegemony and the Latin resistance. *Indiana Journal of Global Legal Studies*, 10(1), 383–448.

² Burns, R. (2003). *Center of the World*. YouTube. <https://www.youtube.com/watch?v=L1upARZNkzc>

³ Hajjar, L. (2022). *The war in court: Inside the Long fight against torture*. University of California Press.

⁴ Fukuyama, F. (2006). *The end of history and the last Man*. Free Press.

⁵ Lenin, V. I. (1963). Imperialism, the highest stage of capitalism: A popular outline. In V. I. Lenin, *Selected works* (Vol. 1, pp. 667–766). Progress. <https://www.marxists.org/archive/lenin/works/1916/imp-hsc/>. See also Brewer, A. (1991). *Marxist theories of imperialism: A critical survey*. Routledge.

favor of the US after the Second World War), or a genuine counter-hegemony emerges, substituting common sense with *good* sense, through the building of horizontal relationships based on mutual respect and a bottom-up legal order.⁶ The counter-hegemonic alternative that, in the sense conceived by Antonio Gramsci,⁷ substitutes capital-induced common sense with counter-hegemonic good sense, is what I believe legal scholars should facilitate as learned members of a global civil society,⁸ offering themselves in the service of stable geopolitical multilateralism.

I have long thought that the Western-centric rule of law narrative should be declared intellectually bankrupt,⁹ and that a new community of empowered legal scholars, outside the collective West and within the BRICS/BRICS+/Global South perimeter, should develop new ideas based on actual knowledge of local conceptions of law. Western rule of law has blanketed the world either in civil law or in common law. However, such a professionalized conception is superficial in many respects, and the vacuums of normativity left untouched by legal professionalism are filled by various combinations of rule-making circuits, be they political, religious, bureaucratic, police, or technological.¹⁰

No systematic research has been done on the results of the contradiction between Western inspired legal professionalism and other patterns of law in each BRICS+ country. Because we cannot assume that law is an autonomous normative field independent of political necessities and economic pressures¹¹ (or that when law is determined by such factors we are confronted by pathology), the only approach compatible with the task of genuine understanding is what we call *political economy*

⁶ See, for a recent discussion in the perspective of international law, Mattei, U., & Singh, A. (2026). Comparative international law: What's next? In R. Schütze & M. Siems (Eds.), *Comparative international law: Foundations and critique* (pp. 209–234). Bloomsbury.

⁷ For evolution (dating back to late nineteenth century Russia) of the concept of hegemony, including Gramsci's adoption and expansion thereof in his Prison Notebooks, see Anderson, P. (1976). The antinomies of Antonio Gramsci. *New Left Review*, 100, 5–78.

⁸ See, for such perspective, Mattei, U., & Quarta, A. (Eds.). (2018). *The turning point in private law: Ecology, technology and the commons*. Edward Elgar.

⁹ My early critique of Western-centrism in comparative law is Mattei, U. (1997). Three patterns of law: Taxonomy and change in the world's legal systems. *American Journal of Comparative Law*, 45(1), 5–44.

¹⁰ See Mattei, U. (2024). The legal metaverse and comparative taxonomy: A reappraisal. *American Journal of Comparative Law*, 71(4), 900–929.

¹¹ As Karl Marx's comrade Friedrich Engels writes:

In a modern state not only must the law correspond to the general economic situation and be its expression, it must of itself constitute a *coherent* expression that does not, by reason of internal contradictions, give itself the lie. And to achieve this, the fidelity with which economic conditions are reflected is increasingly thrown to the winds. ... [T]he lawyer imagines he is dealing in a priori principles whereas they are, in fact, no more than economic reflections.

Engels, F. (2021). Engels to Conrad Schmidt (October 27, 1890). In K. Marx & F. Engels, *Collected Works* (Vol. 49, pp. 60–61). Lawrence & Wishart. See also Miéville, C. (2005). *Between equal rights: A Marxist theory of international law*. Haymarket Books.

of law. Such a project of foundational research is, I argue, a necessity, in order to learn from the failures of Western-hegemonized attempts to govern international relationships through law from the League of Nations, to the UN, to the International Criminal Court. The dominant Western-centric notion that an expanding universal conception of human rights, democracy, and rule of law is acceptable to a portion (now, a majority) of humanity, that of BRICS+ and the Global South, is arguably delusional and nostalgic neo-colonialism.

The aim of this brief is to map the political economy of law approach to BRICS+ law, and to recruit new forces for this nascent effort. The initial and most important aspect of establishing long-lasting counter-hegemonic legal relationships is to know and respect the deep legal aspects of every country studied. That is why a broad conception of law outside ethnocentrism is mandatory. And we have at our disposal sophisticated tools of comparative law to develop a genuine dialogue aimed at reciprocal understanding.¹² However, lawyers engaged in such a project must make a sustained strenuous effort to discard the theoretical lenses of their professional ideology.¹³

2. *TOLZUMO* Collaboration

In 2025, I dedicated my course “Advanced Comparative Law” in Turin to the political economy of BRICS+ law, and I hosted the first meeting of so-called *TOLZUMO*, a collaboration among the IUC in Turin (*TO*), the Chinese University of Lanzhou (*LZU*), and the Private Law Research Center at the Presidency of the Russian Federation in Moscow (*MO*). This activity generated ten country-specific draft reports, still in the process of becoming.

What I publish here in this brief, for the purpose of expanding the ongoing discussion, is a foundational argument for applying a political economy of law approach to BRICS+, an approach that does not assume that law is an autonomous professionalized field but rather a deeply political artifact. Law is one of many circuits of information and normativity within the material economic, technological, and geopolitical conditions of each historical moment in each geographical place.

Such a holistic, ecological approach to law,¹⁴ aimed at understanding it within its ecosystems, demands an understanding of the basic, tacit assumptions of each legal system of BRICS+, so that lawyers from any other country can grant due respect to such assumptions. No attitude of superiority, condescension, or contempt of one

¹² See, for a state of the art in Western comparative law, Reimann, M., & Zimmermann, R. (Eds.). (2019). *The Oxford handbook of comparative law* (2nd ed.). Oxford University Press. See also Bussani, M., & Mattei, U. (Eds.). (2012). *The Cambridge companion to comparative law*. Cambridge University Press.

¹³ See Ruskola, T. (2013). *Legal orientalism: China, the United States, and modern law*. Harvard University Press.

¹⁴ See Capra, F., & Mattei, U. (2015). *The ecology of law: Toward a legal system in tune with nature and community*. Berrett-Koehler.

legal system towards another is compatible with an approach of political economy. Asking whether one legal system is *better* than another is as forlorn a quest as asking whether the German language is better than Italian or Russian.

Students and other scholars heretofore involved in the *TOLZUMO* project have been offered broad research questions with an understanding that, at this time, precision of analysis and detailed coverage of different countries surveyed are less important than our capacity to develop a vision of different legal systems under observation and BRICS+ as a common enterprise among them. The following has been the assignment for our collective discussion:

- Describe the legal system of the country through the “Three Patterns of Law” hypothesis (see Ugo Mattei, *Three Patterns of Law: Taxonomy and Change in the World’s Legal Systems* (1997)). Focus on the hegemony of political, professional or traditional law as determining the legal ethos of the system under your consideration;
- Discuss the legal system of each country with special focus on the sources of law, and the different institutional players, with an eye on the perceived ratio of power among them;
- Discuss the political evolution of each country, including a presentation of the main political figures or parties determining current policy;
- Discuss the international law commitments of each country, including the main organizations like IMF or WB in which the country takes part. Discuss the motivations of its accession to the BRICS+, its commitment and possible vision about it;
- Describe the economic structure of the country, including sovereign debt and composition of its GDP.

3. Initial Observations

Through the *TOLZUMO* project, comparing a dazzling diversity of institutions, ideals, beliefs, and attitudes about the law, a few points have already emerged organically.

First: the traditional grand partition of comparative law, where most legal systems can be considered having either civil law or common law “legal origins” according to the *Lex Mundi* approach of the World Bank, is a colonial legacy and must be rejected.¹⁵

Second: legal diversity of the depth and magnitude that we observe by comparing the political economy of law in the BRICS+ requires new taxonomies, new methodology, and non-judgmental attitude. Each legal system must be approached on its own terms, without imposing the view of one on others.

Third: a political economy approach cannot be reduced to a sort of law in context analysis, but rather must be fully cognizant of the geopolitical tensions in the here and now. Indeed, two major BRICS+ countries are involved in hot wars with the

¹⁵ See Djankov, S., La Porta, R., Lopez-de-Silanes, F. & Shleifer, A. (2002). *Courts: The lex mundi project* (Working Paper 8890). Harvard University Department of Economics.

West. The issue of international legality is crucial to define alliances, attitudes, and sympathies among not only political elites but also populaces.

Fourth: in a political economy of law perspective, no system can be seen as static, nor something waiting for someone to observe it objectively as if it were a mineral or plant. We have to reject every attitude of scientific positivism, as if it were possible to distinguish ontologically facts and values, when we face politically charged human institutions. Nor can we run after every single change that political contingencies determine in approaching the political economy of BRICS+.

Fifth: BRICS+ ethos is about generating an alliance based on mutual respect among its members, where sovereignty is taken seriously. All BRICS+ countries have faced (and still face) Western hypocritical and self-righteous attitudes, and are subject to double standards.

Sixth: BRICS+ is *not* destined to remain a loose organization, dependent on wills and whims of its leaders from time to time. Although many BRICS+ countries display a significant possibility of political change, it does not necessarily follow that BRICS+ membership is unstable. While Argentina (which was supposed to join in 2024) withdrew after the Presidential victory of right-winger Javier Milei, this is not what happened with Brazil, with another no less reactionary free market fan like Jair Bolsonaro, or with India, where Prime Minister Narendra Modi is lukewarm to BRICS+ (quite the contrary, with India's being present to veto Pakistan's bid to join the club). It is likely that time will make BRICS+ membership *more* stable.

Moreover, to understand the self-interest of each sovereign to stay in the game, voicing discontent rather than exiting, we must consider a variety of factors, most important the power and stability of China and Russia. It would be naïve to believe that the current global hegemon, the US, would passively witness BRICS+ develop and strengthen: too strong is the threat to global power of the US dollar to expect no US reaction. It is therefore natural that, in its own self-interest, US administrations would seek to torpedo the process, deploying all available power. Similarly, it is likely that the emerging dominant power within BRICS+, China, would have incentives to increase its grip on the project, at the risk of alienating less enthusiastic BRICS+ members such as India.

4. Towards A Better Understanding of the Political Economy of BRICS+

Because BRICS+ is a process of self-interest, mutual knowledge, and recognition of countries (not just their leaders), the method proven promising in the analysis is the historical-stratigraphic one,¹⁶ opting for an archeology of knowledge that

¹⁶ See Schlesinger, R. B., et al. (2009). *Comparative law: Cases–text–materials* (7th ed). Foundation Press, for a discussion of such methodology.

assumes each significant period of time in the history of a country in relationship with global trends leaves a legacy affecting the following period. Such legacies must be studied and understood, and are quite important in predicting future trajectories. For example, Islam plays a role in many BRICS+ countries, and has left traces in their legal systems (e.g., codification in Egypt, legal professionalization in Iran). Similarly, the full-fledged development of Socialist legality in Russia and its impact on China, Ethiopia, and Egypt have continuing effects, and this might be viewed with ideological concerns by neocon projects.

Our work so far has surveyed eight of the ten BRICS+ full members (**Brazil, Russia, India, China, South Africa, Egypt, Ethiopia, Iran**), leaving Indonesia and the United Arab Emirates. The reader will appreciate the staggering amount of work yet to be done in order to obtain publishable results, especially if candidate or other interested countries¹⁷ will also be addressed.

It is premature to detail comparative remarks. However, it is already possible to identify some structural analogies that render BRICS+ a proxy of the Rest (as opposed to the West), and that might therefore determine the global competition for hegemony or counter-hegemony. US global legal hegemony, attained at the end of the Second World War, despite robust resistance from Soviet legal innovation,¹⁸ can be explained to a large extent by the academic development of a discourse based on freedom, consumerism, and individual rights. By no means was US imperialism *inaugurated* after the Second World War, but after 1945 it has been rationalized and normalized by rule of law and human rights discourses.¹⁹

Since the Monroe Doctrine (announced in the 1820s), without discontinuity even in Woodrow Wilson's "white man's burden" (with its racist underpinning) that generated US intervention in the First World War, the US has presented itself as a former colony that suffered under colonialism and positioned itself against colonialism. For a century and a half this anti-colonialist stance served as a veil to mask US imperialism, whose purpose was not to conquer new territory but to open business opportunities for American corporations. Although it took the Vietnam War to witness US "gloves coming off," the US military industrial complex and corporate sector had already amassed such overwhelming power that the institutions of Government were captured and controlled by the corporate sector, the real champion of "the land of the free and the home of the brave."²⁰

¹⁷ This expanded list includes: Algeria, Bangladesh, Belarus, Bolivia, Cuba, Kazakhstan, Malaysia, Nigeria, Pakistan, Saudi Arabia, Thailand, Uzbekistan, and Venezuela.

¹⁸ See Quigley, J. (2007). *Soviet legal innovation and the law of the western world*. Cambridge University Press.

¹⁹ See Mattei, U., & Nader, L. (2008). *Plunder: When the rule of law is illegal*. Wiley-Blackwell.

²⁰ See Vine, D. (2020). *The United States of war: A global history of America's endless conflicts, from Columbus to the Islamic State*. University of California Press.

Moreover, in the bipolar world preceding the demise of the Soviet Union, US diplomacy, military, and secret services had been focused on dividing China from Russia, especially after the death of Stalin when the torch of leadership in the “second world” was expected to pass to Mao Zedong.²¹ Both Russia and China suffered the consequences of this division, the former being downgraded to Third World by Yeltsin/Gaidar Chicago School policies and the latter being deprived of a natural ally and large market for its products. The harsh polarization of the Cold War birthed the non-aligned movement, whose social-democratic, liberating ethos, and aspirations were not so very different from those of today’s BRICS+ members, and may contribute to a post-US counter-hegemonic vision.²²

Many BRICS+ countries—especially India, South Africa, and Egypt—have suffered under colonization, and gained independence late. Brazil suffered colonialism, together with the moral and political degradation of slavery. Outright US imperialism has been particularly aggressive and murderous in Latin America.²³ Today, the US is targeting socialist experiments in Venezuela and Cuba, both candidates for BRICS+, mostly to disrupt their cooperation with China. Other BRICS+ countries like Ethiopia and China have evaded outright colonization but experienced Western blackmail and plunder. Russia has been (and still is) targeted by British foreign policy that cannot accept any friendly relationship with Eastern Europe. Such an attitude extends back to the early eighteenth century, the time of Peter the Great, with British opposition to Russia’s claim to the Baltic. The bombing of Nord Stream 2 natural gas pipeline, the mutually beneficial product of a working relationship between German Chancellor Merkel and Russian President Putin, is merely the current epiphany of a long-lasting Anglo-American aggressive posture to defend maritime empires against the nightmare of Eurasian continental unity.²⁴

All BRICS+ countries have experienced aggression, double standards, and hypocrisy from the Western World, especially from the maritime empire of England and its post-colonial offspring, the US. Well-documented plunder is the result of such attitude, and this explains why within BRICS+ there is an openly anti-American stance dubbed de-dollarization.²⁵ According to such attitude (in which Modi’s India

²¹ Lüthi, L. M. (2010). *The Sino-Soviet split: Cold war in the communist world*. Princeton University Press.

²² See Dinkel, J. (2018). *The non-aligned movement: Genesis, organization and politics (1927–1992)*. Brill. (In German), and, for a broader perspective, Prashad, V. (2007). *The darker nations: A people’s history of the third world*. New Press.

²³ See Galeano, E. (1997). *Open veins of Latin America: Five centuries of the pillage of a continent*. Monthly Review Press.

²⁴ See, for a discussion within the Gramscian tradition, Robinson, W. I. (1996). *Promoting polyarchy: Globalization, us intervention, and hegemony*. Cambridge University Press.

²⁵ See, for data, J.P. Morgan, Chase & Co. (2026). *De-dollarization: Is the US dollar losing its dominance?* <https://www.jpmorgan.com/insights/global-research/currencies/de-dollarization>

and el-Sisi's Egypt appear less involved), only a change of currency-hegemony can deliver emancipation and prosperity to the Rest.

Global hegemony, at least of the ideological component that distinguishes hegemony from brutal might, requires a modicum of coherence between preaching and practice. Since September 11, 2001, however, the US has been incapable of maintaining such coherence. Judicial, academic,²⁶ and media independence—*sine qua non* for the rule of law—is now the stuff of nostalgia in the US. As a result, for many with roots in the Global South, the American dream has morphed into nightmare, and this is why radically different conceptions of legitimacy are likely to emerge and, perhaps, persuade the world of the desirability of counter-hegemony and good sense.

In the old, old story, the US and its compliant Western allies have transformed hegemony into imperialist brutality: the unapologetic Middle Eastern genocidal experiment, the attempted regime change via kidnapping in Venezuela, and the potential genocidal blockade of Cuba all evidence tremendous energy deployed by the military industrial complex and Western corporate sector to contain BRICS+ global influence. It appears that China, the most important economy in BRICS+, has achieved its prominent international posture through strategies of horizontal, mutually beneficial, cooperation. It has rejected top-down conditionality based on assumed moral superiority, deployed by the so-called Washington consensus throughout the Global South.

Contribution: Call for Action

This attitude of mutuality and rejection of supremacism can be seen as the current legal and political *acquis* of the BRICS+ project, which resonates with the Panchsheel Treaty (Five Principles of Peaceful Coexistence) reached by India Prime Minister Jawaharlal Nehru and China Premier Zhou Enlai in 1954.²⁷

Peaceful coexistence is indeed a long-term project requiring wisdom and generosity, which are human virtues that corporations—the institutional embodiment of capital—simply cannot develop. In a political scenario such as the Western one, in which capital dominates politics, there is no oasis for peaceful coexistence because the imperatives of capital profit from conflict. In the West,

²⁶ See, e.g., Robinson, W. I., & Griffin, M. S. (Eds.). (2017). *We will not be silenced: The academic repression of Israel's critics*. Pluto Press.

²⁷ 1. Mutual respect for each other's territorial integrity and sovereignty (respecting the borders and independent authority of other nations) 2. Mutual non-aggression (refraining from attacking or threatening other nations) 3. Non-interference in each other's internal affairs (respecting a country's right to manage its own domestic politics without outside intervention). 4. Equality and mutual benefit (ensuring relations are balanced, cooperative and beneficial to all parties involved). 5. Peaceful coexistence (proactively managing differences to ensure peaceful harmonious relations).

corporations dominate political institutions, and billionaires dominate politicians. This power pathology, which permits one dozen billionaires to be wealthier than four billion humans, is fortunately not yet a problem in BRICS+, where, in spite of rampant inequalities²⁸ within some member countries, the political process (particularly in China and Russia) is in charge of the economy and works for not only private but also public interests.

In this environment, social justice, respect, trust, impartiality, equality, and solidarity, on which long-term peaceful coexistence can be built, are vital, demanding sustained effort by variegated lawyers to understand and develop these values. *TOLZUMO* views BRICS+ as a stable institutional organization that embodies and pursues a righteous vision for the future of humankind. In the absence of this or similar endeavors, unchained global corporate interests might end up dominating and corrupting politics everywhere, just as it now does in the West. In order to avoid this political/moral catastrophe, the BRICS+ merits being studied and understood as a legitimate political economy of law alternative. This is what we are trying to accomplish with *TOLZUMO*.

As an ambitious collaboration never before attempted, *TOLZUMO* now invites intellectual contributions from critical legal scholars who concur on the broad themes of this brief. Scholars interested in contributing to emancipation through counter-hegemony and good sense, particularly from BRICS+ countries or other parts of the Global South, are welcome to contact this author to begin a dialogue.

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²⁸ See, e.g., Kloby, J. (2004). *Inequality, power, and development: Issues in political sociology* (2nd ed.). Humanity Books, arguing that global inequalities are historically produced and structurally maintained.

Hajjar, L. (2022). *The war in court: Inside the Long fight against torture*. University of California Press. <https://doi.org/10.2307/j.ctv2vr8vv3>

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