BUCHBESPRECHUNGEN / BOOK REVIEWS

Ryan Martínez Mitchell, **Recentering the World: China and the Transformation of International Law**, Cambridge University Press, 2022, xviii+316, €110.87, ISBN: 9781108690157

How far would you go to study the reception of public international law in China? Would you examine the development of Chinese international law concepts through modern and classical Chinese, Japanese, French, German and Manchu language sources? Could you? In a world of intensifying great power contestation, Ryan Martinez Mitchell delivers an action-packed treatise on the history of Chinese international law from the mid-nineteenth century all the way to Xi Jinping's new era. Billed as "conceptual history" (p. 1), this riveting work includes gripping scenes of gore (p. 103, 196), comedy (p. 82, 106), romance (p. 83), and nudity (p. 100). This book is an absolute page-turner for everyone interested in the minutia of late-nineteenth century and early twentieth century Chinese and international legal scholarship.

With these book review clichés out of the way (promised to the author as a collegial prank), let me provide a few well-intentioned observations about Mitchell's book.[1] On the first look, the book appears to be framed as revisionist historiography. According to its mission statement, the book challenges "certain prevalent notions about the history of international law," such as the notion that "'peripheral' states were only indirectly connected to the development of legal norms" from late nineteenth century to early twentieth century (p. 1). Read in the context of the book's title, a reader might get the impression that the book seeks to place Chinese international lawyers at the center of the development of modern international law. While the argumentative move from object to subject (p. 215) might make for a compelling elevator pitch (or a book proposal), Mitchell's book is too faithful to its sources to forge ahead with any simplistic narrative. Instead of placing Chinese international lawyers to the center of the development of international law, Mitchell explains that this community generally only sought reform at the margins of existing rules, while China's official "activist visions for regional and global order" have arisen only in the past few years (p. 218). Even these recent Chinese attempts to influence international law are not about "revolution, but … refinement and consolidation of existing orders" (p. 218). The same can be said about Mitchell's book, which aims to "clarify the process by which international law ideas became objects of both reception and contention … in Chinese society" (p. 1).

Mitchell contends that up till the Second World War, international legal innovations vis-à-vis China were mostly results of Western agency. For instance, Mitchell explains that the "bloody intervention … by the foreign Eight Nation Alliance" to quash the Box-

1 Mitchell generously thanks (but does not cite) me in his book.

er rebellion in 1901 was "the most internationalized use of force in modern history so far" (p. 91). In the same context Mitchell mentions that the agreement ending the Eight Nation intervention was "highly innovative as a treaty text, introducing forms of normative obligation and enforcement with few precedents" (ibid). Before the Second World War, Chinese international lawyers either made only modest attempts to develop international law towards more suitable understandings (say, regarding sovereignty, p. 116), or their attempts at developing international law (for instance, on developing a definition for "war," p. 110-111) proved generally inconsequential. Indeed, Mitchell notes that even in the UN era, Chinese reform proposals, such as the Five Principles of Peaceful Coexistence, were based on existing Western concepts of sovereignty and non-intervention (p. 203).

To be sure, Mitchell presents a nuanced narrative. Chinese international lawyers at the same time opposed and endorsed "certain aspects of international legal order" (p. 220). While Chinese international lawyers possessed "agency" (p. 187), there also existed "restrictions on [their] agency" (p. 220). While the introduction of international law influenced China, international law also changed in this process (ibid). Mitchell discusses a number of missed opportunities for Chinese influence on international law. For instance, P.C. Chang, "an educator, playwright and diplomat," who became the vice-chairman of the UN Human Rights Commission, attempted to introduce a reference to the Confucian concept of ren (仁) into Article 1 of the Universal Declaration of Human Rights (UDHR) (p. 194). Would international human rights law – and the global role of Chinese culture – have developed differently, if Western scholars had had to engage with Chinese sources in order to understand the UDHR? Indeed, one may wonder what, if anything, would change today if Chinese perspectives on international law were given a more prominent role.

Mitchell's book also raises the (potentially Eurocentric) question of just how difficult intercultural communication and understanding between China and the West has been. Neither Michell nor his Chinese and western protagonists appear to have many difficulties in understanding the concepts of each other's political thought. Mitchell cites a Chinese official's assessment from 1862, according to which "the foreigners know everything about China's real situation" (p. 36). In a similar vein, the omniscient narrator in Mitchell's book confidently traces back Chinese conception of sovereignty (or *zhuquan*) to Qing dynasty notions, such as, the Chinese word "stateliness" (*guoti*) and the Manchu term *gurun* (p. 13-14). Mitchell identifies differences (p. 19, 37-38) and similarities (p. 13) between these terms and Western (as such ambiguous) concepts of state and sovereignty. The book's conceptual history is an eminently knowable affair of intercultural communication motivated by border conflicts (p. 14), opium trade (p. 17), debt collection (p. 40) and other forms of colonial encroachment (p. 61). A historian's audacity may be needed to write perceptions of incommensurability into history.

At stake with the inclusion of non-European narratives into Western histories of international law is the continued issue of access of the periphery to the center. This access need not be tied to the specific forms of stateliness that prevail in contemporary China. Mitchell's book discusses too many liberals, collaborationist, and anti-communists

to be considered orthodox historiography in today's China. Mitchell also demonstrates that non-European perspectives on international law can be more reliable than the fantasist narratives of Western mainstream international law. To return to the genre of book review clichés (and gentle jabs), all scholars working in the fields of international law and Chinese law would do well to put aside considerable time for reading Mitchell's significant personal achievement.

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Berihun Adugna Gebeye, **A Theory of African Constitutionalism**, Oxford University Press, Oxford/New York 2021, 272 pages, $110.00, ISBN: 978-0-19-289392-5

It has become almost cliché to say that Africa lags behind as an object of comparative constitutional study.[1] That sadly remains the case, the concern of comparative constitutionalists notwithstanding.[2] Hence, the mere sight of a publication by an African constitutional law scholar on Africa should attract applause, if not an ululation of the kind associated with bride-unveiling or circumcision ceremonies in many African cultures. Indeed, when Gebeye was invited by Diritti Comparati in 2021 to talk about his book, he said that he was not planning to write a book on a theory of African constitutionalism until during his research, he realised the sheer lack of general theoretical engagement with the idea and practice of constitutions and constitutionalism in Africa.[3] The book that is the subject of this review by Gebeye must nonetheless, not be considered merely as a piece by an African on Africa published by a reputable publisher. Rather, as I later show while campaigning for its readership, it is a valuable contribution to the constitutional law discourse in Africa and beyond. The topic of Gebeye's book, "A Theory of African Constitutionalism" suits the publication given what is proffered; it proposes and justifies a different theoretical supposition with which to understand African constitutionalism.

A Theory of African Constitutionalism is essentially a nine (9) Chapter book, though it has seven (7) substantive ones titled as such. After a brief Introduction, the book starts by justifying the need for a different theoretical basis for understanding African constitu-

1 See e.g. *Ran Hirschl*, Comparative Matters: The Renaissance of Comparative Constitutional Law, Oxford 2014, p. 5; *Henry K. Prempeh*, Africa's "Constitutionalism Revival": False Start or New Dawn?, in Eunice Sahle (ed) Democracy, Constitutionalism and Politics in Africa: Historical Contexts, Developments and Dilemma, New York 2017.

2 *See Duncan Okubasu Munabi*, Real Constitutional Change in Sub-Saharan Africa after the Third Wave of Democratisation: A Comparative Historical Inquiry, Utrecht, 2021, p. 29.

3 *Berihun Gebeye*, A Theory of African Constitutionalism, Oxford 2021.