Book Review: South-South Migrations and the Law from Below: Case Studies on China and Nigeria

By:

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March 20, 2024

International legal scholarship on migration remains obsessively focused on migration from the global north to the global south. Even knowledge production anchored in critical traditions within international law, such as Third World Approaches to International Law ("TWAIL"), tends to skew in the direction of analysis that centers Third World encounters with the First. This general orientation comes at the costly expense of a deeper understanding of what Oreva Olakpe terms "South-South migrations" in her powerful intervention addressing this glaring shortcoming in the literature. Neglect of detailed study of experiences of international law in the global south, and in South-South relations, results in more than a merely incomplete picture of the nature of international law. It reifies the status of international law as a field in the service and image of the First World or the global north, and obscures, as James

Gathii has noted, “the Third World as an epistemic site of production . . . of international legal knowledge.” Olakpe’s manuscript, *South-South Migrations and the Law from Below* offers a timely and refreshing counter to international legal scholarship’s status quo.

Olakpe explores case studies located in two geopolitically crucial sites in the global south (China and Nigeria), surfacing the political and economic agency of migrant communities who typically appear as abject victims in legal scholarship, where they appear at all. In doing so, she counters the epistemic erasure of the South, and of the erasure of undocumented migrants as agentic political and legal actors. Her first case study considers the experiences of undocumented African migrants and asylum seekers in Beijing and Guangzhou, China, with a focus on Nigerians in particular, who are the majority nationality among undocumented Africans in those locations. Her granular account of the international refugee regime’s operation in China is itself illuminating, but more so is what Olakpe teaches us about the role that community plays in shaping the experience of migration, asylum law, and even the meaning of justice. In Guangzhou, for example, Olakpe details a highly organized political structure within the Nigerian community that includes an elected government, and a task force and justice system that collaborate with the Chinese Public Safety Bureau on law enforcement and the administration of justice involving Nigerians. This informal community structure materially shapes legal outcomes for members of the Nigerian diaspora.

Her second case study focuses on the Bakassi peninsula in present-day Cameroon—a region that in the pre-colonial era brought together different peoples “and after centuries of migration and settlement, . . . became an ancestral land for its inhabitants.” (Olakpe 55). The Bakassi peninsula would eventually come first under German colonial rule before being divided into two territories ruled by Britain and France respectively, following which both territories came under British rule as part of the “British Cameroons.” After World War II, North and South Cameroon came under UN trusteeship, but South Cameroon was eventually granted to the French. This dizzying colonial back-and-forth unsurprisingly produced a territorial dispute over the Bakassi peninsula between Nigeria and Cameroon at the time of their independence. This dispute was ultimately adjudicated by the International Court of Justice (ICJ), where Cameroon argued, inter alia, that its right to the peninsula was

anchored in the international law doctrine of *uti possidetis juris*. Nigeria instead claimed sovereignty over the territory based on pre-colonial jurisdiction over the Kingdom of Old Calabar, of which the territory formed a part before colonization.

The ICJ ultimately ruled in Cameroon's favor, and Olakpe describes the process and agreement that followed the decision, which together produced a Bakassi refugee community displaced from the peninsula in Cameroon, and now residing in Cross River State, Nigeria close to the Cameroonian border. Olakpe accurately describes these Bakassi refugees as "international law's refugees" (Olakpe 57) and her study crystallizes the gulf that exists between "justice" as articulated in the ICJ's application of the rules of international law, and the concrete experience of daily border injustice in the wake of international law. The Bakassi were excluded from the international processes that have shaped their fate, and they have been subject to abuse and neglect by the Cameroonian and Nigerian governments. Unable effectively to access either Nigerian or Cameroonian nationality, Bakassi refugee communities experience extreme socio-economic and political marginalization, and Olakpe details their uneasy reliance on militant groups for "justice, security, and financial support." (Olakpe 60) Her manuscript contributes a vivid accounting of the meaning of the international law of borders for communities rendered invisible by a field, that even when concerned with Third World subordination and resistance remains largely trained on the geographies and borders of countries in the global north.

Overall, legal scholars of international migration generally—whether or not their focus is South-South migration, and whether or not they adopt critical methodologies—stand to gain rich insights from Olakpe's manuscript. Concerning the China case study, she provides valuable insights into the role of the UN Refugee Agency in China, using legal ethnographies of both UN Refugee Agency staff and African asylum seekers to flesh out our understanding of what shapes the broader institution of asylum in China and its relationship to the Chinese immigration system more broadly. For example, she explains how institutionalized visa preferences for North American and European passport holders in China, that permit them greater flexibility do not apply to African passport holders, who are subject to rigid, difficult-to-comply-with requirements that make undocumented status more likely for Africans. The material

subtleties that produce what is a differential and, in effect, arguably a discriminatory regime emerge through Olakpe's interviews, which also capture the unique challenges women African migrants experience in regularizing their status or protecting themselves from the precarity to which undocumented status exposes them. Her scholarship centers on the encounter among international law, Chinese law, policy and communities, and African migrants and asylum seekers—illuminating formal and informal legal bordering processes in China—a site of crucial but neglected importance from a geopolitical perspective. In doing so, she maps the operation of racial borders in the South, suggesting the troubling ubiquity of racial hierarchy in immigration law and enforcement.

Similarly, her case study of the Bakassi is a rich example of how pre-colonial, and serial colonial empires have created overlapping and contradictory regimes connecting people to territory. She offers a different perspective on the neocoloniality of borders attributable to international law, illuminating how postcolonial state borders and political bordering policies profoundly shaped by international law reify border coloniality. For the Bakassi refugees, formal decolonization in the region seems only to have entrenched denial of their collective and individual self-determination.

Olakpe's research is also crucial for revealing striking legal and institutional creativity among the migrant communities she studies in her account of the informal justice systems they have developed, as well as in the ways "they outmaneuver the limitations of the state and asylum, undocumented or displaced statuses." (Olakpe 16) She is careful not to fetishize or overstate the operation and outcomes of the informal justice innovations. She highlights, for example, structural gender discrimination within the informal justice mechanisms of Nigerian migrant communities in China, that compound the exploitation and subjection of women who are part of these communities. But she nonetheless illustrates the realization of alternative socio-legal realities beyond the strictures of repressive or exclusionary formal law and legal institutions.

As Olakpe notes, her contributions to TWAIL scholarships include deepening the canon's account of international law in the South, and international law in South-South encounters—she delivers on both counts. Her contributions are

also methodological—a careful legal ethnographic study of the day-to-day meaning and experience of international law in the lives of notably marginalized individuals and communities at the "cellular/local level." (Olakpe 9) She also brings together and deploys TWAIL and critical race theory ("CRT') to unpack the nuances of race and racialization across and through borders, with careful intersectional analysis that avoids heavy-handed (and inaccurate) generalizations of the terms of encounters, for example, between Nigerians and Chinese, among different African nationalities, among different Nigerian ethnic groups in China and in Nigeria, to name but a few. In Chapter 5 in particular she unpacks the dynamic interactions of migration status, economic status, gender, and ethnicity in shaping African migrant resistance and reconstituting their identities in China and Nigeria. She disaggregates, "Blackness," and "African-ness" as well, allowing for a more fine-grained analysis of how racial and ethnic identities and identifiers operate among the respective communities in China. In the Nigerian case study, Olakpe explores the role of international law in creating foreigners out of ethnic communities with ancestral or indigenous ties to the Bakassi peninsula. She, too, attends to the specific work of gender in shaping the experience of foreigner status.

Although both cases—Nigerians in China, and Bakassi refugees in Nigeria—involve communities grappling with undocumented status and socio-political marginalization, their experiences and interactions with legal structures are ultimately quite different. Olakpe makes a convincing case for the significance of both China and Nigeria as productive sites of study of South-South migration under international law, but it is not fully evident that the juxtapositioning of the two helps understand either better or especially illuminates cross-cutting themes. This observation by no means detracts from the wealth of insights Olakpe provides about both sites and their respective communities. Instead, it is to suggest that Olakpe's future work might productively disaggregate the two sites and delve deeper into each without the need continually to relate them.

South-South Migration, in addition to all the substantive and methodological contributions highlighted above, suggests we can expect a path-breaking body of work from Oreva Olakpe.

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