Book Review III: Sustainable Development, International Law, and a Turn to African Legal Cosmologies (Godwin Eli Kwadzo Dzah) (CUP, 2024)

By:

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International law applies to the interchanging relationships and rules between states, including the establishment of norms and standards which govern their activities. This changing landscape of international law is recognised in one of the introductory paragraphs of this book: ‘international law possess an inherent transformative power to renew and remake itself if we are committed to reimagining the discipline and its fundamental characteristics, including the concept of sustainable development’ (pg 2). Sustainable development (SD) has been an integral part of international law discourse before the 1972 United Nations Conference on the Human Environment (UNCHE) and the United Nations Conference on Environment and Development (UNCED). Hence, this

book focuses on the ahistoricism and influence of international law on the environment and sustainable development in African legal systems through a Third World Approaches to International Law (TWAIL) lens.

The transformative power of international law, and the reconceptualization and practicalization of the concept of SD is revealed through each interweaving chapter of this book, giving the reader an insight into the intricacies of international law, development and legal pluralism, rather than just verbal ammunition. As such, one of the book's unique features lies in its adoption of the TWAIL approach as clarified by the author, who identifies that "…the book is…sensitive to how law is politically bordered by its social outline…" (pg 14).

The book comprises of seven (7) chapters running through a little over 400 pages, containing key information for scholars, legal practitioners, academics, industry, civil society organisations and governments in understanding the concept of sustainable development in international law, and in African legal systems. Each chapter is skilfully connected, focusing on critical issues impacting on sustainable development in international law. The discussions and suggestive commentary evident throughout the book is indicative of the depth of the author's research and reasoning which is sound, convincing and thought-provoking.

In Chapter 1, The Rise, Fall and Rise Again of Sustainable Development, the author discusses the legal dimensions of sustainable development and the misalignment of two key pillars of SD: the environment and economy. This chapter analyses the inextricable challenges of reconceptualising sustainable development, noting that a possible realignment of SD can be achieved through "…revitalising its legal content to reflect changes introduced through the observance of the normative value of environmental ethics and other indigenous and local knowledge as law." (pg 27). The chapter further identifies the role of cultural hegemony in sustainable development discourse and implementation in the Global South, and emphasizes the need to denounce the "…characterisation of indigenous and local knowledge - including African customary law and ethics - as non-law…", particularly as African legal influences shape the development and implementation of SD in international law. To this extent, the chapter further expounds on the evolution of TWAIL linked to the evolution of the term 'Global South,' and the role of TWAIL in the

deconstruction and reconstruction of law relating to SD.

In Chapter 2, The Logic of Sustainable Development: Law, Politics and History of an Idea, the chapter examines the intersection of religion, nature and international law, including similarities in nature conservation in Africa, American colonies and Europe. The chapter also addresses the neoliberal ideologies of nature and the environment, including the inextricable links between human rights and the environment which was first established in international law through UNCHE. The author identifies the propensity for Third World and international law scholars to view "…environmental rights as a far-reaching remedy for curing sustainable development's problems…" (pg 73), and expounds further on the right to development, the Eurocentricity of development, and the need for a "rights framing" which should not constrain the implementation of sustainable development.

The chapter also addresses the conceptualisation of SD since the Brundtland Report 1987 as a key foundation of international law, with a clear recognition by the author that "…the transformation of sustainable development into an effective practical force requires a reorientation of the present human link with the environment" (pg 98). Hence, a determination of the pseudo-legal and legal normativity of SD are addressed in the Chapter in a bid to identify "alternative conceptualisations" of the concept in comparison with the deficient nature of SD through a Eurocentric lens.

In Chapter 3, Sustainable Development and the Paradox of Legal Universalism, the author provides an exhaustive analysis of the universality of SD and internationalisation, including a critique of the outcomes of UNCHE and UNCED – the Stockholm and Rio Declarations - which facilitated the lack of normative clarity for SD and the continued imbalance between the Global North and Global South relations. The chapter also succinctly analyses how the three-dimensional integration of the pillars of SD – economic, environmental and social – has further raised issues of interpretation of the "meaning and role of integration [which] leads to a dualist orientation in respect of sustainable development" (pg 141), including a lack of consensus among legal scholars on which pillar should take precedence in the implementation of SD considerations.

In Chapter 4, Problematising the Normative Trajectory of Sustainable Development in Africa, the author clarifies - through critical analysis – the concept of SD in an African context. Through historical weavings and an establishment of Europe's influence over Africa and its natural resource, the chapter identifies the 1955 Bandung Conference as "the symbolic birthplace of TWAIL…" (pg 168) in consideration of the revitalising influence of the Conference on the Global South's understanding of mutual respect for sovereignty (over natural resources), equality and promotion of human rights, amongst others. The Chapter identifies the influence of key international and regional instruments and treaties relating to SD in Africa, internalisation of such instruments, and the role of African economic integration in relation to SD. The chapter also provides critical insights into the right to development established under the African Charter on Human and Peoples' Rights (ACHPR) and through jurisprudence of the African Commission on Human and People's Rights.

In Chapter 5, Sustainable Development and the Turn to African Legal Ontologies, the author does not advocate for a concretisation of African legal ontologies; rather, he considers the reality of indigenous or customary sources of law which is more realistically practicable in entrenching SD in Africa. The chapter juxtaposes legal positivism against the ambit of indigenous/customary law in describing the normative relevance of legal pluralism, and delves into the significance of transnational law as a foundation for customary law and SD. These analyses are made to put customary law at the centre of any considerations for improvement and practicalisation of SD in international law within an African context, devoid of Eurocentric and other historical influences in African societies.

In Chapter 6, Ecocosmologies, Ecolegality and African Environmentalisms as Ecological Law, the author establishes that "African environmentalisms [which] derive from a mythologised essence of law…is integral to how indigenous environmentalism interacts with law…" (pg 247). The chapter expertly ties in the discussions on law, religion, history, politics evident throughout the book, advocating the need to consider African environmental ethics as law on the basis of existing eco-legal philosophies, with the author noting that the "…the transformative power of environmental ethics for environmental law and international law greatly appeals for reimagining sustainable development considering environmental ethics is present across African societies…" (pg

256). The author not only identifies that international law may benefit from transnational environmental law in mainstreaming eco-legal philosophies into SD discourse, but argues that a “Southern (or Third World) theorising on the myth of environmental ethics is only a call to bring about much-needed transformation from an ontological abstraction to practical legal operationalisation” (pg 266). The author also emphasizes Affolder’s assertion that incorporation of indigenous perspectives in international law will provide insights and opportunities to entrench peripheralized knowledge and uniquely unite diverse strands of the notions of ecological integrity across artificial national frontiers.

The concluding Chapter of the book, The Paradoxical Future of Sustainable Development in International Law, buttresses the intention of the author to the author from the book’s inception to examine Africa’s contribution to the legal conceptualisaiton, evolution and implementation of international law and sustainable development through TWAIL’s critical lens. Having argued for a pluralist normativity in the practicalisation of SD in African legal cosmologies, the book has, amongst other things, challenged the “disciplinary building blocks of international (environmental) law that spans law, the role of the State, and the primacy of peoples (pg 282). The author also rightly identifies that TWAIL “shifts our gaze from a singular focus of academic writing…the realpolitik of our circumstances…” (pg 290), which, in the context of the book, alludes to international law as a vehicle for change, particularly through interactions with domestic law – in this case, African indigenous/customary law – as a means to promote and practicalise SD. The book further reflects the position of the author as a TWAIL scholar in clarifying the established principles of international law and international environmental law in the context of sustainable development.

The language of the book is clear and proof-reading errors are almost non-existent. Each chapter of the book utilises sub-headings and titles to situate the discussions and guides the reader appropriately without convolutions, eliciting a general pleasure in reading through the book. Reading through the book, two key points resonate with the reviewer, rather than criticisms. First, the author relies on the influences of international instruments in the recognition and advocacy for legal pluralism and TWAIL approaches to be applied to the reconceptualization and implementation of SD in African legal cosmologies. In

establishing these influences, the author does not impose their personal ideologies or engage in speculative or prescriptive reasoning throughout the book. Rather, the analyses in each chapter is critically expansive and articulated in a way that is helpful for reforms in any sector of society. Second, the author does not focus atypically on what States should do for practicalisation of SD in international law, but rather, establishes Africa's contribution in the legal reconceptualization of SD through customary law, and considerations of environmental ethics and jurisprudence of the African Commission as a guide for States. This focus is not indicative of the author's imposition of the African customary law on international law, but an emphasis on the need for the international community to take advantage of the legal innovations which this book advocates.

The book is an original contribution to international and comparative law, utilising critical reflections and theories, legal analysis and references to knowledge production systems in arriving at an all-rounded view of sustainable development in international law. The book contains admirably informative material, and is undoubtedly, a scholarly work of great erudition. It is not only an original contribution to knowledge, but also fills a gap in international, regional and domestic law literature. The book proffers useful and provocative insights which will be useful as a reference point for students, postgraduate researchers, governments, international organisations, academics and industry practitioners. I respectfully recommend this book to all.

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