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Book Review

A Theory on Africanizing International Law
by Micha Wiebusch
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What is African about African international law? Micha Wiebusch's answer is disarmingly direct, defining Africanization of international law as "a collective effort to imagine and organize an international legal-political project based on a continentally-defined identity" (13). The theory is operationalized through two variables, namely, the extent of continental norm-setting by the Organization of African Unity (OAU) and the African Union (AU), and the degree to which the AU enforces those norms through continental accountability mechanisms. Although the book received the American Society of International Law's Certificate of Merit for Creative Scholarship in the 2025–2026 cycle,[1] its primary value lies in its conceptual ambition. This is the first sustained attempt to theorize the Africanization of law as a measurable project rather than as a slogan. It moves the scholarly conversation past the familiar question of whether Africa contributes to international law, offering instead a concrete framework to evaluate where continental norms originate, how effectively they are enforced, and what practical difference they make.

This analytical architecture unfolds across five closely sequenced chapters. Chapter 1 documents the post-1963 production of legal instruments "based on an imagined African identity", incorporating more than 60 multilateral treaties, alongside decisions by key OAU/AU organs (1). The spadework behind these counts is formidable, charting more than 150 institutions and mechanisms with pan-African mandates, and tracking treaty productivity from 1963 to 2020,

[1] https://asil.org/about/honors-and-awards/

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alongside sobering notes on issues like the capping of the jurisdiction of the African Court on Human and Peoples' Rights (African Court) at 60 percent of the continent. The analysis shows how African multilateral institutions have shaped distinct approaches to sovereignty, intervention, self-determination, and international responsibility.

Chapter 2 provides the epistemic scaffolding for these findings by proposing a "legal relativity theory" that treats indeterminacy as a variable and insists on transparency about the analyst's assumptions (40). Drawing on postcolonial critiques of knowledge production, Wiebusch rejects the idea that international law rests on absolute or universal truths. At stake is a question of power and perspective, ensuring that concepts developed in the Global North are not treated as neutral models for the rest of the world. As socially constructed artifacts, legal texts are neither neutral nor self-executing. Their meaning shifts according to who interprets them, whose interests are protected, and which institutions apply them. Confronting this unavoidable ambiguity, Wiebusch rejects the myth of detached objectivity and demands that scholars openly acknowledge their own ideological standpoints.

Chapter 3 maps the OAU/AU legal apparatus onto a Maslow-inspired hierarchy of needs and advances the book's most provocative claim, namely that colonization and decolonization have limited analytical purchase, while "hypocrisy", understood as the gap between proclaimed virtues and imperial practice, is the sharper lens (62). The hierarchy itself runs from physiological needs (dignity) through safety (peace), belonging (solidarity), and esteem (empathy) to self-actualization (freedom) and self-transcendence (cooperation), each matched to the OAU/AU instruments built to meet them (102–107).

Chapter 4, which is the operational core, articulates this through a performance-assessment framework built on legalization, judicialization, and technocratization, with novel indicators and a proposal for an AU-owned e-justice database. Here, Wiebusch candidly diagnoses the structural obstacles facing continental law, including severe archival opacity, bureaucratic silos, and state backlash against regional courts; he also advances institutional remedies.

Chapter 5 looks forward, calling for greater transparency, inclusiveness, and public participation in African international lawmaking, while acknowledging the significant barrier posed by executive dominance and the persistent marginalization of civil society.

Moving from the chapter outline to the broader conceptual picture, the book's core contributions become evident. The book's contribution is twofold. First, it offers the first systematic, empirically documented theory of the Africanization of international law as a continental project. The treaty quantification in Chapter 1 and the performance indicators in Chapter 4 are instruments scholars and practitioners can use. Second, it decentres the traditional geographies of international law, treating Africa as a site where international law is made rather than merely received. Wiebusch engages James Gathii's distinction between "contributionist" and critical approaches (Gathii 2012), claiming membership of neither camp while tending to be critical in his view that international law continues the legacy of colonial disempowerment while providing spaces for resistance and reform (16–19). Africanization, in this account, works through treaty design, institutional practice, and norm entrepreneurship, not through the rejection of international law as such. The book also draws authority from Wiebusch's position as both analyst and participant, having worked within the AU Commission (AUC) and the African Court.

In my assessment, three observations flow from the book's central methodological choice. First, Africanization is operationalized as OAU/AU norm-setting and enforcement, while subregional orders are deliberately bracketed. Wiebusch is upfront about this exclusion; he writes that "sub-African international legal arrangements fall outside the scope of this study", even as he recognizes the Regional Economic Communities (RECs) as "building blocks" of continental

integration (23). In West Africa, international law often finds its sharpest expression at the sub-regional level. The ECOWAS Community Court of Justice, for example, produced the landmark Hadijatou Mani Koraou v. Niger[2] judgment on slavery. ECOWAS, with the backing of the AU and the United Nations (UN), spearheaded the action that ended Yahya Jammeh's refusal to cede power in The Gambia in 2016. The levels are entangled in practice, which is precisely why bracketing one of them needs a theoretical defence. Looked at from The Gambia, the theory's seams show clearly along the divides between the continental and the sub-regional, and between states and peoples. Excluding the level at which many Africans encounter international law weakens the book's empirical claim.

Second, this methodological approach measures Africanization from the top down through continental norm-setting and enforcement, while the domestic layer, where any effectiveness claim must cash out, stays under-theorized. Treaties are ratified but not domesticated and domestic courts vernacularize, sidestep, or quietly resist continental norms. The African Court's own trajectory illustrates this limitation, as direct individual access has been severely curtailed following the withdrawal of Article 34(6) declarations by five countries. A framework built on enforcement through continental accountability mechanisms needs an account of what happens when that enforcement layer thins, while addressing the domestic courtrooms where most Africans come face to face with international law.

Third, from my perspective as a critical legal scholar, there is room to bring gender more fully into the frame. The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol) is widely regarded as being among the most distinctive African contributions to international human rights law. I hope future work with this framework will give more space to gender justice, particularly in the needs-hierarchy mapping of Chapter 3 and the performance framework of Chapter 4. Engaging the Maputo Protocol as a central case would only strengthen the theory's claim to capture what is most African about African international law. Meaningful engagement must reach the level where most African women's lives are regulated. This means directly addressing the customary and religious norms governing marriage, inheritance, and bodily integrity, which continue to operate alongside and frequently in tension with formal law. The Maputo Protocol itself acknowledges this terrain in Article 17, which expresses the right to a positive cultural context.

Taken together, these observations press a single question the book leaves open, which is what exactly is being Africanized? The theory operationalizes Africanization through OAU/AU norm-setting and enforcement, yet the "continentally-defined identity" at its core is an institutional construct authored by states and their organs. The praise the concept has attracted elsewhere need not settle whether the theory captures what is most African about African international law. If Africanization lives where Africans encounter international law, in sub-regional courtrooms, in domestic courts vernacularizing continental norms, and in women's navigation of customary and religious orders, then a theory that brackets those sites measures the project at one step removed from its subject.

Beyond questions of domestic reach, however, the framework will soon face outward tests the book could not have fully anticipated. The AU's designation of 2025 as the Year of Reparations, and the AU-CARICOM agenda behind it, pose exactly the kind of case the theory invites, allowing a pan-African normative project whose Africanization can now be measured rather than asserted.

[2] Judgment No. ECW/CCJ/JUD/06/08 of 27 October 2008.

By way of conclusion, these observations should not obscure what the book achieves. Wiebusch has given African international law its most systematic theory to date, built on careful empirical spadework and an assessment framework of real practical value. Scholars of African international law, Third World Approaches to International Law (TWAIL), and AU studies, including practitioners within AU institutions, should read it closely.

Bibliography

Gathii, James Thuo. 2012. "Africa." In The Oxford Handbook of the History of International Law, edited by Bardo Fassbender and Anne Peters, 407. Oxford: Oxford University Press.

Hadijatou Mani Koraou v. Niger, Judgment No. ECW/CCJ/JUD/06/08 of 27 October 2008.