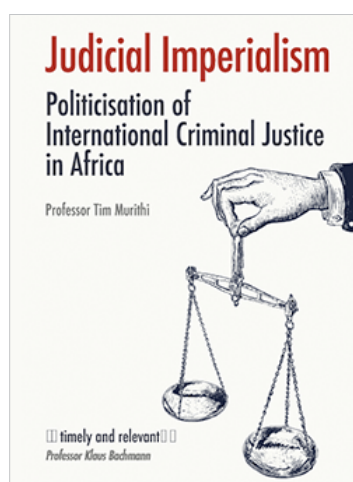


# Judicial Imperialism

## Politicization of International Criminal Justice In Africa

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This is a multi-disciplinary study that covers discourses on International organizations, Judiciary, Law, Politics, Decoloniality, African issues, and International Relations. The book is in 3 parts, that are conceptual and theoretical issues, International Criminal Court (ICC), Case studies or case laws on Sudan, Kenya, Uganda, and Ivory Coast, and Analysis and Normative Proposals. The merits of carrying and producing a multi-disciplinary approach for the study of this nature are that it empowers intellectuals to see correlations across subject matters and intellectuals get a more holistic understanding of the law, imperialism, and political discourses. This multi-discipline research also opens doors for different ideas and ways of understanding the nexus between international law and international politics.

This book is concerned with how the politicization of the ICC's interventions can destabilize fragile country situations if they are not managed effectively and lead to the further loss of innocent life. This book argues that the noble intention that underpinned the establishment of the ICC was gradually undermined by the politicization of the referral of cases by the United Nations Security Council (UN), and heads of state, as well as the selection of cases by the office of the prosecutor, under its first incumbent Luis Moreno-Ocampo (p.3). This piece of literature debunks the idea of legal analysts assessing the ICC system through a legal lens, this book utilizes a political prism to examine the instrumentalization of international criminal justice by both global and local actors. This book further argues that within the international sphere the politicization of international criminal justice amounts to a form of judicial imperialism. A key theme that the book engages with is the de-legitimation of the ICC globally, regionally, and nationally.

Part 1 of the book consists of Chapters 1 and 2 and it focuses on the theory of 21<sup>st</sup>-century imperialism and the politicization of the International Criminal tribunals. On the theory of 21<sup>st</sup> imperialism the book pointed out that, in clout, the subjects of 21<sup>st</sup>-century colonialism are alacritous executors of the imperial scheme in the way that they allow foreign players to impose and regulate, through coercion and payments, the route of their own political, economic and social progress, (p.25). The volume reasons the ICC is a contrivance of strong-arming and control in the hands of both global hegemonic players and national politicians. The book demonstrates that to pursue their self-interests and shield their acquaintances the global powers politicize the court. This indicates that there is an understanding between the author of this book and Kenneth Waltz (1979)<sup>1</sup>'s the hegemonic theory of international relations, that implies that hegemony is a great capacity for

1 Waltz, K.N., 1979. Theory of. *International Politics*, pp.121-122.

coercion and/or a great degree of influence or control of the structures of the international system and the international behavior of its units. The global powers follow an imperial logic in that they seek to retain their rank of pre-eminence by any means necessary but primarily through their web of client states and non-state actors (for example the ICC). The United States of America (USA) is the current global nation, with China looking to displace it at the fitting time from this mantle. China has employed a soft-power tactic to get itself in a position to take over the ultimate accolade. The 21<sup>st</sup> century is witnessing new forms of subjugation and mechanisms of exclusion (p.29). It should be noted that the author should be much-admired for using relevant and contemporary issues in the analysis of the correlation between international law and politics. 2

The book objectively exposed the great power exceptionalism that is in international politics, in which the powerful are not subject to the same rules as the less powerful. In 2003, the United States of America coordinated, planned, and led an invasion of Iraq, ostensibly to overthrow the country's brutal dictator Saddam Hussein. However, in doing so it violated Articles 7 and 8 of the Rome Statute, and subsequently violated the international criminal law and committed crimes against humanity (p.37). Several crimes are being committed around the world that will not be referred by the UN Security Council to the ICC, because of the veto power that the Permanent Five members have over such matters. This has created the category of a second-class of global citizens, of those who are subject to the law and those who are above the law. The author was objective in his analysis by highlighting that African Countries are willing executioners of this imperial project because they subject themselves to this international legal order through the self-referral process which has been exploited to target political opponents but does not demand the same exigencies from the other part of the world. This has allowed Africans to be neutralized from any agency (p.33). The significance of carrying out objective research is that it makes the results free from the researcher's biases and thus provides reliable results.

The book was impartial in exposing the weakness of western imposed international laws in African politics. The book noted that international law would be largely toothless without a large measure of political backing (p.46). International Criminal Tribunal cannot enforce the coercive compliance of the ruling (p.47). This well-written volume also indicated that International Criminal Tribunals are far from being immune to politics deeply implicated in the political transitions, they are subject to forces of geopolitics that are corrupted by the political environment that they operate. The absence of a global authority is also another factor responsible for the challenges international law is facing in global politics. The reviewer, the author, and political realists concur with international law's critics. They believe that it is a dangerous moralism and an idealistic attempt to constrain the behavior of the states in what is in effect an anarchical world society.

Part 2 of the book consists of chapters 4,5 and 6 and focuses on the African case studies of Sudan and Kenya to demonstrate the exhibitions of judiciary imperialism in the ICC. In the Omar al Bashir case of Sudan this case, the prosecution is being delayed not because of the decision and discretion of the Court but because of the non-compliance of African countries and the international community in seeing through its request (p.86). The book also demonstrated how AU has rallied its constituency members to resist the Court's activities in Africa. South Africa also has reiterated its commitment to upholding its legal obligations as a State Party to the Rome Statute, yet following the Al-Bashir escapade in Johannesburg in 2015, it is evident that the pan-African agenda has prevailed over the ICC's (p.88). It is important to note that other scholars like Ikejiaki (2013)<sup>2</sup> noted that international law is Western-made global law and for this reason, third-world countries have treated it with

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2 Ikejiaku B.V (2013), International Law is Western Made Global Law: The Perception of Third World Category, *African Journal of Legal Studies*, vol 6, 337-356

suspensions. In Kenya's case, AU Assembly decided that President Uhuru Kenyatta will not appear before the ICC until the concerns raised by the AU and its member states have been adequately addressed by the UN Security Council and the ICC (p.117). Gbenga O, (2015)<sup>3</sup> book on International Law and Boundaries Disputes in Africa critic the content and application of contemporary international law to the resolutions of African territory. The objective nature of this book is also demonstrated by how the author did not only target the western world for interfering in African issues but rather also the contribution of the African governments in promoting black imperialism. The book also demonstrates how international politics should be analyzed from the individual level, communal, national, sub-regional, regional, and international levels. The book examined how the politicization and instrumentalization of the ICC replicate itself at the national level by assessing the machinations of politicians in Uganda and Cote d'Ivoire situations. In Uganda, the government is accused of the self-referral process to target the Lord Resistance Army (LRA) loyalists, Dominic Ongwen, Joseph Kony, Vincent Olli, and Okot Odhiambo. In Cote d'Ivoire, Alassane Quattara was accused of using the court to target the former president Laurent Gbagbo and Charles Ble Goude a former youth Minister in Gbagbo's regime.

Part 3 of the book, which consists of chapters 7 and 8 focuses on the re-legitimization of the ICC systems. The book suggests that a genuine commitment to concurrent jurisdiction is necessary to enable different accountability mechanisms from the communal level to the global level. The book commended the establishment of the African Court but also lamented the chances of getting it politicized at the regional level. The book did justice in suggesting the utilization of the traditional based systems in resolving the African judicial crisis. The reviewer concurs with the author because the use of the traditionally based system in resolving the African crisis was successful in Rwanda's peace and reconciliation process, though use of the traditional Gacaca court system. The book emphasizes the need to redefine the global constitutional order and global governance if there is any hope of achieving goal justice and UN Sustainable development goals in Africa.

This is a very useful book, that is written in a simple, lucid, and highly readable style. This book is an invaluable instrument for the student in international relations, international law, and political sciences fields. Practitioners of the subjects and government officials may also benefit from reading this piece of literature. This is a very informative work of reference for researchers and think tanks and African international regimes like the Africa Union and its Regional Economic Communities (RECs). The African Union Commission on International Law (AUCIL) of 2009, is an independent consultative body to the AU on African International Laws. The book is also relevant in informing debates on decoloniality, Pan-Africanism, and African Renaissance thoughts. Tim Muruthi should be commended for producing a piece of literature that is very crucial in informing African jurists, policymakers, and implementors as they seek to come up with comprehensive development plans and policies that may aid in the realization of the goals of AU Agenda 2063.

### Book information

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3 Gbenga O, (2005), *On International Law and Boundaries Disputes in Africa*, Routledge