

Africa in Global Public Policy: Theoretical Perspectives and the Role of International Law in Shaping Public Policy in Africa

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ABSTRACT

The positioning of Africa within international relations continues to be a subject of debate. While pessimists perceive Africa as stagnant, burdened by its colonial history and bureaucratic complexities and that such obtaining situations cannot be transformed, optimists envision a realm of potential transformation, often invoking scattered evidence that justify concepts such as “Africa rising” or an “African Renaissance” but practically remaining complacent in business as usual practices. Realists, meanwhile, acknowledge Africa’s vulnerabilities and advocate for pragmatic approaches to effect positive change. This paper takes a theoretical angle to examine Africa’s role in the globalized world through the lens of its influence on and interaction with the global public policy agenda; employing international law as a ground to test the theorizing. Applying qualitative-interpretive design and critical desk review, arguments made in the paper are organized in four interdependent sequences. Firstly, it provides a contextualization of global public policy theatre; explores a spectrum of theoretical frameworks and counter-theories to elucidate Africa’s position in global public policy, employing the structure-agency problem to delineate between these perspectives. Thirdly, it undertakes a conceptual disambiguation, with specific attention given to international law and then investigates the role of international law in African public policy processes, with a brief analysis of its impact across four substantive policy areas. The paper makes three conclusions: firstly, the paper showcases that the position of Africa may depend largely on the theoretical angle adopted by an analyst, with agency-based theories looking inward and discussing Africa’s deficiencies as emerging from within it, while structure-based perspectives focus on external factors. Bridging this divide is crucial for understanding Africa’s position in global public policy comprehensively. Secondly, the contemporary global landscape has undergone significant transformation, blurring the boundaries between local and global policy spheres, thereby profoundly affecting Africa as a vulnerable entity within this dynamic environment. Thirdly, while international law is not without its limitations, it remains an indispensable facet of Africa’s public policy discourse, exerting considerable influence on decision-making processes. This paper contributes to the ongoing dialogue on Africa’s engagement with global public policy, offering insights into its evolving role and the complexities inherent in its interaction with international legal frameworks. It therefore attempts to marry two currently separated research areas, namely on one hand, the literature on the place of Africa in IR and the quest to deconstruct intellectual imperialism in “International Studies” and on the other hand, empirical analysis of Africa’s influence on and interaction with the global public policy agenda.

Keywords: Globalization, International Law, Public Policy, Africa, Theoretical Perspectives

INTRODUCTION

Globalization of world politics, especially in 1989 (Baylis, Smith, & Owen, 2011) has had tremendous

effects on public policy processes. Marijke (2017) for example, argues that the difficulty with studying foreign policy in this era is that practical applicability of concepts that used to organize analysis in the pre 1990s such as the domestic and foreign, have been hugely rendered irrelevant, as an analyst, aside from analytical purposes, cannot draw the boundary. Complex Interdependence theorists (Nye & Keohane, 1973) talk of the blurring of the local/international, arguing that in the post 1980s, no government can make decisions, even if they are local in coverage, without an analysis of the external environment. This has very huge impact on the study of public policy analysis today. It means, most importantly, that students have been vast in knowledge on the workings in the space beyond the territorial borders. This paper is meant to attempt to meet this goal by examining an aspect of the global context, international law. This first section, attempts to integrate the myriad literature in order to meet the paper's first objective, characterizing the global public policy context. The discussion that follows should help us appreciate the extent to which the dichotomies of local/global have faded and the implications this has on public policy in Africa (as in other countries).

While an international public policy has been in place – in rudimentary forms – from pre-Holy Alliance era (Mogenthau, 2007), global public policy emerged in the post-World War, and consolidated especially with the fall of the Berlin Wall in 1989 (Žuk & Toporowski, 2020; Atanasoski & Vora, 2022). Therefore, an understanding of the current public policy of any state requires as a prerequisite the situating of the global content of that given policy. The literature on public policy as mediated in the global context showcases four main features of the contemporary public policy. These are highlighted as follows.

First and foremost, the current public policy is underpinned by the increasing interconnectedness and interdependence. According to Nye & Keohane (1973), the world in a globalized context, public policy is marked by the interconnectedness and interdependence of nations, peoples, and businesses to an extent that decisions made in one country can have far-reaching effects on people and businesses in other nations. They introduce the fact that this interdependence has created a situation whereby power is dispersed across several actors that a collaborative approach no longer can be conceived only along statist lines, but must take care of non-state actors, and non-military goals, to address shared challenges (see also, e.g., Chaudoin & Wilf, 2019).

Secondly, and logically, the public policy discourse is underpinned by the principles of multilateralism (Witte, Reinicke & Benner, 2017). Globalization has increased the need for multilateral cooperation in policymaking. Public policies often involve collaboration between multiple nations, international organizations, and other stakeholders to achieve common goals and tackle transnational issues. According to Witte, Reinicke & Benner (2017), “global public policy networks are one promising answer to the growing organizational vacuum at the global level. In these tri-sectoral networks, states, international organizations, civil society actors and the private sector are collaborating to achieve what none of the single actors is able to achieve on its own.” Thus, multilateralism manifests itself in public policy through the creation of global public policy networks that not only guide policy making at the global, but also at the national level (Chaudoin & Wilf, 2019). Reinforcing this understanding, Peter Willetts, writing in Chapter 19 of *The Globalization of World Politics*, asserts that “events in any era of global policy making have to be understood in terms of complex systems, containing governments, companies, and NGOs interacting in a variety of international organizations” (Willetts, 2001, p. 425).

The public policy field must take seriously, yet another contextual feature; transnational challenges and solutions. According to Ruggie (2017), public policies today are shaped by the recognition of transnational challenges that go beyond national borders. Issues such as climate change, terrorism, and public health crises require collective responses and coordinated policy efforts at the global level. Lastly, the practice (and study of public policy) must be informed by global governance structures. According to Weiss & Wilkinson (2018) we have transitioned from international organizations to global governance and that public policy in a globalized context is influenced by global governance structures and institutions. In this sense,

policymakers engage with international organizations, treaties, and agreements that contribute to shaping policies on issues ranging from trade and finance to human rights and environmental sustainability (Ruggie, 2017).

Effectively, international instruments become an integral component of the way of doing public policy in the contemporary global landscape. In several ways, they determine the options, actors, issues, priorities, time and means available to public policy makers across the globe regardless of the nation-state in question. These instruments influence these elements of public policy by determining the very environment that public policy plays in a global context. Thus, the four features discussed above are largely defined by international legal and non-binding instruments. This is so because global governance happens at different scales – local, national, transnational, and global (Messner, 2018; Basu, 2000; Hocking, Brown, & Harzing, 2007; Lyons & Mandaville, 2010; Tsuda, Tapias & Escandell, 2014; Alvarez, 2000; Schiller, 1997; Haas, 2006; Barahona, 2021) – and there is always the need for predictability, regularity, and harmony in the conduct of states and new/non-state actors under globalization. It is this need that places international instruments at the centre of national and global public policy (Ruggie, 2017).

Against this backdrop, this paper examines the role of international instruments through the lens of international law – its strengths and weaknesses. Upon delving into the theoretical disentanglement (part 2) and conceptual clarification (part 3), it selects and examines four substantive areas of public international law (part 4) and the influence these have had in the making (and implementation of public policies in Africa). The second part of section 5.0 critically appraises international law in terms of their failures in two main areas relevant to contemporary Africa: human rights and corruption – attempting to lay bare the myriad empirical and scholarly identified reasons for the same, while appreciating the context of Africa and why such instruments may fail or survive. A conclusion section also highlights some answered questions for further research.

THEORIES AND COUNTER-THEORIES EXPLAINING AFRICA'S PLACE IN GLOBAL PUBLIC POLICY

There are host of theories that political scientists; especially students of political development, development economics, and political economy generally, use to situate Africa. These theories include: globalization theory, world systems theory, dependency theory, and de-coloniality perspectives. These theories focus on examining the global landscape in order to situate Africa. All of them conclude, as I will highlight, that Africa's under-performance in global public policy owes itself to the very nature of the international system. Why Africa is what it is, therefore, an externally imposed phenomenon. In discussing these theories, I will attempt to capture several notions/concepts used to describe the African state, which support a given theoretical school and which may often not be the subject of the theory in common discussions.

Yet there is another set of theories that can help us make sense of Africa's position in the global public policy discourse. These theories tend to look at the source of Africa's vulnerability from within Africa. While the first set blame it on the structure, systemic factors; the latter blame it on Africa itself – her leaders, scholars, among others. This category I term as counter-theories. They are counter in senses. They are emerging and looking beyond the structural factors traditionally characteristic of many conclusions made of African state. But they are also counter in the sense that they propose different solutions out of a vulnerable state in Africa. They suggest different Realistic avenues for forging a proactive role of the African state in global public policy discourses. Let me now examine these theories in turn in brief, upon commenting on the relevance of the structure-agency problem for our current discussion.

Structure-Agency Problem

The intricate epistemological and ontological concerns, as discussed by Dressler (1989), serve as the

foundation of the structure–agency debates. In order to navigate these discussions effectively, it is essential to grasp the fundamental concepts of structure and agency. Structural variables encompasses various dimensions, including material circumstances such as geographical features and resource endowments, external geopolitical contexts, formal and informal institutional arrangements, socioeconomic structures within a polity, and cultural norms and ideologies. Literature assert the dynamic interplay between agency and structure. According to Leftwich (2010), these structural elements not only shape the strategic policy choices and institutional frameworks that guide Africa’s participation in global public policy discourse and its form of agency factors (such as leadership), as highlighted by Lin (2009) in the context of East Asian developmental strategies, but also act as both constraints and opportunities for agents. In the context of global public policy and the place of African state in it, structural variables encompass the external forces that determine Africa’s position and define the extent of its participation or spectatorship in such discourses.

In contrast, agency pertains to the capacity of agents—whether individuals, groups, organizations, or coalitions—to influence and shape their environment. Leftwich (2010) argues that while structural explanations often dominate analyses and policymaking concerning development and state-building challenges, insufficient attention is paid to the pivotal role played by agents and their local contexts, particularly leaders, elites, and coalitions, in these processes. By emphasizing the importance of agency alongside structural considerations, a more comprehensive understanding of development dynamics emerges, underscoring the need for nuanced approaches that recognize the agency of actors in shaping socio-political trajectories.

Likewise, the theories and counter-theories I use in this study to position Africa in global public policy analytically fall under the category of structure and agency respectively. World Systems Theory (WST), Dependency Theory, and De-colonial Theory (DT) explain Africa’s position from a structural perspective while Assemblage Method and the Leadership Factor Perspectives (LFP) tend to focus on the inside of Africa, and account for Africa’s own limitations (and opportunities) to enhance her actorship in global public policy. Each of these are examined below. Each category is discussed within the broader framework of scholarship that contributes to it without narrowly focusing on “theory” in its proper sense (Griffiths, 2007). There fore the categories of structural and agency theories are more of perspectives which of cause are still consolidating, but which are critical to conceptualize Africa’s position in discourses of global public policy.

• World Systems Theory

World Systems Theory is one of the most influential structural systemic perspectives in discussions of interstate relations (Chirot & Hall, 1982; Rossem, 1996). The theory’s key proponent is Immanuel Wallerstein in his seminal piece, *The Modern World-System: Capitalist Agriculture and the Origins of the European World-Economy in the Sixteenth Century* and has been increasingly examined and improved by several scholars (key among which: Samir, 1976; Chirot & Hall, 182; Rossem, 1996). Wallerstein and his followers are together tagged as neo-Marxists, advancers of Karl Marx’s thinking to examine the relations of capital beyond state level at the inter-state level. The starting point for Wallerstein is similar to that of an earlier neo-Marxist writer, Vladimir who see capitalism as inherently unequal and one which must be exported to non-European countries if it has to survive. The exportation (to Africa for example) then carries itself with the same contradictions which manifest in unfavourable relationship between colonizers and the colonized countries (Lenin, 2015; Callinicos, 2018).

With this Leninist leaning, Wallerstein (1967, revised version 2011) posits that the global capitalist system is structured in a way that there are visible distinctions between countries in terms of levels of development. His analysis identifies three distinctions namely the core, semi-periphery, and periphery. These regions (groups of countries) are inherently unequal due to historical processes of colonialism and imperialism.

Empirically speaking, based on World Bank's categorization of countries, the core are primarily the high income countries or the commonly developed countries (USA, Canada, Britain etc), the semi-periphery are the newly industrializing countries (China, Brazil, Russia and may be the BRICS[1]generally), properly referred to as middle income countries. The periphery are the majority of countries categorized as lower-income countries (most if not all in Africa, Latin America and Caribbean and a few in Southeast Europe). Africa is often seen as belonging to the periphery, which means it serves primarily as a source of raw materials and cheap labor for the core nations (Allen, 1995; Brown & Harman, 2013; Cantori & Spiegel, 1973). Consequently, this perspective emphasizes the structural constraints imposed on African countries by the global economic order –which is inherently underpinned by the Eurocentric cataclysms- which perpetuate underdevelopment and hinder their capacity to participate effectively in global public policy (Allen, 1995; Brown & Harman, 2013; Nyang'oro, 1999; Ndlovu, 2016; Nyang'oro, 2017).

According to World Systems Theory, Africa's underperformance in global public policy is thus a consequence of its peripheral position within the global capitalist system. The exploitation of African resources and labor by core nations – directly or indirectly through their Trojan horses (Ani, Masola & Ojakorotu, 2018; Panford, 2017; Oyier, 2017; LeBaron & Ayers, 2013; Shandra, Ross & London, 2003) coupled with unequal terms of trade, perpetuate economic dependency and hinder “African agency” (Brown & Harman, 2013) in shaping global policies that could benefit the continent. Proponents of this theory argue that meaningful change in Africa's capacity in global public policy requires addressing the structural inequalities embedded within the global economic system (Beaumont, 2011; Konadu-Agyemang, 2000; Mhone, 1995; Sender, 1999; McMillan & Headey, 2014; Amin, 1970).

• Dependency Theory

Dependency Theory, developed by Andre Gunder Frank and Fernando Henrique Cardoso, builds upon the premise that the underdevelopment of African nations is a result of their integration into the global capitalist system on unequal terms, and therefore borrows its premises from WST and Leninism (Frank & Cardoso, 1967). According to this theory, African economies are structured in a way that they are dependent on developed countries for technology, investment, and markets. This dependence perpetuates a cycle of underdevelopment, as African countries remain economically subordinate to external forces, unable to pursue independent development paths. A celebrated advancement to these Latin American writers (Frank and Cardoso) Dependency Theory (DT) is the so-called Prebisch-Singer Hypothesis. According to Raul Prebisch and David Singer, African (like any other underdeveloped country) remains dependent on core countries and unable to pursue independent development paths because they trade in primary products, in exchange of high value commodities and services that come from core countries. They introduce the logic of “income elasticity of demand” arguing that both in the short and long-term, African countries will find themselves losing in their terms of trade (ToT) because the gains (income) from their sales of such goods will be lower than their expenses (payment of imports) leading them to always have an unfavorable terms of trade (exports lower than imports). Moreover, as times go by, African countries would completely become vulnerable since core countries will no longer demand primary goods as they transition into “service economies”. This explains the characteristic of African state which as been variously described as “rentier state” (Yates, 2015; Yates, 1996; Waldner & Smith, 2014; Sandbakken, 2006; Schwarz, 2007; Schwarz, 2004), weak state, a state in “debt trap” and “debt trap diplomacy” and “aid trap” (Parfitt & Riley, 1986; Carmody, 2020; Singh, 2020; DeBoom, 2020; Nagdee, 2004; Maluki & Lemmy, 2019; Were, 2018), neo-colonial state (Rahaman, Yeazdani & Mahmud, 2017; Langan, 2017; Charney, 1987; Buba, 2019; Gassama, 2008; Berman, 1974) to simply underscore that African governments cannot meet their budgetary and developmental needs without aid, whatever forms that takes. The way out of this dependency situation is threefold; delink from the global market economy (see theoretical and empirical analysis of this options: Shamsudeen, 2016; Pieterse, 1994; Deckers, 1994; Amin, 1987); embrace south-south relations (see key theoretical and empirical studies include e.g., Rampa, Bilal & Sidiropoulos, 2012; Bilal, 2012; Amanor,

2013; Gray, K., & Gills, B. K. (2016; Lengyel, M., & Malacalza, 2011; De Renzio, P., & Seifert, 2018), and prioritize an industrialization model based on a closed economy (like China before roughly 1980s) (Deckers, 1994).

Characterized by the above logic of inescapable dependency unless those actions are taken, and in the context of global public policy, DT highlights the limited autonomy of African states to shape policies that serve their own interests. Instead, they are often coerced or influenced by more powerful nations or international institutions, leading to policies that may not necessarily benefit African populations. The issue of influence is a widely studied area and takes many forms and with varying results across Africa and developing countries' generally. Samoff (2003) argues that the aid framework in Africa is "institutionalizing international influence" through its education programs, producing public servants who think in the same ways as the capitalists. Janowitz (1988) argues that military force is a key source of influence and that while this influence manifests also within the state, interstate relations (Africa and developed worlds/countries) are the source of the politicization of military. Other studies deal with a number of others strategies of influence and entrenchment of dependency including human rights and the negotiation of trade agreements (Hafner-Burton, E. M. (2005); intellectual property rights (Drahos, 2002); capital and coercion (Tilly, 2017) among others Dependency theorists argue for the need to challenge the unequal power dynamics and these influence strategies in international relations and promote policies that prioritize the development needs of African countries.

• De-colonial Perspectives

De-colonial perspectives, championed by scholars like Walter D. Mignolo and Anibal Quijano, handle the colonial-capitalism problematic in Africa at the immaterial level or soft level. Instead of focusing on material forces and the impacts of the ensuing exploitation on visible developmental areas, De-colonial perspectives critique the Eurocentric biases inherent in mainstream theories of development and global governance. Rita Abrahamsen for example calls on us to discipline democracy and make it relevant for Africa context/realities (Abrahamsen, 2000). These perspectives help us to understand that Africa's marginalization in global public policy is rooted in colonial legacies that continue to shape dominant discourses and that discourses structure and shape practices. Both Mignolo (2011) and Quijano (200) for example argue that Colonialism not only exploited African resources but also imposed Eurocentric ideologies and epistemologies that continue to privilege Western perspectives and marginalize indigenous knowledge and voices.

In the context of global public policy, De-colonial Perspectives highlight the need to decolonize knowledge production and policy-making processes, allowing for diverse voices and perspectives, including those from Africa, to be heard and valued. Brown & Harman (2013) assert that by challenging Eurocentric norms and practices, De-colonial Perspectives seek to create space for African agency and participation in shaping global policies that reflect the continent's unique histories, cultures, and priorities. However, little progress is being made in Africa as regards the uprooting of what we can call the "software" influences of colonialism. Acharya (2014) finds that the teaching of International Relations (IR) in African universities remain focused on developmental issues relevant to the North Americas and West Europe, and theories used such as Realism and focus on traditional security are as irrelevant to Africa, and the theory of Dependency (which is relevant to Africa than any other – arguably), is irrelevant to the two sides of the Atlantic. Again strategies such education and scholarships and other exchange programs perpetuate Eurocentric mindsets and manifest in continued hegemony of Eurocentric ideologies and practices.

• Assembling Africa Method

The Assembling Africa Method (AM) is an emerging paradigm and not a theoretical framework as opposed. It is visible in writing of neo-de-colonial theorists with leading writers such as scholars like Achille

Mbembe, Sarah Nuttall and Rita Abrahamsen (Mbembe, 2017; Nuttall & Mbembe, 2008; Abrahamsen, 2017). The notion of “assembling” is treated as the communicative strategy for this School of Thought on the place of Africa. Unlike just diagnosing why Africa is what it is, it aims to go further, to challenge epistemological and methodological approaches and provide ways out. It wants researchers, theorists, and policy practitioners to assemble Africa, as way for studying the “international”; discard international theories and study Africa ground-up, in order to find what is best for her and what is not. It is this what is contextually (devoid of Eurocentric assumptions) that should inform policy makers on what Africa want, and how it want it at the international scene. Rita Abrahamsen is a leading thinker in this line and argues:

The question of Africa’s place within IR is not then simply a question of ‘add Africa and stir’. Instead, the question goes to the heart of what it means to study ‘Africa’ and ‘the international’ and involves complex epistemological and methodological issues. It also involves an engagement with the politics of the academe, our own disciplinary forms of symbolic capital, as well as their interaction with broader geopolitics and more specifically an assemblage methodology, offers a productive way of negotiating the meeting between IR and African Studies by making it possible to study Africa simultaneously as a place in the world and of the world, i.e. in a manner that appreciates its specificity and its globality. By studying Africa from the ground up, as it is being constantly assembled by a multiplicity of local and global forces, the continent’s politics and societies can be captured as both unique and global, as a window on the contemporary world and its articulation in particular settings (Abrahamsen, 2017, p. 127).

Unlike traditional theories that focus solely on structural constraints to Africa’s performance, AM emphasizes the agency of African actors in shaping their own destinies. It argues that Africa’s capacity in global public policy is not solely determined by external forces but is also influenced by the actions and decisions of African leaders, intellectuals, and other stakeholders (Abrahamsen, 2017). AM suggests that understanding Africa’s position in global public policy requires an examination of the various actors and networks that contribute to policy formulation and implementation and the strategies available to them in this pursuit. This approach emphasizes the importance of local knowledge, practices, and innovations in addressing global challenges and shaping policy agendas (Faleye, 2020). Supporting Abrahamsen’s supposedly peripheral position in the Africa, Faleye asserts:

Indeed, international theory acts as a tool that legitimizes Anglo-American imperialism in International Studies. For instance, colonization in Africa entails the force-feeding of African materials into the Western-centric structures. This phenomenon produced a distinct (hybrid) system with exotic challenges in Africa. The manifestation of these challenges in the decolonization process is often ignored in the neo-liberal, neo-realist and structural theories...consequently, many Eurocentric scholars often ignore the African contribution to the field. This was an attempt to justify the western centric hegemony in world affairs. (p. 154-5).

By recognizing the agency of African actors, AM seeks to challenge deterministic narratives that portray Africa as a passive victim of external forces, and shifts analysis to Africa as victim of her own self, as much as external influence remain relevant. The point is that we must study Africa differently if Eurocentric and American-based practices are to be transformed into practices relevant to Africa. It suggests a research program that should transform African Pessimists and Optimists into African Realists. She posits:

Epistemologically and methodologically, however, the current situation is rife with opportunities to bring Africa into IR, not as an exception or a mere illustration but as an articulation of the global. The combination of Africa’s centrality to international security and IR’s sensitivity to its disciplinary parochialism might—if carefully negotiated—provide the conditions of possibility for escaping what Paulin Hountondji has described as Africa’s theoretical and intellectual ‘extraversion’, i.e. the tendency to treat the

continent as a place for the application of theories developed in the North or as merely a source of data rather than a site whence we can generate broader ideas and theoretical insights.

In the context of global public policy, AM advocates for empowering (by de-colonizing their tools of research and practice) African actors to actively generate African-oriented policy relevant evidence to guide their participation in the decision-making processes and contribute their unique perspectives and experiences to global public discourses. By leveraging local resources and knowledge, African countries can assert themselves as proactive agents in shaping global policies that address their specific needs and priorities (Abrahamsen, 2017).

• Leadership Factor Perspectives

Leadership Factor Perspectives (LFP) focus on the role of leadership and good governance in creating shaping, and maintaining the momentum for a capable Africa in the global public policy. Since the second half of 1990s till present, a number of scholars have blamed Africa's underdevelopment on African leaders (Rotberg, 1998; Bayert, 2009;; Leftwich, 2010; Mill, 2010; Landry, 2016; Jones et al., 2022; Seidu, 2023; Mkandawire, 2005; Mamdani, 1996; Nabudere, 2001). The starting for most of these scholars is that studies of African state building, development politics, and nation building have for a long time focused on structural variables leading to a near complete absence of agency variables, especially leadership, as an analytical perspective to understand Africa (Leftwich, 2010). Generally, in the whole, the leadership factor writers highlight the importance of effective leadership and accountable governance structures in driving development and promoting African interests on the global stage, as well in ensuring African states are able to lay grounds for development and change the poverty stories of the populations. The place of leadership as the missing link to changing Africa's story sharply comes in as an empirically valid construct in the emerging dichotomy of developmental versus non-developmental states in Africa (Sebudubudu, 2010; Acemoglu & Robinson, 2006; Leftwich, 2010; Shumuye, 2015). It is argued that what makes the difference is not structural and institutional factors but leadership's capacity to take "a series of significant steps to establish and sustain institutional arrangements – against all the odds and constraints of structure" which ensures "political settlement among key elites to establish coalitions of public, private, public-private and informal nature for the sole purpose of finding solutions to collection action problems for their countries (Leftwich, 2010). This type of leadership is termed as "developmental leadership" and is often discussed as marker of the difference between Mauritius and Botswana (and some emerging discussions in South Africa or parts of it such as Kwa Zulu) on one hand, and all the other African countries on the other (Sebudubudu, 2009; Leftwich, 2009).

LFP argues that the quality of leadership and governance within African countries significantly influences their ability to engage constructively in global public policy processes. Consequently, countries tagged as having enjoyed "developmental leadership" such as Mauritius and Botswana are seen by some analysts as having had an independent influence on the global scene, by for example marshalling the international community toward their national agendas (problems), and successfully winning such collaborations without experiencing the problems of 'dependent state' such as rentier state infected with the disease of debt trap and its attendant challenges, as discussed under dependency theory above. LFP emphasize that effective leadership fosters political stability, institutional capacity, and strategic vision, which are essential for formulating and implementing coherent policy agendas that advance Africa's interests (Landry, 2016), while corrupt or "unaccountable leadership" (Mills, 2010) is seen as "the main reason for Africa's poverty", which manifests in poor governance, corruption, and weak institutions leading to low performance in both income-based measures of poverty exemplified in World Bank Development Reports; 2020; 2021; 2022; 2023 (Owusu-Peprah, 2024) as well as Human Development Indices of the United Nations Development Programs (Sachs et al., 2022). Non-developmental leadership therefore breeds conditions for neo-colonialism, neo-patrimonialism (Sigman & Lindberg, 2017; van de Walle, 2001; Mkandawire, 2001)

dependency on the core countries, and on the whole undermine Africa's capacity to participate effectively in global decision-making forums, or to control the processes of global agenda setting and implementation (Jonyo, 2023). In the context of global public policy, APLF underscores the importance of promoting good governance practices, strengthening democratic institutions, and fostering accountable leadership at both national and regional levels. By prioritizing inclusive and transparent governance processes, African countries can enhance their credibility and influence in global policy arenas.

Deductively, foregoing paragraphs under section 2.0 reveal three important notes that suffice as I wind this section. i) Both sets of theories are helpful in understanding Africa's position in global public policy. They should therefore be viewed not as contrasting perspectives but as complementing analytical guides into finding a better space for Africa; ii) there are elements of convergence especially within a single category. It is visible that for example, WST proportions are shared to a greater extent by Dependency and De-colonial perspectives, with only certain minimal divergences; iii) despite the convergence within a single category, the theories/perspectives remain important as each provide a different pathway to forging a better position for Africa. For example, despite the similarities between the AM and leadership perspectives, AM helps us to focus on methodological perspectives thus is more or less a methodological guide to studying Africa in a unique but relevant format as a way to changing its position in the world of knowledge production. LFP on the other hand focusses on leadership role, highlighting how "developmental leadership" is the missing link to making such optimistic dreams as "Africa Rising"/Africa Renaissance/Africa Century or even the recent Africa Union's Agenda 2063 tenable.

CONCEPTUALIZING INTERNATIONAL INSTRUMENTS

International instruments are also called pieces of global governance (Karns & Mingst, 2004), thus are the very building blocks of global governance. At the same time, global governance is dependent on what goes on at the state level, even at local level, and thus these pieces, do not only guide the day-to-day business extraterritorially, but also within states, and transnationally (Nye & Keohane, 1973). This section presents a description of select examples of international instruments. According to Karns & Mingst (2004) viz: international law, norms, standards, and practices. These groups can be called typologies of international instruments, but for proper use of the term, we prefer to use "global" as opposed to inter-national as it connotes that these pieces of global governance target not just states/national and their interactions, but also interactions between states and non-states as well as between Thus, informed by this scheme, this section examines into detail, the typology of international law. The question that we may need to answer at this level is why settle on this one single component. The answer is right in the first paragraph of the next section: international law itself is defined as the highest level of international instruments with the highest form of enforcement mechanism, and in itself includes principles, norms, regimes, as well as practices. In short, an examination of the nature and functions of international law within the context of Africa's public policy, is, arguable an examination of international instruments. Additionally, the decision is informed by the need for an in-depth (if not so, then some sort of it), because of cause, international law to some extent is different from what norms, regimes, and etc., refer to in their proper usages within the canon of global governance (Karns & Mingst, 2004). The criterion used is to select two key examples under each typology. The examples entails an instrument dealing high politics and another on low politics (Ruggie, 2017).

INTERNATIONAL LAW

Reus-Smit (2001) characterizes international law as part of the core "structures and processes" critical for the survival of globalized politics. He defines international law as "a core institution, a set of norms, rules, and practices created by states and other actors to facilitate diverse social goals, from order and coexistence to justice and human development" (p. 351). But international law is one area of global governance with the most complex paradox. On one hand, for most students of international politics, a Realist perspective; that

“international law is no law” because it lacks implementation/enforcement mechanism (Morgenthau, 2007), appears not only pragmatic, but also vindicated with wide array of evidence on state practice. Beyond state practice, Reus-Smit (2001) adds that this pessimism around and about international law is widespread because it is “reproduced everyday by an international media hungry for the drama of power politics and blind to the complexities of international life” (p. 350). On the other hand, in the face of such pessimism, one can wonder by asking a number of questions: why do states devote much of the efforts in negotiating new regimes and augmenting existing ones? Why do so much debates revolve around legality of state behavior if anyway states wouldn’t respect them? Why is compliance with international law so high even by domestic standards? Reus-Smit asserts further that the pessimism warrants examination because “much work done within the corridors of foreign ministries is devoted to the negotiation of new legal rules to facilitate coexistence and cooperation”.

Therefore, the purpose and nature of international law is much more nuanced and thus goes beyond the pessimistic view of critics and Realist leaning views as well as the non-analytical drama-driven media – local and international. Reus-Smit (2001). Thus Liberal Institutionalism as well as other perspectives, such Social Constructivism, support the view that international law is not only necessary in the ordering of international politics, it is also often times the main force enforcing compliance. Reus-Smit appreciates the power of international law by drawing an imaginary boundary on typology of international institutions. The first in referred to as constitutional institutions and entails the primary rules of norms of international society, without which society among states could not exist, such as the norm of sovereignty, meaning no higher authority than the state. The second are called the fundamental institutions and these rests on the foundation provided by the constitutional institution and represent basic norms and practices that sovereign states employ to facilitate coexistence and cooperation under conditions of international anarchy. They are the rudimentary practices states reach for when seeking to collaborate and coordinate their behavior. They include international law and multilateralism.

The final category is the issue-specific institutions, often referred to as regimes. “They are a set of norms, rules, and decision-making procedures that states formulate to define who constitute legitimate actors and what constitutes legitimate action in a given domain of international life” (p. 352). Basically, international law is not only a fundamental institution but cuts across all the three category. For example the principle of sovereignty is the basic starting point for ordered international relations and exists in nearly all pieces of international law, including the United Nations Charter. Secondly, the norm of multilateralism has been embedded into various international pieces especially those related to trade, thus attempt at making it work despite the setbacks of anarchy and self—interest. Lastly the regimes category (issue-specific institutions) are the most basic manifestation of international law. The Kyoto protocol and all the regimes governing climate change, the Non-proliferation treaty and all other regimes on nuclear proliferation constitute an integral part of international law in that area. Thus, the institution of international law, manifests itself in three sub-institutional categories all of which showcase the indispensable significance of international law.

International law takes two main forms, written and unwritten. The written/formal/positive law takes three forms. Treaties, conventions, and protocols (Shaw, 2017). Treaties are formal agreements between two or more sovereign states, creating legal obligations for the parties involved. Negotiations between states lead to the creation of a treaty, and once agreed upon, it is signed by the authorized representatives of the states. Ratification follows, making it legally binding. The Vienna Convention on Diplomatic Relations (1961) is a widely recognized treaty. It establishes the framework for diplomatic relations between independent countries. Conventions are a type of treaty, often used in the context of international organizations. They are generally more comprehensive and may involve multiple parties. Similar to treaties, conventions result from negotiations and are binding agreements. They are open for signature by a larger number of states. The United Nations Framework Convention on Climate Change (UNFCCC) is a convention that addresses global efforts to tackle climate change. The Kyoto Protocol (1997) and the Paris Agreement (2015) are

specific protocols under the UNFCCC. Protocols are supplementary agreements or amendments to existing treaties or conventions. They refine or add specific provisions to the original agreement. Protocols are usually negotiated and adopted separately from the main treaty or convention. They are often used to update or address new issues that arise after the initial agreement. The Cartagena Protocol on Biosafety is a protocol under the Convention on Biological Diversity. It addresses the safe transfer, handling, and use of living modified organisms resulting from modern biotechnology.

International law can be regional in scope, or have global coverage, but the principles embedded in the legal instruments can only improve on an earlier principles in which case the new is a further development of international law, but cannot contradict existing accepted global principles. Thus, the OAU Treaty on Refugees Specific to Africa, advances on a number of principles –including the definition of refugees – from the 1951 Refugee Convention by and its 1967 Protocol rather than contradicting it. Regional principles of international law are part of international law and regulate state behavior not just between states of the covered region, but also between states without. But what role does international law play in the national public policy contexts? We make this illustration using two illustrations.

Before this task, it is important to understand the features that set international aside from ethics and morality, even religion. Yasuaki (2003) asserts that “the perception and understanding of international law differs according to the historical period, the county, the area to be regulated by it, the author and other factors”. It is however, considered to be binding norm with some enforcement mechanism having the following features of law, that sets it apart from morality, ethics, religion and politics (Yasuaki, 2003, p. 123 – 127):

1. The general perception of law is associated with justice and fairness
2. The general perception of law is associated with power and enforcement
3. It is perceived to be determinate
4. It is perceived to be standardized and technical
5. Common positive norm shared by the society in general
6. Has some level of coherence and fair
7. Rigid and follow precedents
8. Enforcement is associated with judgment and decision by authoritative third party

• **Appraising the Functions of International Law in Public Policy Processes of Africa**

This sub-section outlines the functions of international law in public policy processes and development in Africa. This section briefly discusses such roles under four functions – a) as a framework for rule-based governance; b) the legal basis for conflict prevention and resolution; c) economic integration, d) trade and investment and finally, e) environmental management and sustainable development. The intention here is to show how international law pertaining to these different domains have become part and parcel of legislations, policies, and programs (together termed public policy) and consequently to appraise the indispensable force of international law in African countries. Case examples are given as illustrative of the fact that no African country is left behind.

• **A Framework for Rule-based Governance**

International law, whether focused on Africa, the African region, or global in scope, serves a significant role in establishing a legal basis for governance in Africa. The normative framework for governance established by international law, particularly through instruments like the African Charter on Human and Peoples’ Rights, has profoundly influenced the trajectory of governance practices within African nations (Elvy, 2012). From a structural theories perspective, international law provides a framework that shapes

governance structures and institutions, guiding the behavior of states and influencing domestic policies (Hurrell, 2007). For example, the African Charter, adopted by the Organization of African Unity (now the African Union) in 1981, serves as a cornerstone for the protection and promotion of human rights across the continent. By ratifying the charter, African states commit themselves to upholding its principles and integrating them into their domestic legal systems, thus reflecting the influence of international legal norms on domestic governance structures (Oppong, 2006). Yet, by the very nature of the international system, international law as reflected in for example the Africa Charter reflect norms diffusion from North to South, a fact that limits capacity of transforming principles into actual tangible results of development (Shaw, 2017).

Consider the case of South Africa, where the transition from apartheid to democracy illustrates the interplay between international legal frameworks and domestic governance structures. Following the end of apartheid in the early 1990s, the new democratic government, led by the African National Congress (ANC), placed a strong emphasis on human rights and reconciliation. As part of this process, South Africa ratified the African Charter and incorporated its principles into the post-apartheid constitution adopted in 1996 (Oppong, 2006; Maluwa, 2020). From an agency perspective – especially developmental leadership lens, this integration of international legal norms into domestic governance reflects the agency of African states in adopting and implementing international legal standards to address internal challenges and promote human rights (Keohane & Nye, 2001). The South African constitution, often hailed as one of the most progressive in the world, includes a comprehensive Bill of Rights that guarantees fundamental rights and freedoms to all citizens, demonstrating the agency of the state in adopting international legal norms to shape domestic governance structures (Oppong, 2006). Moreover, the constitution establishes various independent institutions, such as the Human Rights Commission and the Constitutional Court, tasked with promoting and protecting these rights, further exemplifying the agency of state actors in institutionalizing international legal norms within domestic governance frameworks (Elvy, 2012).

Similarly, other African countries have drawn inspiration from the African Charter in reforming their legal systems and governance structures, showcasing both structural and agency dynamics in the adoption and implementation of international legal norms. For instance, Nigeria established the National Human Rights Commission (NHRC) in 1995 following its ratification of the charter (Oppong, 2006). The NHRC serves as an independent body responsible for investigating human rights violations, promoting human rights education, and advocating for policy reforms to enhance human rights protection, illustrating the structural influence of international legal norms on the establishment of governance institutions (Hurrell, 2007). Additionally, the influence of the African Charter extends to judicial decisions and public policy initiatives across the continent, where courts and civil society organizations frequently cite its provisions to advocate for human rights and hold governments accountable, highlighting the agency of non-state actors in promoting international legal norms within domestic contexts (Keohane & Nye, 2001; Mangu, 2012; Olowu, 2013; Mlambo, Zubane & Mlambo, 2020; Engel, 2019; Mafunisa, 2004).

• Conflict Resolution and Prevention

Conflict resolution and prevention are critical aspects of governance in Africa, and international law plays a central role in addressing conflicts within and between African nations. The African Union (AU) serves as the primary regional organization responsible for peace and security on the continent, utilizing legal mechanisms and frameworks to facilitate conflict resolution and prevention. The AU itself is a product of international law, a treaty, the AU Constitutive Act. Several examples from across Africa, including Nigeria, Kenya, South Africa, Uganda, and Mali, illustrate the effectiveness (or at least attempts by the AU) and of international law in this regard. First is Nigeria. The country has faced, and continues to face numerous internal conflicts, including ethno-religious violence, militancy in the Niger Delta region, and insurgency by groups like Boko Haram. International legal frameworks, such as the United Nations Charter and relevant

conventions on human rights and conflict resolution, have guided Nigeria's and Africa's response to these challenges. For example, Nigeria has participated in UN peacekeeping missions and has cooperated with regional organizations like the Economic Community of West African States (ECOWAS) to address conflicts within the sub-region. (Akiba, 2020). Moreover, the ECOWAS has established a conflict early warning mechanism (ECOWARM) which gathers data on future conflict signals across political and non-political determinants. Nigeria has been actively involved in the process, showing good will, and exemplifying how international law can be useful in attempting to deal with conflicts (Afolabi, 2020; Akiba, 2020). Another example is Kenya. Kenya experienced significant political violence following disputed elections in 2007, resulting in widespread unrest and loss of life. International legal mechanisms, including diplomatic interventions and mediation efforts supported by the AU and the UN, played a crucial role in brokering peace and facilitating a power-sharing agreement between political rivals. The resulting coalition government helped to stabilize the country and prevent further escalation of violence, and put Kenya on path to economic renaissance at least between 2007 – 2012 (Chege, 2008; Anyang'Nyong'o, 2007). Moreover, the compliance with the ICC's investigations and later the conviction of Uhuru and Ruto at the same court, epitomizes the extent to which international law sets direction for peace and security in Africa.

Another case in the South of Africa is South Africa herself. While South Africa has made significant strides in transitioning from apartheid to democracy, it continues to grapple with social and political challenges, including periodic outbreaks of xenophobic violence and protests over socio-economic issues (Robinson, 1998; Henrard, 2003; Whiteman & Hendricks, 2004). International legal principles, such as those enshrined in the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights, guide South Africa's response to these challenges (Opong, 2006; Ssenyonjo, 2018; Titus, 2009; Heyns, 2003). The country also contributes troops to UN peacekeeping missions in conflict-affected regions, demonstrating its commitment to promoting peace and security beyond its borders (Opong, 2006). Uganda is our fourth example. The country has faced internal conflicts, including the insurgency of the Lord's Resistance Army (LRA) in the northern region. International legal frameworks, such as the Rome Statute establishing the International Criminal Court (ICC), have been invoked to address human rights abuses and hold perpetrators of atrocities accountable. Uganda's cooperation with the ICC in pursuing justice for victims of war crimes and crimes against humanity demonstrates its commitment to upholding international law and promoting accountability in conflict-affected areas.

Fourthly, the principle of Responsibility to Protect (R2P) represents a significant development in international law and policy, particularly in addressing mass atrocities and protecting populations from genocide, war crimes, ethnic cleansing, and crimes against humanity (Bellamy, 2010; 2018; Thakur, 2016). Embedded in Article 4(h) of the AU Charter, R2P allows for intervention by AU member states in situations where governments are unable or unwilling to protect their populations (Kuwali & Viljoen, 2013). This principle, articulated in Kofi Annan's "In Larger Freedom" publication, underscores the collective responsibility of the international community to prevent and respond to humanitarian crises. The embedding of R2P in the AU Charter has facilitated a more proactive approach to addressing conflicts and humanitarian emergencies in Africa, allowing for timely and decisive action to protect vulnerable populations and uphold human rights (Kuwali & Viljoen, 2013). By endorsing R2P, African states recognize the importance of international cooperation and solidarity in addressing complex humanitarian challenges and preventing mass atrocities. This development represents a significant advancement in international law and policy, emphasizing the primacy of human security and the protection of civilians in conflict-affected regions through established standards of law. It is a huge departure from the OAU's non-intervention principle and shows a good will by African countries to endorse progressive legal principles for the betterment of Africa in terms of government responsive to peace, security and stability issues.

- **Economic Integration, Trade and Investment**

In examining the role of international economic law frameworks in promoting economic development in

Africa, theories of both agency and structure offer valuable insights. From an agency perspective, the actions of individual actors, such as governments and multinational corporations, play a pivotal role in shaping economic policies and decisions. For instance, the participation of African countries in regional integration initiatives like the African Continental Free Trade Area (AfCFTA) reflects their agency in pursuing economic cooperation and development (Apiko, Woolfrey & Byiers, 2020). These initiatives are driven by the agency of policymakers and leaders who seek to leverage international legal frameworks to create larger markets, attract investment, and stimulate economic growth (Fofack, 2018). On the other hand, the capacity of African agency to lead to real change is complicated by the very structural limitations of the global political economy. For example, Budzugan (2013) in examining the creation and the operations of the Southern African Development Community (SADC) concludes that this like other are neo-colonial entities since they formed and designed not by and for the interests of the member countries but by and for the interests of the European Union. He analyzes the meetings and the processes that led to the SADC creation and the hands of the European Commission in this process, and showcases how through the so-called EPA (economic partnership arrangements) the European Union institutions perpetuate the pursuit of EU interests through SADC and all its innovations.

From a positive non-critical side, theories of structure emphasize the broader institutional arrangements and legal frameworks that govern economic interactions at both regional and international levels. For example, the AfCFTA represents a structural mechanism aimed at promoting economic integration and trade liberalization across Africa (Obeng-Odoom, 2020). By eliminating tariffs, reducing trade barriers, and harmonizing regulations, AfCFTA creates a conducive environment for economic activity and investment, thereby shaping the structural dynamics of regional economies (Fofack, 2020). The examples provided further illustrate the interplay between agency and structure in shaping economic outcomes in Africa. Countries like Ghana, Ethiopia, and Morocco demonstrate agency through their active participation in regional integration efforts and trade agreements, leveraging international economic law to expand export markets and attract foreign investment (Obasun, nd.; Fofack, 2020). At the same time, these actions are facilitated by the structural frameworks provided by international economic law, which establish the legal parameters for trade, investment, and dispute resolution (Apiko, Woolfrey & Byiers, 2020). The big and necessary critical question is: to what extent are these arrangements leading to the growth and development of African countries or is the situation a perfect scenario envisaged by world systems theory?

Yet still, bilateral investment treaties (BITs) exemplify the intersection of agency and structure in economic governance. These treaties, such as the United States-Nigeria BIT and the China-Angola BIT, provide legal protections and incentives for foreign investors, thereby influencing investment flows and economic development (Nwobodo, 2020; Corkin, 2011). While individual countries negotiate and sign these treaties based on their agency and interests, the provisions contained within them reflect the broader structural framework of international investment law (Abdullahi, 2019), further justifying the criticality of international law.

Overall, theories of agency and structure offer complementary perspectives on the role of international economic law in promoting economic integration, trade, and investment in Africa. By considering both the actions of individual actors and the broader institutional arrangements, policymakers can develop strategies that harness the potential of international legal frameworks to advance sustainable growth and prosperity across the continent.

- **Environmental Management and Sustainable Development**

Examining the role of international environmental law in Africa through the lens of agency and structure provides insights into how global imperatives for environmental protection and sustainable development are translated into localized policies and initiatives (Pavoni & Piselli, 2016; DiLeva, 1997; Kim, 2016; Pavoni

& Piselli, 2016). Agency perspectives highlight the actions of individual actors, such as governments and international organizations, in shaping environmental governance, while structural perspectives emphasize the broader institutional frameworks and legal instruments that guide these efforts.

From an agency perspective, the adoption and implementation of international environmental agreements like the United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement demonstrate the proactive role of African countries in addressing climate change (Ari & Sari, 2017; Kuyper, Schroeder & Linnér, 2018). By developing ambitious Nationally Determined Contributions (NDCs) and National Climate Change Action Plans, countries like Kenya, Ethiopia, and Rwanda showcase their commitment to mitigating greenhouse gas emissions and enhancing resilience to climate impacts (Kaleb, John & Humphrey, 2020; Teklu, 2018; Leader & Ponce, 2020). These actions reflect the agency of national governments in aligning domestic policies with international environmental goals.

Moreover, theories of structure highlight the influence of international environmental law frameworks on shaping national policies and initiatives in Africa. For instance, the promotion of renewable energy policies (REPs) is encouraged by international agreements aimed at reducing reliance on fossil fuels and mitigating greenhouse gas emissions (Berhard & Naude, 2016). The Renewable Energy Independent Power Producer Procurement Program (REIPPPP) in South Africa and Kenya's investments in wind and geothermal energy projects illustrate how countries align their energy policies with international norms and standards (Kazimierczuk, 2019). These initiatives reflect the structural influence of international environmental law in shaping energy transition pathways and promoting sustainable development.

Furthermore, the implementation of afforestation and reforestation programs (ARPs) in Africa underscores the structural dynamics of international environmental governance. Policies and initiatives aimed at forest conservation and restoration are guided by international agreements such as the Convention on Biodiversity (CBD) and its protocols (CBD, n.d.). Ethiopia's Green Legacy Initiative and Kenya's Great Green Wall initiative exemplify how countries leverage international legal frameworks to combat land degradation, mitigate climate change, and enhance ecosystem resilience (Leader & Ponce, 2020). These initiatives reflect both the agency of national governments in pursuing environmental sustainability and the structural influence of global environmental norms and conventions.

Third thematic area is afforestation and reforestation programs (ARPs). These initiatives underscore the agency of African countries in addressing deforestation and forest degradation. By implementing policies such as Ethiopia's Green Legacy Initiative and Kenya's Great Green Wall initiative, countries demonstrate their commitment to combating land degradation and enhancing ecosystem resilience (Leader & Ponce, 2020). However, a structural critique reveals challenges such as inadequate funding, governance issues, and conflicting land-use priorities, which hinder the effectiveness of these programs (Scheidel et al., 2021). Additionally, the reliance on tree-planting initiatives may overlook deeper structural issues driving deforestation, such as unsustainable agricultural practices and land tenure systems (Peluso & Lund, 2011).

International funding mechanisms, another thematic area, highlight both agency and structural dynamics. While accessing funds like the Green Climate Fund (GCF) demonstrates agency in seeking financial support for climate projects, structural barriers such as complex application processes, fears of credit unworthiness on the part of African countries, limited capacity may impede equitable access to these funds (Wang et al., 2018; Mohrenberg, Koubi & Bernauer, 2019; Kumar, 2016; Fonta, Ayuk & van Huysen, 2018). Moreover, the conditional nature of funding often tied to specific projects may limit countries' flexibility to address broader environmental challenges comprehensively (Kamau & Streck, 2017). Trans-boundary Environmental Governance (TBEGs) as a fifth thematic area, represents both agency and structural dimensions of environmental cooperation. Collaboration among African countries through regional organizations like the Niger Basin Authority reflects agency in managing shared natural resources

(Dessouassi, Bisson & Boyer, 2010). However, structural challenges such as power asymmetries, sovereignty concerns, and inadequate institutional capacity hinders effective cooperation and resource management (Sadeleer, 2011). Furthermore, the absence of enforceable mechanisms in some regional agreements may undermine the implementation and compliance of shared environmental commitments (Okidi & Owino, 2019).

Considering extra-African drivers like trade and environmental agreements and technology transfer and capacity building (TTCB), agency perspectives help us understand the efforts of African countries to align with international norms and access resources for sustainable development (Hutton & Dickson, 2000; Garrison, 1994; Raymakers, 2006). However, structural critiques reveal issues of dependency, unequal power relations, and the risk of technological lock-in, where African countries may adopt technologies that are not suitable for their contexts (Ockwell et al., 2018). Additionally, the effectiveness of technology transfer initiatives may be limited by intellectual property rights regimes and the commercial interests of technology providers (Schroeder, 2016). For example, as a way to harness this development, African countries have in place policies about technology and innovation. The Kenya Science, Technology and Innovation Policy 2013 is a good example and considers the need for assigning 2% of GDP to STI, including especially climate sensitive technologies.

In conclusion, while international environmental law frameworks provide essential guidance and support for environmental governance in Africa, a nuanced understanding requires examining both agency and structural dynamics. By addressing the limitations and challenges highlighted by these perspectives, policymakers can develop more effective and equitable strategies for environmental protection and sustainable development on the continent.

A third category or thematic area is Afforestation and Reforestation Programs (ARPs). International environmental law promotes forest conservation and restoration as essential strategies for climate change mitigation and biodiversity conservation. Examples of such laws include the Convention on Biodiversity (CBD) and its protocols. African countries have implemented afforestation and reforestation policies and programs to address deforestation and forest degradation. For example, Ethiopia's Green Legacy Initiative aims to plant billions of trees annually to combat land degradation, mitigate climate change, and enhance ecosystem resilience. Additionally, the Great Green Wall initiative (GGWI), spanning multiple African countries, seeks to create a barrier of trees and vegetation to combat desertification and improve land productivity. Under Ruto, Kenya implements her version of GGWI by targeting 50 million trees by 2030, and is working to revise her forest policy to reflect these ambitions (Government of Kenya [GoK], 2013).

INTERNATIONAL LAW AND IMPLEMENTATION OF PUBLIC POLICY IN AFRICA

This section ties the foregoing presentation, putting them into perspective by critically appraising the functions of international law in Africa's government's actions/policy processes. Let us recount what we have done so far before we undertake this examination. The foregoing sections have covered several dimensions of the global context of public policy (in Africa), focusing on international instruments, and even further zooming in on the most advanced form of such instruments – international law. The paper began by setting the stage of the analysis by presenting what we saw as the core definitive characteristics of the contemporary global public policy theatre: multilateralism and complex policy networks, interconnectedness and interdependence; transnational challenges and solutions; and lastly global governance. The paper then attempted to conceptualize international instruments, qualifying Karns & Mingst (2004) notion of them as “pieces of global governance”. The conceptualization set the stage for the subsequent structure by arguing that international law is the most advanced of these pieces and even in some definitions (Reus-Smit, 2001, p. 351) viewed as encompassing the entire landscape of what Karns & Mingst

(2004) covers under his definition of pieces of global governance. This enabled us to settle on a close examination of the nature and functions of international law in Africa's public policy discourses. Our conception of public policy is the entire framework encompassing practices (across several substantive policy domains), laws/legislations, and programs, within and amongst African states. We focus on governance and the impact of international law; conflict and peace; environment and sustainable development; and economic development – regional integration, investment and trade. Throughout the substantive section of the discussion, we have attempted to appreciate the undeniable role of international law in guiding state practice/government action in Africa by showcasing cases from across East, Central, West, North and Southern Africa. In essence, we have so far accounted for successes of international law in public policies within or within the context of inter-African relations. In the following paragraphs, we take about turn to critically appraise the functions of international law. We begin the appraisal by first appreciating the perhaps the greatest dis-connect between international law and development in Africa, the debate between localization of such laws and their implementation. We then narrow the focus to two main substantive areas of public policy: human rights; and corruption, areas that are linked to and at the core of public policy implementation in Africa – with influence across all the other sustentative areas of public policy discussed above.

To begin with, despite ratifying and domesticating numerous international legal instruments, many African countries struggle with effectively implementing them. Mbaku (2018) describe the scenario of massively domestication of international law in Africa as the “internationalization of constitution law” asserting, albeit implicitly, that this is perhaps where the problems with implementation begin. African countries in this new era of arriving at constitutional law, either incorporate directly, through discussions in parliament, or by way of applying such principles at the courts. To Mbaku (2018), this has made a large amount of what accounts as law largely non-responsive to Africa's problems, thus governments find it difficult to implement their international obligations. Opong (2007) adds more reasons for failure in in vast majority of African countries to implement international la principles; including weak institutional capacity, inadequate resources, and a lack of political will. For example, while African countries have adopted human rights treaties such as the African Charter on Human and Peoples' Rights, violations of human rights persist due to inadequate enforcement mechanisms and accountability mechanisms (Gruhn, 2003). Similarly, despite signing onto anti-corruption conventions like the United Nations Convention against Corruption, corruption remains rampant across the continent due to weak enforcement of anti-corruption laws and lack of political will to tackle the issue. These areas of non-implementation are discussed further below.

Human Rights

Human rights abuses continue to be a significant challenge in many African countries, despite the existence of international legal frameworks aimed at protecting human rights and human rights researchers have different reasons for this mismatch (Gruhn, 2003; Motala, 1988; Welch, 1995; Carver, 1990; Howard-Hassmann, 1986). Gruhn (2003) argues that the main reasons for continued human rights abuses in Africa are two: that despite African countries having the responsibilities for providing such rights as outlined in the corpus of international human rights, local cultures and practices and practices in these countries should be examined and transformed if human rights, especially progressive ones can be successfully implemented. Motala (1988) agree with this reasoning, arguing:

Much of the present philosophical and ideological tenets of human rights, which are reflected in the Universal Declaration of Human Rights (UDHR) are a product of a particular social order and thus reflect a particular ideology (p. 1).

Secondly, Gruhn (2003) continues to contend that despite such a responsibility born out of their international obligations, many economically poor African societies often lack the means to meet the goal of social and economic rights – the rights enshrined in the International Covenant on Economic, Social, and

Cultural Rights (ICESCRs). On his part, Welch (1995) argues that much of the implementation challenges also results due to a lack of space for NGOs, the space to fact-find, political space within which they operate, and the lack of resources which they need to play their roles: rescue, fact-finding, services provision, etc. Thus is large parts of Africa, high political temperatures that obtain especially during elections limit the capacity of such NGOs to play their part in for example observation and civil and electoral engagement with the public (Ogotu, 2023). To Cover (1990), the problem manifests mainly during investigation of human rights abuses. He examines this problem and concludes that despite the coming into force of the African Charter on Human and People's Rights in 1986, and other international legal instruments on human rights such as UDHR, most governments are reluctant to investigate high-end political instances of human rights abuses, leading to situations of massive disregard of international human rights principles. These claims are vindicated by the occurrences in Uganda in the latest elections, and the post-elections demonstrations in Kenya where citizens were killed by state police and nearly nothing has been done. In the final analysis, however, disregard to human rights is seen as a negative and reverse development and all the scholars agree that the causes of such lack of implementation of state obligations should be sealed.

Corruption

Corruption is the abuse of entrusted power for private gain (Transparency International: <https://www.transparency.org/en/what-is-corruption>). Corruption remains pervasive in African societies, undermining the rule of law, economic development, and public trust in government institutions. According to **Transparency International**, the consequences of corruption are multiple and interconnected, making poverty alleviation impossible; “corruption erodes trust, weakens democracy, hampers economic development and further exacerbates inequality, poverty, social division and the environmental crisis.” Despite signing onto international anti-corruption conventions, such as the African Union Convention on Preventing and Combating Corruption, many African countries struggle to effectively combat corruption due to weak governance structures (Mlambo, Mubecua, Mpanza & Mlambo, 2019), lack of transparency (Jerome, Adjibolosoo & Busari, 2005; Kimeu, 2014), and impunity for corrupt officials (Jones, 2019). The net effect of corruption in Africa is huge. Although estimates on the quantities of corruption vary, the different sources reveal a trend toward massive loss of development opportunities as a result. World Bank reveals \$1.5 trillion is lost to bribes annually (WB, 2017). World Economic Forum (WEF) estimates it at more than \$ 2trillion while OECD (2014) says that the cost of corruption is more than 5% of global GDP.

The African case is worrying. OECD (2014) finds that more than 25% of the GDPs of African government is lost to corruption every year. An analysis of TI (2017) corruption index reveals that more than 6 billion people live in corrupt or partly corrupt countries. In Africa, Kenya, South Africa, Nigeria, are among the most corrupt consistently from 2015. The question is therefore: why this situation in Africa (and across the world) with the existence of anti-corruption regimes. Studies show that for Africa, mismanagement, state capture, and political interference are the leading reasons that make the implementation of national and international laws against corruption impossible and/or difficult (Jones, 2019). The discussions in this section provide the side of international law in Africa, the side of lack of its tangible influence on state practice. As it is discussed, the reasons for this, are a number and varied. We have concentrated only on local structural issues. Though it is important to note that some scholarship highlight the weaknesses from within the content of law itself, its inconsistency, lack of enforcement mechanism and so on (Abbott & Snidal, 2000; Goldsmith & Posner, 2005; Guzman, 2002).

CONCLUSIONS

The study makes three conclusions from the foregoing findings. First, the study's exploration of theoretical

perspectives reveals the nuanced dynamics influencing Africa's role in global public policy. For instance, agency-based theories often attribute Africa's challenges –incapacities complicating her proactive role global public policy – to internal factors such as leadership and governance issues, economic instability and mismanagement, and social unrest. These theories suggest that Africa's development trajectory is largely determined by its internal agency and capacity to enact change from within. Conversely, structure-based perspectives argue that Africa's position in global public policy is shaped by institutional and external forces such as colonial legacies, global power dynamics, and economic dependencies. For example, the dependency theory posits that Africa's underdevelopment is a result of its integration into the global capitalist system, perpetuating unequal power relations. The study shows that by acknowledging both agency and structure, analysts gain a more nuanced understanding of Africa's position, allowing for more effective policy interventions that address both internal deficiencies and external influences.

Building on these theoretical insights, the study offers practical implications for policymakers and practitioners seeking to engage with Africa in global public policy initiatives. For instance, understanding the interplay between agency and structure can inform the design of development interventions that account for both internal capacities and external constraints. Moreover, by bridging the theoretical divide, analysts can develop more holistic approaches to addressing Africa's complex challenges. This might involve leveraging Africa's internal agency to drive grassroots initiatives while simultaneously advocating for structural reforms to address systemic inequalities. For example, initiatives that empower local communities to participate in decision-making processes while advocating for fair trade policies at the international level can contribute to sustainable development outcomes. Ultimately, by integrating theoretical perspectives into policy and practice, stakeholders can foster more inclusive and effective approaches to advancing Africa's interests in the global arena.

Secondly, the study's examination of the contemporary global landscape underscores the profound transformation occurring and intensifying, characterized by the blurring of boundaries between local and global policy spheres. This transformation is driven by factors such as technological advancements, economic interdependence, and the rise of non-state actors, which have facilitated greater connectivity and integration across borders. As a result, traditional notions of sovereignty and territoriality are being redefined, creating new opportunities and challenges for countries worldwide. For Africa, this transformation carries significant implications, as it navigates its position within this evolving global context. The continent's historical vulnerabilities, including its colonial legacy and economic dependencies, intersect with these global shifts, shaping its role in global public policy agendas. For example, Africa's reliance on foreign aid and investment exposes it to external influences, while its growing youth population and burgeoning entrepreneurial ecosystem present opportunities for innovation and development.

Furthermore, the study highlights the increasing influence of Africa on and interaction with global public policy as a consequence of this global transformation. As global interconnectedness deepens, Africa's voice in international fora becomes more pronounced, offering opportunities to shape global agendas and priorities. For instance, initiatives such as the African Union's Agenda 2063 and the Sustainable Development Goals reflect Africa's growing assertiveness in articulating its development aspirations on the global stage. Additionally, Africa's rich natural resources and strategic geopolitical position make it a key player in global debates on issues such as climate change, trade, and security. Understanding these dynamics is crucial for policymakers and practitioners seeking to craft effective policies that address Africa's unique challenges and leverage its opportunities in the global arena. By recognizing Africa's evolving role and enhancing its agency in global governance structures, stakeholders can work towards a more equitable and sustainable future for the continent within the interconnected world order.

Finally, the study's analysis underscores the indispensable role of international law in Africa's public policy discourse, serving as a vital framework for guiding decision-making processes and fostering cooperation on global challenges. Despite its limitations and criticisms, international law provides a normative structure

that governs state behavior and promotes adherence to shared principles and values. For Africa, international law serves as both a shield and a sword, offering, principally, protection against external infringements on sovereignty while also providing avenues for asserting its interests on the global stage. Examples such as the International Criminal Court (ICC) and international human rights conventions demonstrate Africa's engagement with international legal mechanisms to address issues such as impunity and human rights abuses. Moreover, international law plays a critical role in facilitating regional integration efforts, as evidenced by initiatives like the African Continental Free Trade Area (AfCFTA), which rely on legal frameworks to harmonize trade regulations and resolve disputes among member states.

Looking ahead, the study emphasizes the importance of critically leveraging international legal frameworks to address pressing challenges and promote sustainable development across the African continent. Policymakers and practitioners must recognize the dynamic, imperial, and asymmetrical nature of international law and adapt strategies to harness its potential for change effectively. This requires strengthening institutional capacities – through a hybrid of agency and structural models, enhancing legal literacy, and fostering greater collaboration between state and non-state actors in navigating the complexities of global governance. Additionally, there is a need to address gaps and inequities within the international legal system to ensure fair and equitable outcomes for African states. This includes advocating for reforms that enhance African representation and participation in global decision-making processes, as well as promoting the development of indigenous legal frameworks that reflect the continent's unique history, culture, and values. By critically and strategically embracing international law as a tool for promoting justice, peace, and development, Africa can assert its agency in shaping the future of global governance and contribute meaningfully to the pursuit of a more just and equitable world order.

AUTHOR CONTRIBUTION

Mr. Kasera conceptualized, researched and wrote up the first version of this article. Initially written for a term paper presentation for the Course: The Global Context of Public Policy, Mr. Kasera transformed the initial paper into a journal article. Mr. Owili and Bruno added value to the original article by undertaking editorial improvements and suggesting areas for revision of logical flow of the paper.

DECLARATION OF CONFLICT OF INTEREST

Authors declare no conflict of interest during the process of writing and producing the manuscript.

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FOOTNOTES

[1] Brazil, Russia, India, China, South Africa.

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