

**Domination Through Law: the internationalization of legal norms in postcolonial Africa** by MOHAMED SESAY

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*Domination Through Law* brings a thought-provoking perspective and necessary reflection on the transfer of legal norms in African countries. Rule of law is generally labelled as a positive standard for a just and equal society. For Mohamed Sesay, legal norms may on the contrary lead to social injustice, resentment and further destabilisation of the national order.

For the author, the rule of law is a tool used by African elites to keep their political and socio-economic power. In a post-Marxist perspective, the ‘have-nots’ cannot be empowered because of structural and social challenges inherent to the legal system. It is because the elites use the rule of law for social domination, concentrating political, economic and cultural power, at the expense of others. For instance, the rule of law supports liberal state-building where legality abhors informal economy, customary law and any alterity. Accordingly, the rule of law serves only the elite’s interests, marginalising others.

The book provides insights on how power inequalities developed during the colonial period were maintained by national elites after independence and continue to define political and socio-economic dynamics and access to justice in the present-day. For Sesay, the rule of law is supported by former colonial authorities to defend their own profit, to establish a good business environment to exploit natural and human resources and to continue dominating African countries. National elites second that project as they profit from it.

The author uses the examples of Sierra Leone and Liberia. In both countries, the ethno-elite used the State apparatus and its privileges to develop patronage networks, excluding entire communities from power. In both countries, it resulted in civil war. Then, under the auspices of western powers, post-conflict resolutions were appropriated by the national elites to consolidate the ruling powers and protect their interests.

Accordingly, Sesay reveals the fragility of public institutions in Africa, as social inequalities and lack of representation may delegitimise the State apparatus and jeopardise the social contract for most African citizens. He pinpoints the difficulties of defining identities and conceiving social order when the laws only represent the values and interests of the dominant group. In these conditions, there is no emancipatory power of law, no opportunity for reform of the formal system without violence. The rule of law does not provide agency for the people, only structural inequality and social injustice.

While his argumentation is convincing, the author presents a static vision of African societies, very similar to the orientalist vision conveyed by settlers. He does not confront the correlation between the rule of law and access to education, health, longer life expectancy and reduction in poverty in many African countries. He also avoids countering examples of how the rule of law can be adapted and may include customary law. For instance, hybrid systems emerged in Mozambique and Uganda (in the late 1980s), applying common law at the national level and customary law within community courts at the local level.

The unique focus on the dichotomy between the elites and the rest of society fails to grasp constraints and leverages for development. For instance, the book never

considers gender inequalities in access to income, health and education; a key focus for the modern rule of law. Without disaggregating data, without considering intersectionality and the necessary nuances to grasp power relations, this analysis does not provide an approach to understand and act on power inequalities in Africa.

However, the book could be a starting point for reflections by policymakers and development implementers on what decolonising aid would mean. It would necessitate a better approach to considering context (power asymmetries) and the side effects of aid interventions on the political economy. It would also entail reconsidering the role of intermediaries to avoid monopolisation by the elites, and giving more space to people's movements (e.g. community-based associations, unions). It would require emphasising inclusion within policies, with a stronger emphasis on equity rather than equality. It would involve more space for alterity so that anyone can, finally, connect with the principles of the rule of law.

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