

Law and Its Other: The Everyday Life of Crime in Post–Civil War Nigeria

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SAMUEL FURY CHILDS DALY. *A History of the Republic of Biafra: Law, Crime, and the Nigerian Civil War*. Cambridge: Cambridge University Press, 2020.

LAW AND LAWLESSNESS IN POSTCOLONIAL AFRICA

Samuel Fury Childs Daly's book makes an innovative intervention in scholarship on the social forms that law—and here, lawlessness—take in postcolonial Africa. Despite law being relegated to the subtitle (an unfortunate editorial choice), this really is a book about law: the way war reshapes law's social life during and after conflict. The book's creative foundation is constituted by a two-pillared claim: first, that Biafra, the region of Nigeria that seceded in 1967 and fought a losing three-year battle for that state, “broke away from Nigeria in the name of making law and order” (1); and second, that the civil war, which was notorious for the suffering it put Biafra's people through, produced forms of lawlessness, crime, and fraud that would live on to stereotypically define Nigeria as the home of creative fraud par excellence, not just in Africa but globally.

The Biafran War was one that achieved an enormous global visibility—Daly calls it “among the first televised wars” (17)—primarily for its iconic visual images of the starvation that afflicted the region's civilians under military blockade and the Western humanitarian mobilizations they inspired. Against the backdrop, then, of some visual but little analytical memory of the war in mainstream discourse, both of Daly's major claims run counter to conventional thinking about this conflict. Most scholarship and political commentary on Biafra, both at the time and since, have interpreted the conflict as, at base, a project of ethnic secession—the Igbo-majority South Eastern region breaking off from an authoritarian-governed Nigeria dominated by the Hausa of the north and Yoruba of the west. Daly, however, insists that the secessionist impulse was as much about upholding a tradition of law and order that the new state and its legions of judges and lawyers—an extraordinary number of Igbos were trained in law—saw themselves as embodying against a corrupt Nigerian government. The vignette that Daly opens the book with illustrates this in striking fashion: Sir Louis

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Mbanefo, chief justice of Nigeria's Eastern region who had "a Cambridge education, a successful law practice, a knighthood, and a term on the International Court of Justice" inaugurating Biafra by swearing in the secessionist state's military leader, Chukwuemeka Ojukwu, while "weighed down in his robes and wigs" (1).

If Biafra's birth was closely bound up with law, Daly argues, so too was what it spawned as the fledgling state stuttered, then swiftly began to collapse under Nigeria's all-out onslaught to crush the secession. Amid the privations and chaos of war, "people regularly used forgery, robbery, and extortion to survive in impossible circumstances" (9). In this wartime lawlessness, Daly suggests, lay the roots of an explosion of practices that would go on to be indelibly identified with Nigeria—including the genre of financial deception by spam email known as "419," named after the section of the Nigerian criminal code that prohibits it. "Certain behaviors that are permitted—even encouraged—during wartime become crime once the war is over," Daly writes. He suggests that this interpretive angle on Biafra's history "offers a larger lesson" for studies of law and lawlessness in the context of war: "when a war ends but the *habits* of war do not, the situation that results is often something like a crime wave" (9).

LAW, VIOLENCE, AND THE EVERYDAY

The degree to which Daly's novel interpretation convinces with regard to the Biafran war itself—the centrality of law and lawlessness to it—is something I address below, but even more important is to first examine the broader interventions his book makes in scholarship on law in Africa. Academic work explicitly focused on law and society in sub-Saharan Africa is relatively fledgling. (The vast field of Islamic legal studies is another matter.) And most of it treats the formal, the civil, and the communal (for instance, Roberts 2005; Burrell 2015). That these dominate the subfield makes some sense, particularly given the importance of law to colonial rule. Examples include the way so-called indirect rule recruited intermediaries such as chiefs by putting them in charge of codified forms of "tradition"-cum-"customary law" and the devastating effect of colonial edicts governing taxation (Ochonu 2014). Daly doesn't neglect the formal sphere. Indeed, he is especially evocative when describing the ad hoc way in which Biafran judges, lawyers, courts, and litigants carried on amid the worst of the war. With privation stripping the formal legal infrastructure of all supplies, these scenes could be by turns heroic, comic, and tragic. Trials being held in bombed-out schools, legal precedent being cited from memory, and proceedings being recorded on scrap paper and, in one case, on the back of a prewar love letter, all make appearances. But this book's main analytical focus is the way the war created a massive growth in the need and the opportunity to flout the law through a proliferation of inventive and sometimes violent illegalities in the informal economy.

This takes Daly into the territory of the relationship between law and the everyday. And it is here that the book takes its greatest strides in pushing forward scholarship on law and society in sub-Saharan Africa. Again and again, in vivid prose, Daly shows how legal matters began to reshape ordinary life, and vice versa. Across its six chapters, the book develops "a disquieting catalogue of transgressions . . . a phenomenology of wartime violence" (84–85). The first two chapters set the stage by tracing a history

of the Biafran project as one that had law at its core: first with a national imagination preoccupied with law and order (Chapter 1), then as a polity whose legal infrastructure began to unravel as Biafra was cut off from the outside world by a devastating Nigerian blockade (Chapter 2). As it became increasingly difficult to distinguish what separated battlefield conditions from civilian life, the Biafran authorities lost their monopoly on violence and wartime vigilantism became increasingly widespread. Chapter 3 traces how, amid the privations of war, getting things done with forged documents became a frequent necessity, and fraudulent identities became a widespread tool that wartime rendered legitimate but that the law would normally categorize as “crime.” The fact that postwar “integration” (traced in Chapter 4) was such an irregular, drawn-out, and violent process meant that the need for these wartime survival tactics didn’t disappear with the end of the war, but instead continued and arguably even grew. Chapters 5 and 6 take us on a tour of the forms these practices took, with special attention to the two genres that loomed largest: armed robbery and fraud. The latter ranged from bribery, extortion, and the use of forged documents to travel and flee, to what would become the ubiquitous email scams promising instant wealth but instead emptying victims’ bank accounts. If the connection of armed robbery to the poverty and desperation exacerbated by war is fairly obvious, that of fraud is less intuitive and is central to the innovative case Daly makes for seeing the later prominence of “419”-style scams in Nigeria as having an intimate link to the civil war. The arc of the book as a whole narrates compellingly how the line between what was legal and what was not became increasingly blurred until it was difficult (and perhaps pointless?) to distinguish at all.

BLURRING THE LEGAL AND CRIMINAL: WHO PROFITS?

I raise the question of point because it is one that Daly’s material organically raises, but that the book could have addressed more fully. When habits of war that would normally be unambiguously criminal outlast the war in a widespread way—the divide between the legal and the criminal becoming nearly impossible to see—what is the point of distinguishing the two? To whom and when? Presumably (and Daly makes this clear), the legal and the illicit were not conflated in every instance in 1970s Nigeria. So who had a stake in this blurring? Clearly need and desperation gave many a deep investment in it. But so too, Daly’s material relates, did profit. 419 schemes have been big business in Nigeria, and the lion’s share of the profits, as with big business everywhere under capitalism, flow to a comparative few, not those doing the grunt work. Daly’s rich empirical cases provide plenty of glimpses of this kind of dynamic, but it is one that could have been pulled deeper into the analytical structure of the book.

IMPROVISING LAW AMID MATERIAL SCARCITY

There are other ways too that the book’s signature focus on the blurring between the legal and the criminal could have been used to push the argument further. For instance, this blurring, and the arbitrary manner in which it distinguishes the licit from the illicit, could be more radically used to problematize the clarity and boundedness of the law more generally. Daly’s foundational interest in linking this blurring to the

Biafran war, and his coming close to implying that the conflict *produced* rather than simply accentuated it, ends up unnecessarily foreclosing the potentially broader implications of his study. Nor, in my opinion, is this an inevitable effect of Daly's book being a case study. Lauren Benton's (2009) work in *A Search for Sovereignty*, on the way that international law *emerged from* the messy, ad hoc, and highly partial patchwork of early modern European ships' voyages, rather than being *imposed upon* this geography as conventional wisdom had long held, is one good example of a specific case study being used to make much more broader claims about law. Similarly, the implications of Daly's approach should be much wider than simply Nigeria or even postconflict situations (a broader scope to which he occasionally gestures). As suggested above, his material holds considerable relevance for theorizing the relationship between the law and everyday life under conditions of material scarcity. However, linking his approach to the law so closely to the Biafran war ends up unfortunately narrowing the relevance of his claims.

A NIGERIAN EXCEPTIONALISM?

This, then, brings us back around to the question of whether Daly's narrative about the link between the Biafran war and crime entirely convinces. To argue, as Daly does, that the war presided over a signal explosion of a distinct mode of crime focused on fraud and armed robbery raises, and doesn't quite answer, the question of why similar modes of the illicit appeared elsewhere in Africa over the same period of time. In Zaire, for instance, Jean-Francois Bayart (2009a, 2009b), whose work Daly references frequently, has documented what he calls the "criminalization of the state"—a process that accelerated with the imposition of IMF-driven "structural adjustment" austerity programs. And scholars working on the phenomenon of militia groups in places where the formal state has withered away have also been documenting what is a similar blurring of the bounds between the licit and illicit. In these areas—countries such as Liberia, the Eastern Democratic Republic of Congo, and Sierra Leone—violent militia, staffed at the rank-and-file level by child soldiers, take up the provision of public goods that a welfare state would normally provide (Hoffman 2011; d'Avignon 2022). Additionally, by focusing on the Biafran War's role as a starting point for investigating the forms of criminal fraud for which Nigeria became famous, Daly's book arguably sidesteps the interesting question of what forms of lawlessness and their relation to law *preceded* 419 in Nigeria. How might the 419 scams of the email age have emerged as much out of modes of con linked to older technologies as out of the Biafran conflict?

Experts on the Biafran conflict and modern Nigerian history will no doubt quibble over these of Daly's more narrow interpretations of the close bind between the rise of lawlessness and the war. But, in my view, what will remain the far more signal contribution of his book is the broader one: its showcasing of the mutual interpenetration of the law and its breakdown with the forms of life that organize people's everyday existence in urban Africa. Indeed, the book lays out a model for investigating this kind of relevance for the law across landscapes that may seem, at first glance, to lie far beyond it.

REFERENCES

- Bayart, Jean-Francois. *The State in Africa: The Politics of the Belly*. Cambridge, UK: Polity, 2009a.
- *The Criminalization of the State in Africa*. Bloomington, IN: Indiana University Press, 2009b.
- Benton, Lauren. *A Search for Sovereignty: Law and Geography in European Empires, 1400-1900*. Cambridge, UK: Cambridge University Press, 2009.
- Burriel, Emily. *States of Marriage: Gender, Justice, and Rights in Colonial Mali*. Athens, OH: Ohio University Press, 2015.
- d'Avignon, Robyn. *A Ritual Geology: Gold and Subterranean Knowledge in Savanna West Africa*. Durham, NC: Duke University Press, 2022.
- Hoffman, Danny. *The War Machines: Young Men and Violence in Sierra Leone and Liberia*. Durham, NC: Duke University Press, 2011.
- Ochonu, Moses. *Colonialism by Proxy: Hausa Imperial Agents and Middle Belt Consciousness in Nigeria*. Bloomington, IN: Indiana University Press, 2014.
- Roberts, Richard. *Litigants and Households: African Disputes and Colonial Courts in the French Soudan, 1895-1912*. Portsmouth, NH: Heinemann, 2005.