

Domination through Law: The Internationalization of Legal Norms in Postcolonial Africa, by Mohamed Sesay: Rowman & Littlefield Publishers, 2021. Price \$36; 226 pp: Paperback. ISBN HB 978-1-5381-4997-3

Abstract

Mohamed Sesay's book, "Domination through Law: The Internationalization of Legal Norms in Postcolonial Africa," is a comprehensive study that explores the impact of law on Africa's socio-economic and political landscape. Sesay's work is divided into two parts. The first part lays a theoretical foundation by tracing the development of African legal systems from the colonial era onward. It highlights how Western legal norms were imposed during colonialism, serving the interests of European powers and reinforcing their dominance. The second part of the book uses Sierra Leone and Liberia as case studies to provide real-world examples that support Sesay's arguments. It shows how these transplanted European legal norms continued to influence independent African legal institutions, leading to social, economic, and political disparities. Sesay's book challenges the assumption that independence from colonial rule resulted in the eradication of colonial influences. He argues that colonial legacies persist in post-colonial African conceptions of justice. One key aspect of Sesay's work is his call for a decolonial strategy that incorporates indigenous legal traditions and values into modern legal systems. This approach aims to create a more equitable and inclusive legal framework in Africa. In summary, Mohamed Sesay's book sheds light on how law has been used as a tool of dominance in postcolonial Africa, perpetuating disparities. It underscores the importance of considering indigenous legal traditions in shaping contemporary legal systems. This book is not just for academics but also addresses pressing issues of social justice, economic development, and governance in modern Africa, challenging us to reevaluate the role of law and the enduring legacy of colonialism.

Review

In 'Domination through Law: The Internationalization of Legal Norms in Postcolonial Africa,' Mohamed Sesay presents a comprehensive analysis of the complex interplay between law, colonialism, and their enduring consequences on Africa's socio-economic and political landscape. Published by Rowman & Littlefield Publishers in 2021, this book stands as a seminal contribution to African legal scholarship. Sesay's work is structured into two distinct parts, each serving a specific purpose in advancing his thesis. The first part establishes a solid theoretical foundation by tracing the evolution of African legal systems from the colonial era onward, while the second part employs Sierra Leone and Liberia as case studies to provide empirical context that substantiates the book's core arguments. This review aims

to synthesize the key arguments and attributes that distinguish Sesay's work within African legal scholarship.

One of the most notable aspects of Sesay's book is his extensive historical perspective of him, which contextualizes the evolution of contemporary law and justice in Africa. In doing so, Sesay aligns himself with scholars like George Karekwavaivanane, who have extensively explored the enduring role of law as a tool in the contestation and consolidation of political power, spanning both the colonial and post-colonial eras. This historical lens offers readers invaluable insights into the entrenchment of Western legal norms imposed during the latter part of the 19th century through colonialism. It provides a deeper understanding of how law served as a cornerstone of colonial rule, enabling capitalist exploitation and subjugation, and understands the fact that colonialism encompassed not only physical subjugation but also the imposition of a legal framework tailored to serve the interests of European colonial powers. .

Furthermore, Sesay's work distinguishes itself by conducting a comprehensive analysis of the role of law not only in constructing and contesting political authority but also in perpetuating socio-economic disparities and marginalization. He expertly demonstrates the exclusive nature of colonial law and its functionality in reinforcing social domination across various domains, including economics, politics, and societies. Furthermore, Sesay's examination reveals how colonial legacies persist in post-colonial African conceptions of justice, challenging the simplistic assumption that attaining independence resulted in the eradication of colonial influences. This perspective emphasizes the persistent impact of historical legacies on Africa's legal and social landscape.

Sesay's arguments from him encompass both theoretical and empirical dimensions. Chapter two offers a critical examination of the rule of law from a postcolonial perspective, arguing that domination forms the throughline that links Euro-American imperialism, colonialism, postcolonial structural adjustment programs, to contemporary post-conflict peacebuilding and state-building. He contends that modern law remains profoundly colonial, as evidenced by its Eurocentrism, superimposition, and emphasis on doctrinal legality.

The case studies of Sierra Leone and Liberia serve as compelling illustrations of how transplanted European legal norms have persisted within independent African legal institutions, often to the detriment of justice, social equity, and economic progress. Sesay argues that the post-colonial state, characterized by elitist tendencies, remains deeply embedded in Western legalism. He advocates for a decolonial strategy that returns to the foundational values of indigenous legal traditions, resonating with Zhuwarara's concept of

'living law,' which underscores the importance of integrating African cultural and traditional values into contemporary legal systems.

Sesay's book is structured into two distinct parts, which successfully build a coherent narrative reinforcing his overarching thesis. Part I, consisting of Chapters 2 and 3, lays the theoretical groundwork for his analysis of him by delving into the perversion and subversion of indigenous norms by colonial administrations through Euro-centric philosophies. Despite the prevalence of customary law and traditional dispute resolution mechanisms among the majority population, Western legal culture thrived as the lifeblood of colonialism, facilitating capitalist exploitation and subjugation.

Part II, comprising Chapters 4, 5, and 6, delves into the case studies of Sierra Leone and Liberia. In Chapter 4, Sesay scrutinizes the nexus between the rule of law and political power, revealing how European legal systems operated as instruments of governmentality rather than instruments of freedom. In the post-colonial era, Africa inherited legal systems that institutionalized hierarchical socio-economic and political structures, favoring minority settler populations and Westernized segments over the indigenous majority.

Chapter 5 offers a profound exploration of the rule of law and its implications for the economy. Sesay demonstrates how legal reforms prioritized liberal commercial laws over socially oriented legislation intended to safeguard communal rights and foster social development. This imbalance, according to Sesay, has contributed to the perpetuation of economic inequalities and the relentless exploitation of Africa's resources.

Chapter 6 ventures into the rule of law within societies, elucidating how legal development has disproportionately benefited individuals possessing historical advantages in terms of social status, wealth, education, and influence. This chapter serves as a powerful synthesis of the book's core arguments, weaving the threads of Sesay's critique of the rule of law concept into a cohesive narrative.

In summary, Mohamed Sesay's 'Domination through Law' is a significant addition to African legal scholarship. The book provides a detailed examination of the complex relationship between law, colonialism, and post-colonial governance, shedding light on how legal norms have functioned as instruments of dominance, perpetuating social, economic, and political disparities in Africa. Sesay's work by him aligns with the contemporary push for a culturally rooted approach to law in Africa, advocating for the inclusion of indigenous legal traditions and values within modern legal systems. This book's relevance extends beyond academic circles, as it addresses pressing concerns related to social justice, economic development,

and governance in contemporary Africa. It challenges us to reconsider the role of law in post-colonial societies and prompts a critical examination of the enduring legacies of colonialism.

Chapter three delves into legal order in Africa from the colonial period to the present. Sesay shows how international law and legal technicalities, ambiguities, and loopholes in instruments such as treaties underpinned attempts to legitimize colonialism. He highlights that non-state justice actors remain the most prevalent providers of legal order today, as is frequently the case throughout the Global South. These actors claim the right to adjudicate issues based on sources of legitimacy outside state-sanctioned law, such as religion or custom. He also shows how legal pluralism was employed strategically to perpetuate and consolidate colonial rule through the ability to discipline and reward customary leaders and to determine what law applies, how it should be applied, and to whom it should be applied.

Chapters three through five turn to issues surrounding legal order in post-conflict Liberia and Sierra Leone. Both Liberia (1985–2005) and Sierra Leone (1991–2002) experienced devastating conflicts. A key strength of the book is that Sesay's analysis is not limited to conflicts and their aftermath but rather situates post-conflict realities in a broader historical analysis.

Sesay examines how different legal regimes over time related to political power (Chapter 4), the economy (Chapter 5), and society (Chapter 6). Despite differences between countries, he finds an overarching trend that what he identifies as the rule of law has been used to serve the interests of an exclusionary elite at the expense of the population more generally. This dynamic, Sesay argues, persists in both countries, despite domestic policy and international aid ostensibly designed to promote the rule of law. Similarly, in the economic realm, Sesay argues that 'the neo-liberal logic of legal reform' helps perpetuate an economic order that enriches a small elite, precludes the state from undertaking key social and redistribution functions, and leaves most of the population economically vulnerable with little access to justice. Regarding society, Sesay maintains that the informal legal sector, despite its continued importance, remains systematically marginalized. In contrast, English law retains pre-eminence, and even dominance, while still excluding most people and disproportionately benefiting the wealthy, educated, and influential.

'Domination through Law' effectively and persuasively demonstrates how the post-war orders in Liberia and Sierra Leone failed to fulfill their promises, and how the international community contributed to that failure. Sesay's deep knowledge of both countries is apparent, painting a vivid and compelling portrait of lived legal pluralism in both Sierra Leone and Liberia. In both states, he shows that non-state justice mechanisms serve a vital and often underappreciated role in providing justice, while not idealizing them. Moreover, this book

makes it clear that not everything labeled 'rule of law' actually achieves it or is even genuinely striving for it. Sesay illustrates that behind lofty rhetoric and grand ideas, legal realities can be decidedly different.

The book raises essential questions about how the rule of law is understood and assessed. Sesay's expertise of him on both countries is clear, but the overarching relationship of these cases to the rule of law could be further elucidated. The definition of the rule of law is not readily apparent in the book, and a more explicit articulation of the author's understanding of this concept would enhance readers' comprehension. It would be valuable to delve into why this specific formulation was chosen, especially as it leaves the definition of the rule of law somewhat opaque.

The rule of law is an inherently contested concept, with scholars distinguishing between minimalist and maximalist understandings. At its core, the rule of law requires a normative commitment among state officials to uphold and be bound by the law, along with a cultural commitment to the orderly and nonviolent resolution of disputes. This normative commitment is essential, regardless of the specific content of the law. The rule of law demands that state leaders, including those at the highest levels, adhere to the law and are willing to be held accountable by legal rules and processes.

Sesay's book sheds light on states like Liberia and Sierra Leone that lacked a normative commitment to even the most minimalist notion of the rule of law. These regimes operated more in line with the concept of 'rule by law,' where the state legal order functions as a tool of regime authority and social control, but state leaders and privileged elites are not committed to upholding, or required to follow, the law. However, the existence of such states does not discredit the concept of the rule of law itself. Rather, it underscores the need for a more nuanced understanding of the rule of law and the recognition that it exists on a spectrum.

While the book provides compelling insights into Sierra Leone and Liberia, a more extensive comparative analysis between these two nations and the inclusion of case studies from different regions of Africa could offer a broader perspective on the variations and nuances of post-colonial legal developments on the continent. Such an approach would enhance the book's comprehensive examination of the subject and provide a more holistic understanding of how legal norms have operated in different African contexts.

Sesay's call for a decolonial strategy that embraces indigenous legal norms is a compelling argument. However, the book could benefit from a more detailed discussion of the practical challenges and complexities involved in implementing such a shift in legal systems.

Exploring potential strategies and mechanisms for integrating indigenous perspectives and values into existing legal frameworks, including discussions on legal pluralism and the

coexistence of multiple legal systems within a society, would enrich the book's contribution to the discourse on decolonizing legal systems in Africa. Addressing potential tensions and conflicts that could arise when attempting to reconcile traditional African legal systems with modern legal practices and global norms would also add depth to the book's exploration.

In conclusion, Mohamed Sesay's 'Domination through Law' is a significant contribution to the discourse on the role of law in post-colonial Africa. The book provides valuable insights into the enduring impacts of colonialism on legal norms and governance. While the book exhibits remarkable strengths, such as its thorough theoretical foundation and empirical evidence, it also invites readers to consider the practical complexities of decolonizing legal systems and the need for a more balanced exploration of the evolution of African legal traditions. Sesay's call for a decolonial approach that integrates indigenous legal norms is a compelling and timely argument, inviting further exploration and dialogue in the pursuit of a more equitable and inclusive legal framework in Africa. Overall, Sesay's book is a vital addition to the ongoing discussions surrounding law, colonialism, and post-colonial governance in Africa.