

Jeremy I. Levitt (2012), *Illegal Peace in Africa: An Inquiry into the Legality of Power Sharing with Warlords, Rebels, and Junta*, Cambridge: Cambridge University Press, ISBN 978-0-521-88868-4, 314 pp.

As *Africa Spectrum's* 2009 special issue (Vol. 44, No. 3) bore witness to, the practice of power-sharing has in recent years attracted considerable scholarly attention. Decades ago, power-sharing was already the subject of comparative political research, in particular from the empirical perspective of how deeply divided societies sustain stable democracies. More recently, and in line with the increased use of negotiated settlements to terminate intra-state wars – most notably on the African continent – power-sharing agreements between incumbents and armed rebel movements have been analysed particularly in peace and conflict studies literature. Jeremy Levitt's *Illegal Peace in Africa* adds a unique and hitherto largely neglected legal dimension to this literature.

Among political scientists studying power-sharing, the general understanding – largely underscored by conflict resolution practice on the ground – seems to be that when it comes to negotiating a deal between incumbents and insurgents, law is and can be no more than an epiphenomenon, shaped in accordance with the politically desired end and merely reflecting the balance of negotiating powers between opposing elites. Written in a most appealing, accessible and polemical style, this book rejects that assumption. Against the background of three case studies – Liberia, Sierra Leone and Guinea Bissau – it first describes how power-sharing provisions in peace agreements are frequently at odds with domestic and international law and therefore inevitably lack the legitimacy that is needed to design durable solutions in times of armed conflict.

Above all, *Illegal Peace in Africa* is a normative undertaking, the author adopting an ideal-world perspective in which law (and the rule of law) trumps politics when negotiating an end to deadly conflict. The book adopts a law-centred approach but is far from being legalistic. Quite to the contrary, the author's background as a conflict resolution and transitional justice practitioner in West Africa along with his insightful historical perspective on law and peace-making convincingly support his claim that the legality of power-sharing should no longer be disregarded, and that it should instead be a central matter of attention not only in academia but also in the work of mediators, diplomats and others attempting to engineer peace. The central message of this pioneering and thought-provoking book is very clear: A sustained negotiated transition to peace must adhere to the rule of law, not only after but also during the negotiations.

In several respects, the book leaves some fundamental questions unanswered, thus suggesting avenues for further research. A crucial but unfortunately rather cursorily addressed distinction is made between power-sharing agreements imposed upon democratically constituted governments (which are the central focus in this book) and power-sharing agreements between rebels (or “bandits of the law”, as Levitt calls them) and undemocratically constituted regimes. While the book automatically rejects the former (among other reasons because power-sharing agreements imposed upon democratically constituted governments violate the internal right to self-determination), the book only indirectly suggests what normative regime may apply to power-sharing with the latter type of government. Furthermore, as the three case study countries clearly illustrate, the seemingly clear line between the regime types may well be very blurred, in particular in situations where deadly conflict, state collapse and/or military coups have become the rule rather than the exception. In July 1997, Charles Taylor and his National Patriotic Party won Liberia’s elections. On that basis, *Illegal Peace in Africa* deals with the Liberian situation as that of a democratically constituted government, although the author adds that “Liberians apparently voted for Taylor because they feared he would reignite the war if he lost” (68) and that his regime was considered “despotic, a force for evil and a destabilizing presence in the region – a lawfully constituted government that debatably functioned unlawfully” (92). Under what circumstances – if any – are elections sufficiently solid ground to determine which power-sharing agreements are inevitably illegal and illegitimate and which ones may, under certain conditions, be acceptable? The book also raises the question of how to distinguish between democratically constituted governments and constitutionally constituted governments when developing a future law of power-sharing. Although the two concepts may well be overlapping – and the book does seem to use constitutional rule as a proxy for democratic rule in several instances – this is of course not necessarily always the case.

Chapter 10 highlights the fact that, in particular at the level of ECOWAS (Economic Community of West African States) and the AU (African Union), normative developments are increasingly constraining the use of power-sharing as a tool for conflict management in Africa. Recent case law of the African Commission on Human and Peoples’ Rights offers normative guidance as to which aspects of power-sharing agreements are likely to violate international human rights norms. One important new instrument entered into force as of February 2012: The African Charter on Democracy, Elections and Governance further codifies and reinforces Africa’s response against unconstitutional changes of government. Discussions remain, however, about how to define that concept. Furthermore, the risk of a gap between law and prac-

tice within the AU remains real. While in recent years the AU has in fact consistently rejected military coups, *Illegal Peace in Africa* reminds us that recent AU practice, in encouraging the signature of power-sharing agreements, has repeatedly endorsed – rather than rejected – unconstitutional seizures of power for short-term stabilization purposes.

In conclusion, the book puts forward a number of foundations of the law of power-sharing. These include central principles (including the supremacy of law over politics, legal certainty, and the avoidance of arbitrariness); basic procedural guidelines (including the need to conduct a legal audit before negotiating peace and the use of international human rights precedents to influence negotiation outcomes); and substantive legal provisions (including the respect for pre-existing law, the need to bar “bandits of the law” from holding public office, the illegality of granting amnesties to persons responsible for international crimes, the refusal to internationally accredit de facto authorities that come to power unlawfully, etc.).

The tension between interest-based mediation approaches and international standards that impose normative constraints on what constitute acceptable peace deals is likely to become more and more important for the global conflict resolution debate. *Illegal Peace in Africa* is a fascinating must-read for academics and practitioners struggling with the fundamental challenge of how to reconcile short-term peace, security and stability imperatives with longer-term democratic state-building goals.

- Stef Vandeginste