

RULE OF LAW IN AFRICA: THE RELEVANCE OF AN INTERPRETIVIST SOCIOLOGICAL APPROACH

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ABSTRACT

The concept of rule of law has historically been dealt with from philosophical, legal and political contexts. A sociological perspective seems to have been ignored. For the United Nation's Sustainable Development Goal (SDG) 16 to be attained and for the 'people' perspective to bear fruit, specifically, an interpretive sociological analysis becomes necessary because it focuses on understanding the meaning of rule of law from the view-point of communities. SDG 16 aims to "promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels", and target #3 focuses on promotion of the rule of law at the national and international levels and ensure equal access to justice for all. This interpretation is in context of the communities, their beliefs, values, actions, behaviours, and social relationships with people and the institutions responsible for upholding rule of law. In an interpretive approach, understanding some of the different social units, processes, and contexts in which rule of law prevails is critical.

This paper essentially stresses the importance of interpretive sociological approach to rule of law. It attempts to sketch out how an interpretive sociological approach can be mainstreamed into the rule of law philosophy. In an interpretive approach, rule of law is studied as an integral and constitutive part of social institutions, groupings and communities and challenges hegemonic practices about pure legal approaches. The argument being advanced is that interpretive sociological approach to rule of law requires involvement in the study of both participants as the object of inquiry. This may involve assessing whether rule of law is in sync with the communities or it is a process from without that is used by institutions to maintain order in societies. Rule of law sociology attempts to establish a relationship between what is claimed is rule of law and what the communities perceive it to be in reality. This paper considers how rule of law has been studied; provide an interpretive sociological perspective to rule of law, rule of law in Africa from a historic perspective; and how the difference interpretive sociology can make to ensure that the law and development intersect for Africa to meet its Agenda 2030 targets.

Keywords: Rule of Law; Law and Development; Interpretive Sociology; SDGs; Agenda 2030

INTRODUCTION

For a long time, practitioners and scholars in various societies and across disciplines have grappled with the concept of rule of law. This has been more apparent from the modelling of the 1648 Westphalian State system right up to the modern post-1945 nation-state. Whereas rule of law has been studied extensively from legal, philosophical and political theorists' perspectives, the social theory perspective remains scarce (Krygier, 2008; Weingast, 2010). Krygier contends that the central questions in rule of law are sociological in nature and cannot be ring-fenced to only law and politics discourses. He proposes an exploration of the sociology of rule of law. I extend the argument further that even with a sociological analysis of rule of law, attention should be paid to three major paradigms that exist in general sociology (Ulin et al, 2005). These include the positivist, interpretivist and critical paradigms. Sociological positivism (not to be confused with legal positivism though related) considers the social world as comprised of observable facts in which reality is objective and independent of the inquirer. The critical paradigm aims to expose defective sociological claims and findings. On the other hand, interpretivist sociology endeavours to show that reality is constructed by people themselves in their daily lives (Macionis and Gerber, 2011). The interpretivist approach views the social world as constructed of symbolic meaning observable in human acts, interactions, and language and that reality is subjective and multiple as seen from different perspectives (Ulin et al, 2005). The term interpretive understanding (*verstende sociology*) was introduced by Max Weber and George Simmel to mean how an outsider to a culture relates to people on their own terms and from their own point of view, rather than interpreting them in terms of his or her own culture (Macionis & Gerber, 2011). Thus, an interpretivist would aim to understand how society perceives the notion and spirit of rule of law as well as structures and agencies that should sustain it. The construct of rule of law by society should be derived from perceptions, experiences, and actions in relation to social contexts. This interpretive sociological lens seems to be missing in existing perspectives about the concept of rule of law. There are global efforts to achieve Sustainable Development Goal 16 in Agenda 2030, particularly SDG 16. For SDG 16 to be attained and for the 'people' perspective to bear fruit, specifically, interpretive sociology becomes necessary as it focuses on understanding the meaning of rule of law from the view-point of communities (United Nations, 2005).

This paper sketches out how an interpretive sociological approach to rule of law can be dealt with. In an interpretive approach, rule of law is constructed as an integral and constitutive part of social institutions, groupings and communities and challenges hegemonic practices about pure legal approaches. The premise is that an interpretive sociological approach to rule of law requires involvement in the study of both participants and the object of inquiry. This may involve assessing whether rule of law is in sync with the communities or a process from above that is used by institutions to maintain order in societies. This kind of sociology attempts to establish a relationship

between what is claimed is rule of law and what the communities perceive it to be in reality. This paper is divided into six (6) parts: (i) the concept of rule of law, (ii) rule of law—a sociological interpretation, (iii) rule of law in Africa, (iv) contribution of Interpretive Sociology to rule of law in Africa and the Agenda 2030, (vi) the way forward, and (vii) conclusion.

RULE OF LAW: THE CONCEPT

Several definitions denote the concept of rule of law depending on disciplinary orientation, even within disciplines (Isanga, 2016). Ellis (2010) notes that whereas a plethora of meanings to the concept of rule of law makes a unified definition hard to arrive at—the concept should include fundamental justice as a tenet. From a legal perspective, rule of law can be substantive or formal (Tamanaha, 2006). Even then, a strict definition of rule of law is knotty, given that certain states that have established rule of law regimes that contravene human rights and international obligations (Ellis, 2010).

The principles of Justice should be in two categories—derogable and non-derogable rights. In this paper, rule of law is conceptualised from Tamanaha's viewpoint, who contends that the rule of law requires that State officials and citizens are bound by and act consistent with the law (Tamanaha, 2009; Hobson, 1996). A society governed by rule of law should be one where law is superior to all societal members regardless of their social positions; there is public participation in its enactment; just and protective of the human rights of all; and separation of powers (Stein, 2009). Tamanaha (2009) further provides the rule of law minimum features that include law being prospective, be made public, be general, be clear, be stable and certain, and be applied to everyone according to its terms. This definition is narrow if one is to consider wider aspects of human rights, democracy and justice.

A historical conspectus exists about the several philosophical and institutional accounts on rule of law. Aristotle looked at rule of law depending on type of law as well as type of regime formulating the law. Aristotle's preference was for governance based on law, in which easy cases could be dealt with by general rules, and difficult cases that needed determination by judges that are technically trained to ensure equity (Aristotle, c. 350 BC). Locke stressed the importance of a governance through "established standing laws, promulgated and known to the people" and one with "extemporary arbitrary decrees" or no notice given in advance to the ruled (Locke, 1689). Montesquieu's work on rule of law reinforced the aspects of separation of power between the executive, legislature and judiciary, legal and procedural complexity, and role of private law (Montesquieu, C., 1748). Dicey's rule of law (1992) postulated that everyone was equal before the law; sanctions have to be backed by law; and courts are the ultimate body and supremacy of the court is ambivalent in a civilized society (Dicey, 1992). The last inference was challenged instantly and his opposition to discretionary power seen as untenable to modern governance scholarship. For Hayek, the rule of law should exemplify ideals of impartiality,

generality, and equality before the law (The Economist, 2010). Fuller highlights eight minimal conditions or principles of legality that should denote rule of law (Fuller, 1969). Critics of Fuller's principles, however, argue that they are merely ones of means-ends efficiency, and for some laws that are unjust there is no duty to obey them (Altman, 2001).

Rule of law matters in all States regardless of democratic credentials. Citizens are protected from arbitrary, unjust and self-serving exercise of power by a few (search). It establishes a bond of reciprocity between rulers and the citizens, and as well as an environment that is conducive to liberty (Hayek, 1960). The concept of rule of law suggests that law is sovereign in a society so as to ensure equality before the law for all. The rule of law concept propagated in the rule-of-law weak States has, however, been synonymous with judicial reforms propagated by development partners (Jensen and Heller, 2003). This has two effects: firstly, it produces new institutions that are strong in form but not function and as Andrews and Bategeka (2013) argue that such reforms aim at "producing new institutional forms that function poorly and yield limited impacts" Secondly, it disconnects rule of law concepts from the end-users in society (Jeremy, 2002). To many states and societies, rule of law theory as espoused by especially the Western democracies, presents like a fashion that is externally-driven and an "essentially-contested" concept that seems unclear to them but can also be taken advantage of by ruling parties (Waldron, 2002). In many states, powerful elites with authority tend to both unduly manipulate the law to their advantage. This view is augmented by Horowitz (1976-77), who contends that: "promoting procedural justice enables the shrewd, the calculating, and the wealthy to manipulate its forms to their own advantage." In States where investment in rule of law institutions has been mainly by bilateral and multilateral agencies, the outcomes have been portentous (Domingo, 2016). This can be partly attributed to a focus on judicial processes than to societal-based restrictions that would check government officials' excesses. With the foregoing claim we revisit Krygier's assertions that the central questions in rule of law are sociological and not just politico-legal.

RULE OF LAW: AN INTERPRETIVE SOCIOLOGICAL PERSPECTIVE

Sociology of law exists and challenges to its scope too arise (Ehrlich, 1936). Most definitions to it gravitate between sociology and law (Cotterrell, 2007). Reference texts do not capture rule of law as a standalone concept in sociology of law.

It is prudent to emphasize that three eminent sociological pioneers provide a focus on sociology of law. These include Karl Marx (1818-1883), Emile Durkheim (1857-1917) and Max Weber (1865-1920). Marx, though less eminent in sociology of law, provides an instrumentalist theory of law that assesses social inequality. The implication being that both the presence and absence of rule of law in society may perpetuate inequality and anarchy (Mandel, 1986). Durkheim (1909) looks at factors leading to social stability in society as may be the case with rule of law contribution to this stability (Durkheim, Lukes and Scull, 1983). To Durkheim, law has a function of balancing the structure of

western societies (Cotterrell, 1999). Weber's prism and rule of law is that modern society has developed mechanisms through which individuals are controlled by law through established institutions and procedures (Hunt, 1978). Be as it may that Marx and Durkheim's theories focus on the bigger social structures and how these influence individuals that operate within them, Weber on the other hand focuses on how individuals interpret and live within the social structures.

It is recognised that a sociology of law exist and treats aspects of rule of law, but an explicit sociological lens to rule of law within the field is non-existent (Deflem, 2015). Yet, as Krygier contends,

The concept (of rule of law) has a strong presence in legal theory and in traditions and branches of political theory. It has been less noticed or analysed by social theorists, however, which is odd. That neglect is unfortunate, for some of the central questions about the rule of law are sociological ones.

Krygier seems to propose that if rule of law is to be a momentous element in any society, the norms must be socially *normative*. Society should know the law or something about the law, take it seriously, and know what to do about it. This is a sociological argument that needs to be explored further.

It is argued in this paper that for one to approach rule of law sociologically, attention should be paid to the major paradigms or perspectives to social inquiry. These include the positivist, critical and interpretivist approaches. To approach rule of law from a positivist perspective would include a social inquiry from society using scientific processes that are context-free. The positivist focus is on breadth and not depth of knowledge, attitudes and practices (KAPs) of the society. This situation may not help answer the question of what meanings are derived from the perceptions, experiences, and actions of society toward rule of law, something that an interpretivist approach seeks to delve deeper into. Critical theory is oriented toward critiquing and changing society as a whole rather than only to understanding and explaining it.

Interpretive sociology views the social world as constructed of symbolic meaning observable in human acts, interactions, and language. In this, reality is subjective and multiple as seen from different perspectives (Ulrich, 2005). Max Weber and Georg Simmel (Ritzer, 2010; Reinhard, 1960) introduced interpretive understanding (*Verstehen*) into sociology to mean a kind of emphatic or participatory understating of phenomenon. Interpretive sociology takes at heart the principle that social life is subjective and those who systematically study social life should attend to how people make sense and interpret their social world, actions, and identities (Adorjan and Kelly, 2017). Attempts should be made to understand societal member's views on some legal aspects if rule of law is to work in different societies. This includes investigating whether they know the law, know a bit of the law, take the law seriously, and know

what to do about the law. It involves going deeper to discover the societal perceptions, experiences, and actions in relation to concepts of the rule of law. This should include in-depth subjective analyses.

The kinds of rule of law issues that arise in an interpretivist framework rotate around those that address why, how, and under what circumstances, rather than what and how many. Why have international rule of law dimensions been deeply entrenched in some States and not others? Under what circumstances do communities in diverse societies of some States support legal pluralism? Why do some communities feel alienated by institutional rule of law? How do non-state actors enable or deter arbitrariness in some States? The same questions can be addressed alternatively in terms of discrete indicators with measurable dimensions.

Krygier lays bare two fundamental but related aspects of rule of law warranting a sociological exploration (Krygier, 2016). Firstly, three sociological truisms related to rule of law: social causality, sources of threat, and sources of promise. Social causality would require assessing the impact the law has on society but a closer sociological examination should focus on whether society pays allegiance to its indigenous system or to official law or both, and why. When assessing sources of threat or arbitrariness to rule of law, focus tends to gravitate around the State. This may not be the case, as societies have non-state actors such social networks (faith-based agencies, ethnic groupings, business organisations, memberships etc) some of which may wield more influence on society as well as act parallel to official State agencies. This requires an empirical examination in different societies. When dealing with sources of promise, State and non-state actors may both be necessary in ensuring rule of law rather than one and this is relative from society to society. Secondly, is there a future rule of law sociology that explores why people have and still clamour for rule of law, arbitrariness and how it can be guarded against? This social empirical analysis should scrutinize diverse societies as to whether rule of law is 'home grown' and arbitrariness guarded against using local solutions or 'imported' from elsewhere (Andrews et al, 2017).

Rule of law in many States and societies is confronted with the legal pluralism problematic in which two or more legal systems coexist in the same social field (Engle, 1988). In some States, there exists non-state justice actors and alternative dispute resolution mechanism. In such scenarios there are conflicts between the alternative socio-legal regimes that most societal members are acquainted with and the western-oriented imports of rule of law. Examining in-depth why these alternative indigenous social-legal regimes exist and are acceptable to even the elites is a sociological issue. An interpretive view would delve into why these alternative legal regimes exist, how they operate, how society members interact within them and the language used. Empirically-oriented research through in-depth interviewing, participant observation and ethnography can capture how rule of law is practiced in a society because human life includes shared understandings between reflective and interpretive members. Blumer proposes a focus on understanding people's shared meaning in a subjective

and interpretive manner (Blumer, 1969). This to Blumer is because, even within social structures or rule of law institutions, it is not the roles and values that guide people's actions, but the latter's perception and implications of these matters.

Rule of law sociology would benefit from *grounded theory* as proposed by Barney Glaser and Anselm Strauss (1967). The essence would be to understand how people represent their own realities about rule of law. Sometimes what they say *rule of law* is may not be what is empirically stated in the concept. The inquirer has to negotiate the terrain over and over again until a saturation of what the concept means to the people and the inquirers themselves.

Perhaps a rule of law sociological interpretation would benefit from the Structure-Agency approach. Sociologists distinguish two major determinants of social phenomena, the social structure in which individuals operate, and individual actions (Giddens, 1984). Social structure includes features of society through which social life is lived (Ritzer, 2010). These include class structure, social institutions, social networks and norms. Agents refer to the volitional and purposeful nature of human activity (Ritzer, 2010). In this case, rule of law is the structure and the people in society the agents. Three main strands exist in the debate between structure and agency. Structural-functionalists and Marxist sociologists argue that individuals' life and activities are determined by social structure in which they live (Ortner, 2006). Symbolic Interactionists, ethnomethodologists and phenomenologists stress that agents/individuals give meaning to the social structure/world in which they live. A third school of thought stresses the complementarity of structure and agency. It is worth mentioning that interpretivists may belong to the second school of thought in which *agents* construct and reconstruct and give meaning to their world. This would mean that rule of law as *social structure* should be explained from a view point that reflects the perspective of the agents (individuals). However, even the third school of thought that stresses intersection between rule of law and individuals actions, a sociological exploration is necessary.

RULE OF LAW IN AFRICA

From the time of independence to the end of the Cold War in the early 1990s, rule of law was bleak in Africa. In most unstable States, there was an absence of rule of law and in stable States where it existed; it did not meet the minimum requirements. In those cases, it was confronted with an inherited knotty colonial legacy. A number of these colonial problems bequeathed to African States that affected post-independent rule of law included legal pluralism and western models of democracy that were unfeasible. Several African States with weak human rights records seemed to develop better those that clamoured for it as was in the case of Maghreb Africa.

Ever since, most African States have rebounded in rule of law observance with remarkable resilience in the areas of good governance, human rights, constitutionalism and rule of law. Respect for rule of law in Africa varies according to

State as well as specific parameters. The thrust for rule of law reforms has been due to assertion from development partners especially the European Union, inter-state requirements as well as internal State dynamics. This has sometimes led African States into adopting development measures without making amendments to laws that affect the entire rule of law framework. With the African Union adopting the Agenda 2063 in which the Third aspiration out of the Seven, focuses on good governance, respect for human rights, justice and the rule of law, the future seems promising (African Union, u.d.). This is coupled with most States signing up to the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) (Shivute, u.d.). Other international and regional institutional initiatives include the African Peer Review Mechanism (APRM) under the under the New Economic Partnership for Africa's Development (NEPAD). The APRM serves to encourage conformity in regard to political, economic and corporate governance values, codes and standards as well as monitor the AU agenda 2063 and SDG 16 in African States (United Nations, 2015).

Rule of Law has gradually improved in Africa in the last five years compared to a decade earlier according to the Ibrahim Index (2018). Be the case as it may, there are challenges to rule of law in Africa. Some of these include the violation or review of constitutions, electoral fraud, hijacking of the judiciary and peppering it with cadre officials, shrinking civil society space, and socio-economic impoverishments of certain sectors of society. All these are being achieved through legal means to counter the argument of authoritarianism.

As indicated earlier, concept of rule of law has varied indicators in the different indices and so a unified parameter is difficult to come by. There are indicators that are international, regional, national and organisational. For instance the Mo Ibrahim Index on Africa considers rule of law indicators as orderly transfer of power, independence and transparency of the judicial process, judicial independence, absence of multilateral sanctions, and access to justice and property rights. Mutua Makau contends that rule of law is meaningless to sustainable development in Africa if it does not address seven factors. These include devolution, transparency, equity and social justice, culture of governance, women and citizenship, women and migrants, and land ownership, access and reforms. Compared to Africa, the EU has standardised elements of Rule of Law. These include access to justice and judicial review, legal certainty, proportionality, equality and non-discrimination, and transparency (Raphael, 2014). This makes it easy for the 27-member States to benchmark performance, something still lacking in Africa at a continental level. The weakness with most rule of law parameters proposed to or developed in Africa is that they are top-down from State to individuals, donor-driven, and supplanted from elsewhere and localised to fit pluralistic societies. The recipients in society lack input and yet they have indigenised rule of law mechanisms that have evolved over space and time. The point-of-departure is to provide a sociological approach to these social issues.

CONTRIBUTION OF INTERPRETIVE SOCIOLOGICAL PERSPECTIVE TO RULE OF LAW IN AFRICA AND THE AGENDA 2030

Rule of law entrenchment in Africa has encountered both progress and pitfalls. This may partly be due to the variegated meanings attributed to the concept, its imposition on States by development partners and non-state actors and the need by the State to consider it as a global catchphrase to attain legitimacy. This, however, may not mean much to the ordinary citizen in society if they lack conceptual clarity of what rule of law is and even clamour for it. Worse still, the continent has both SDG 16 and African Union agenda 2063 #3 to achieve. Even when rule of law is considered a linchpin to attain development targets in Africa, it encounters a mismanagement of legal pluralism (Bakibinga-Gaswaga, 2018). This is further exacerbated by the lack of empirical research and social theory about values in ROL, why the clamour in societies for it, sources of arbitrariness and how all these questions can be addressed (Krygier, 2008). An interpretive sociological approach proposed would have to examine each of these.

The first aspect is; why do African societies and communities clamour for rule of law? This would require empirically researching about what different societies feel rule of law is and is not. Researchers need not swiftly unravel the findings but sometimes by carrying out longitudinal studies on alternative rule of law practices in different communities. This end research may borrow to the concept of 'lived experience' commonly used in phenomenology for the duty bearers of rule of law (Manen, 2016). First of all, rule of law studies should elicit reasons for why societies clamour for it. This lends explanation to whether the reasons are good for the society or not and whether they feel it is a borrowed mechanism for law sustenance. Empirical, longitudinal and ethnographic interpretive studies should investigate the dangers of choice made about rule of law and how they can be contained. In some African countries, due to legal pluralism, more than one Rule of Law mechanisms may exist. In the case of Buganda Kingdom in central Uganda, there is the cultural court, "Kisekwa" that adjudicates on wrangles of deceased person's properties and their heirs among others, and operates in conjunction with the national judicial process (The Republic of Uganda Constitution, 1995). The sociological question would be when and why do individuals chose one court over the other? Do they appreciate the outcomes of either and if so, what determines choice of other equivalent rule of law resolution mechanisms? These require empirical social explanation.

The second aspect is dealing with rule of law challenges that stem from within and outside Africa. One of them is legal pluralism. Some scholars point to legal pluralism as stemming from the colonial State and regurgitated to suit the post colonial State to-date. Others argue that even rule of law mechanisms advanced by bilateral and multilateral agencies to African States fit the legal pluralism description (Gebeye, 2017). The way legal pluralism is manifesting in Africa today is awkward and perhaps

approaching rule of law from different theoretical angles such as Problem Driven Iterative Adaptation would be more meaningful (Andrews et al, 2017). The role of non-state actors such as clans/ethnic groups, social and political networks, faith-based affiliations, and investment groups and membership clubs in rule of law is critical. These may, besides the State enhance or deter rule of law application. They can deal both with arbitrariness and effectuate it even in the presence of able state machinery. How these networks coalesce to influence rule of law necessitates an interpretive social theory examination. Critical to examine socially are the cures to rule of law arbitrariness beyond what the State provides for.

The third aspect that requires sociological examination is society explaining why rule of law is sometimes effective and not, despite the investment of resources and time. State and Non-State Actors have invested in the Justice, Law and Order Sectors but often with murky results. Is it that the missing link is social where the beneficiaries are not privy to the process and outcome or they are part of the problem? Evidence points to mob justice by Africa communities increasing due to loss of confidence in the justice, law and order processes but also communities facilitating corruption in the judicial process (DW TV, 2016). This investigation may not philosophically or legally unpack the social reasons why these communities facilitate corruption thus negating rule of law. It is when these and some others are dealt with that societies would appreciate the need for rule of law and protect it from arbitrariness that social development would ensue. The SDGs in Africa may not be achieved without access to justice. This is because rule of law augments other development activities, creates institutional transparency, good governance and combats corruption.

THE WAY FORWARD

While Africa has made advances in rule of law observance in the last 30 years, it lags behind other regions and still experiences disengagement between rule of law institutions and societal end-users. Whereas political philosophers and legal scholars have elucidated on why and why not rule of law becomes entrenched, there is lack of sociological analysis in the same realm. Overall, sociology of rule of law needs to be advanced, besides philosophy and political theory, to explain why societies clamour for rule of law and what values they consider as symbolizing the concept. Such an agenda would include four inter-woven features at a societal level: applying of interpretive empirical research and social theory; understanding the rationale for rule of law and whether it is good; challenges to rule of law in different societies; and role of non-state actors in enabling or deterring arbitrariness to rule of law.

Interpretive empirical research and social theory: this includes discovering in-depth, both cross sectional and longitudinally what rule of law is in different societies. The studies should aim to understand what values signify rule of law, what are the pros and cons of these values and how the rule of law values can be safeguarded. Further interpretive social research would consider models of rule of law—external and indigenous, what their points-of-departure and intersections are and how these can

be harmonised in different societies. Studies should highlight what rule of law has worked in which society and what can be supplanted and not. The thrust should be on societal interpretation rather than institutional assessment.

The rationale for rule of law and whether it is good: attempts would focus on societal appreciation of rule of law and whether they deemed it crucial to attaining sustainable development. This would unravel their understanding of multiple legal regimes and where their allegiance lies.

Challenges facing rule of law in different societies: Rule of law in Africa faces impediments due to plurality of societies and institutions within States, legal pluralism, influence of external development partners, institutionalised corruption and mismanagement, and a society that disrespects rule of law when it does not suit their interests. Beyond the usual philosophical, legal and political approaches to resolve those challenges have often yielded mixed results. In the last 25 years since Africa was finally decolonised, the relationship between rule of law, discriminatory practices and social inequalities have become more perceptible. Ethnic, religious, sexual, racial and foreign minorities have become targets as rule of law becomes disregarded. How can these issues be addressed? Perhaps a social theoretical approach to what society thinks those matters can be resolved is timely.

The role of Non-state actors in rule of law: often times, the focus is on how rule of law can be developed by the State, how arbitrary the State can be and what can be done to deter arbitrariness. Less attempts are spent on non-state actors such as civil society, faith based organisations, political affiliations, private sector, ethnic, cultural and social groupings and how they deter or enable arbitrariness to rule of law. An interpretative sociological examination of how individuals in society, whether ascribing to or not, are impacted upon by these non-state social networks is necessary to improve upon rule of law in African states.

CONCLUSION

Ascertaining that rule of law flourishes and contributes to sustainable development in African States is not only contingent upon legal and political dynamics but also sociological factors that have often been neglected. Scholars will have to do empirical and grounded social research that explains what the society values as rule of law, and not; why it is important to them; how they respond to handle arbitrariness; how they deal with the multiple rules of law mechanisms and what role social networks play in sustenance of Rule of law. Rule of law will go a long way in ensuring attainment of SDG 16 in Africa if these are addressed besides others.

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