



The Spirit of the Laws in Mozambique

By Juan Obarrio

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Mozambique has been hailed as a success story by the international community, which has watched it evolve through a series of violent political upheavals: from colonialism, through socialism, to its current democracy. As Juan Obarrio shows, however, this view neglects a crucial element in Mozambique's transition to the rule of law: the reestablishment of traditional chieftainship and customs entangled within a history of colonial violence and civil war. Drawing on extensive historical records and ethnographic fieldwork, he examines the role of customary law in Mozambique to ask a larger question: what is the place of law in the neoliberal era, in which the juridical and the economic are deeply intertwined in an ongoing state of structural adjustment?

Having made the transition from a people's republic to democratic rule in the 1990s, Mozambique offers a fascinating case of postwar reconstruction, economic opening, and transitional justice, one in which the customary has played a central role. Obarrio shows how its sovereignty has met countless ambiguities within the entanglements of local community, nation-state, and international structures. The postcolonial nation-state emerges as a maze of entangled jurisdictions. Ultimately, he looks toward local rituals and relations as producing an emergent kind of citizenship in Africa, which he dubs "customary citizenship," forming not a vestige of the past but a yet ill-defined political future.

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Editorial Review

Review

“*The Spirit of the Laws in Mozambique* inhabits a significant moment: the place of tradition in the postcolonial state. With meticulous documentation, it questions the binary opposition between the rational modern state and the traditional domain of custom. The book shows them in a double bind, where a large sector of the population, inevitably determined by an ‘inclusion-exclusion’ relationship with citizenship, comes before the law in a mixture of the affective authority of the ancestral domain with law as a structure of the accounting of spiritual debt, in small effective local ‘courts’ with no legal standing; and state law, accessible to a few in the cities, where debt is economic and each case has a specific category. In the first part of the book, Obarrio shows how this so-called ‘rule of law’ is in fact a corollary of the neoliberal state. He looks forward to a new structure of the theory and practice of the law in the new nation. Most interesting to me is the cusp position of the party-state that preceded the current one—how it learned from its mistakes, and how its cultural memory negotiates with tradition and the chieftaincy today in the popular sectors of the current administration. In the sections on divorce, we get a sense of the gendered foundation of the nation (I would of course say all nations). I could go on—but open the pages of this excellent book yourself to look at a global problem in a unique new way.”

(Gayatri Chakravorty Spivak, author of *An Aesthetic Education in the Era of Globalization*)

“Montesquieu’s *The Spirit of the Laws* takes novel turns in Mozambique. This anthropological study, spiced by a philosophical touch, magnificently explores local appropriations of a national law reform in the turmoil of the post–Cold War moment. The revival of customary law, deeply affected by socialism but now in a neoliberal context, produces hybrids that help people to steer their lives through great uncertainties. A challenging study that opens up new perspectives for understanding the ‘structural adjustment state’ and its uneasy compromises with rapidly evolving customary practices.”

(Peter Geschiere, author of *Witchcraft, Intimacy, and Trust*)

“Obarrio has written a subtle, erudite exploration of the making of modern Mozambique, centered on the enduring struggle to found the law and to authorize governance. Few have dealt as imaginatively with the spirited resurgence of custom in postcolonial Africa: with how it is that indigeneity, in its various guises, serves as a supplement to the modern state, each shaping the other in an endless pas de deux, a dance of war and politics, of past and present, and, in Mozambique, of socialism and neoliberal reform. A work of striking insight and originality.”

(Jean Comaroff, Harvard University)

“A lucid investigation of conflicting juridical traditions in Mozambique. Deploying his expertise as an anthropologist, Obarrio describes fieldwork findings in northern rural areas of the country, focusing on how the ‘customary’ has endured and been transformed despite eclectic institutionalization. . . . The book penetratingly interprets conflicting and coexisting legal traditions at the local level, especially in terms of the push-pull between socialist visions of a centralized state and more recent liberal-democratic trends seeking respect of customary diversity.”

(*Choice*)

“In Juan Obarrio’s analyses of the law in the Mozambican postcolony, the law invents sentences that it cannot finish, and it reserves for itself the possibility of ellipsis and incompleteness while it offers itself as that which is able to tie things up—all of the loose ends, all of the bits and pieces of deliberation, negotiations

within a coherent state of things. It creates a state of its own impossibility through which it is able to ‘recede into society’—reach into the variegated details of everyday differences and ‘turn them around,’ or, at least, turn them toward a consideration of themselves in the presence of something that exceeds them, even if this is largely absent, or impossible. . . . Obarrio’s detailed examination of the restructuring of Mozambican society through the technology of the law is an invaluable tool to think about the generalization of expendability and the increasingly arbitrary character of life trajectories. This is technology that sutures disjunctive times, invents space for the operation of a state increasingly groundless in its own convictions and choreographed by transnational interventions, yet able to recuperate the form of past subjections, that it once existed to undo, as a means of instantiating itself across contested jurisdictions.”

(AbdouMaliq Simone *HAU Journal of Ethnographic Theory*)

“What Juan Obarrio does he does beautifully and provocatively: to provide a rich, detailed, and variegated ethnographic account of the templates by which the socio-legal, political, and juridical frameworks of the African nation-state have been and are being forged in the full face of the contradictory constituencies within which laws are articulated. The book will come to be seen as an abiding classic in this respect.”

(Ato Quayson *HAU Journal of Ethnographic Theory*)

About the Author

Juan Obarrio is assistant professor of anthropology at Johns Hopkins University.

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