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Post-Colonial Law: Legal Establishments from Past Empires are Illegitimate

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ABSTRACT

The extant literature covering the plights of indigenous people resident to the African continent consistently targets colonial law as an obstacle to the recognition of indigenous rights. Whereas colonial law is argued to be archaic and in need of review, which it is, this article argues the new perspective that colonial law is illegitimate for ordering the population it presides over – specifically in Africa. It is seen, in five case studies, that post-colonial legal structures have not considered the legitimacy of colonial law and have rather modified a variety of statutes as country contexts dictated. However, the modified statutes are based on an alien theoretical legality, something laden with connotations that hark to older and backward times. It is ultimately argued that the legal structures which underpin ex-colonies in Africa need considerable revision so as to base statutes on African theoretical legality, rather than imperialistic European ones, so as to maximise the law’s legitimacy.

Keywords: Africa, colonial law, legality, legitimacy, legal theory

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INTRODUCTION

The legal remnants of colonial law in African polities are problematic to several extents. In the first order, colonial theory in law is laden with inappropriate connotations and sociological paradigms which continue to negatively affect the pluralist citizenry’s capacity for equality, representation, and namely indigenous rights. This can be shown, for example, by discussing Senghor’s\(^2\) work on *la négritude* and Adotevi’s\(^3\) explanations of *les négrologues*. These two authors depicted the particular social paradigm black Africans found themselves in during and after colonial reign. Senghor looked into what it meant to live as a black individual in a white legal system with Adotevi contributing *en masse* to this sociological theory by compiling relevant works. A more recent example comes from Odambo’s\(^4\) efforts concerning his *pygmitude* theory. Rather than focus on being black in Africa, Odambo uses Senghor and Adotevi as a platform from which to center his attention on what it meant to be a pygmy, living in mainstream black societies predicated on white ex-colonial law. He argues that the majority of Africans have become Europeanised as a result of the cultural paradigms colonial law created due to imperialistic power structures that did not change when independence was wrought or given.


This work contributes to the political theory of legal legitimacy (see the work of Carl Schmitt⁵ and Max Weber⁶) in that it argues law must emulate the pluralist citizenry rather than be formulated and imposed on the pluralist citizenry. In other words, the diversity of individuals which compose the citizen body are the ones that need to define, structure, and thematically formulate the laws which are meant to govern them. It is only in this manner that legal legitimacy can be generated as concepts of justice, equality, and ethics are defined by the population. In that sense, law is culturally relevant to the social particulars found in a certain country’s plural citizenry. It is argued that it is thus the responsibility of the government, in concert with NGOs and MNOs, to facilitate the gathering of this information from its citizenry and commence an inclusive review of its laws and legal theories. Applying this original perspective to the African context, the irrelevancy of colonial legal structures (on which most Africans polities have built their legal codes) becomes apparent.


The aforementioned argument, concerning the illegitimacy of colonial law in African polities, will be shown in five case studies. Each country is selected to represent a different European colonial legal structure: those of the French, English, German, Portuguese, and Belgian. Algeria represents French law; South Africa English law; Tanzania German law; Angola Portuguese law; and the DRC Belgian law. Although most European countries practice law influenced by the Napoleonic Code, lex Romana, or English common law, these legal structures will not be used to distinguish the style of law in the five selected countries. Rather, the goal of this observation is to highlight the existence of illegitimate colonial law in African polities so as to support the argument that legal legitimacy needs to be made in African countries.

**METHODOLOGY**

The methodology employed in the forthcoming observation is a conceptual analysis of the law in the five aforementioned African countries. Recent constitutions, amendments, and statutes will be scrutinised for resemblance to the constitutions generated during these countries’ periods of independence. The corresponding number of correlation between the two, using frequency and relational analyses of the data, will determine the quantitative level of illegitimate colonial legal theory present in the five modern African polities. Prior to the quantitative analysis, a qualitative conceptual analysis will take place to mine the connotations colonial law has brought into the modern period so as to further ingrain the nature of legal illegitimacy by examining the first constitutions created after independence.

**A. Qualitative Analysis**
The International Labour Organisation’s NATLEX\(^7\) (national legislation) database will serve as the primary source for the document data required. When possible, constitutions will be analyzed in their original language of conception (such as French, German, English, and Portuguese where applicable) and then translated by the author for the purposes of this article.

Furthermore, and the most substantive argument corresponding to all case studies, is that no African country before European colonisation had an explicit constitution. Certainly there were ethnic or ancient imperialistic codes of law, with some like the Egyptian literally written on stone, but nothing in the context of managing the European notion of the nation-state. Independence forced countries to determine their legal structures in such a manner that fit the context of global realpolitik. The leaders and administrations that took the efforts of independence and nationalism to heart were rarely representative of the plural citizenry (that composition of individuals forming various social formations); and rarely, if ever, had an inclusive process concerning the development of independence.

In other words, there was no attempt to establish culturally relevant legal codes as that was irrelevant. Actors in Algeria, for example, and as can be seen in the preamble to the 1963 constitution, write in the European legal paradigm. The document identifies a political party; political theories of democracy, socialism, and populism; and only differentiates itself in regards to superficial qualities such as state religion (Islam), state language (Arabic), and geopolitical affiliation (Arab and African). The constitution is understandably a snub to the French, but what

the actors did not realise was that they were already playing by French rules and had lost their own legitimacy over the relevancy of law.

It is now understandable how European paradigms and connotations attached to legal terminology affects various populations. Whether it was the black Africans or Arab Africans struggling to determine their identity in the post-colonial state, or the current plight of indigenous and minority Africans that were in majority excluded from the process of independence, it is logically clear that the context of law to be used in their respective countries was preordained. It was necessary for Africans to dominate the imported European power structures as their cultures did not have the requisite political systems to deal with colonisation. Only leveling the playing field could have provided that leveling which meant that actors had to join the game, play by the leader’s rules, and in the end prevail. What is disconcerting is that the rules of the game have not changed even though the leader has stopped playing.

1. Algeria

The 1963 constitution of Algeria\(^8\) displays in typically elegant fashion the cessation of French colonialism and the establishment of a socialist Algerian government. The preamble of the text describes how the *Fellahs*,\(^9\) laboring masses, and intellectual vanguard will maintain the democratic revolution which successfully expunged the French invaders from their borders. Moving past the ideological rhetoric, the 1963 document defines the Algerian state using


\(^9\) Agricultural workers; rural peasants or villagers.
European concepts of the nation-state. It, as previously shown, mentioned state language, religion, and geopolitical affiliation. Article 10 is particularly relevant:

“Les objectifs fondamentaux de la République algérienne démocratique et populaire sont:
- la sauvegarde de l’indépendance nationale, l’intégrité territoriale et l’unité nationale ;
- l’exercice du pouvoir par le peuple dont l’avant-garde se compose de fellahs, de travailleurs et d’intellectuels révolutionnaires ;
- l’édification d’une démocratie socialiste, la lutte contre l’exploitation de l’homme sous toutes ses formes ;
- la garantie du droit au travail et la gratuité de l’enseignement ;
- l’élimination de tout vestige du colonialisme ;
- la défense de la liberté et le respect de la dignité de l’être humain ;
- la lutte contre toute discrimination, notamment celle fondée sur la race et la religion
- la paix dans le monde ;
- La condamnation de la torture et de toute atteinte physique ou morale à l’intégrité de l’être humain.”

The fundamental objectives of the Democratic and Popular Republic of Algeria are:
- The safeguarding of national independence, territorial integrity, and national unity;
- The people exercising their power where the avant-garde is composed of fellahs, workers, and intellectual revolutionaries;
- The edification of a socialist democracy, the battle against the exploitation of man in all its forms;

10 Algeria supra note 6.
- Guaranteeing the right to work and free education;
- The elimination of all vestiges of colonialism;
- The defense of liberty and respect for the dignity of Man;
- The battle against all forms of discriminations, notably those founded on race and religion;
- Peace in the world;
- The condemnation of torture and all threats, physical or moral to the integrity of Man.

This example does its job by showing the type of rhetoric used in the foundation of Algeria. Notions of nationality, territory, revolution, human rights, and socialism, are all arguably political theories mainly contributed to by the West. However, democracy and peace are also arguably universal concepts evident in even the most remote ethnic communities (although for democracy not as it is currently understood).

2. South Africa

The 1996 Constitution\textsuperscript{11} replaced the 1993 interim government constitution formed after the general election which formally terminated Apartheid. Although the constitution has been amended 16 times since its inception, it has only been in the last few years that amendments have begun to bring cultural relevancy back into the South African polity. This is strongly evident in the 11\textsuperscript{th} Amendment Act of 2003 in which the Northern Transvaal/Northern Province

was renamed Limpopo after its major tributary river that has cultural significance to the traditional local African populations living there.\textsuperscript{12}

Although changes in terms of cultural relevancy to law in South Africa are only slowly coming about, the constitution is a shining example for other countries. Due to the tragic events that led to the constitution’s late inception (most African countries gained independence in the 50s-70s) the 1996 South African constitution displays international legal standards and promotes equity at almost every given opportunity. This is visible even in the small things such as a signing off in the Preamble written in six of the country’s eleven recognised languages.

“Nkosi Sikelel’ iAfrika. Morena boloka setjhaba sa heso.

God seen Suid-Afrika. God bless South Africa.

Mudzimu fhatutshedza Afurika. Hosi katekisa Afrika.”\textsuperscript{13}

Furthermore, the constitution takes an official stance recognizing the need to teach and promote indigenous languages (Khoi, Nama, and San), but not at the expense of disrespecting the languages of minorities in Africa (for example German, Greek, Gujariti, Hindi, Tamil, and Portuguese). The word ‘equitable’ is used 16 times in the document, ‘equity’ twice, and ‘equality’ 19. Basically, the South African constitution is implicitly providing the opportunity for the plural citizenry to shape law and be rid of the remaining relevancy of colonial paradigms.

Further light can be shed on this circumstance through the galvanizing effect apartheid had on African society. The decades of battling unpopular and internationally condemned racial


\textsuperscript{13} South Africa, supra note 9.
policies created the paradigmatic context for South African legal theory as expressed in the 1996 constitution.

3. Tanzania

Blaustein et al14 provide the original 1961 Independence Constitution of Tanganyika (later renamed Tanzania once Tanganyika and Zanzibar were joined in 1964). The Tanzanian constitution is evidently based on some form of Westminster model which is fully evident here:

“Be it enacted by the Queen’s most Excellent Majesty, by and with consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by authority of the same...”15

It is uncertain whether the importance of a distant queen, lords, and ‘commons’ (lower house) sanctioning independence for Tanganyikans was realised by the vast plurality at the time. Rather, the elitist Tanganyikan individuals engaging with British power structures were most likely the only ones to appreciate those nuances in the 1961 Constitution. This is particularly evident with the following description of Tanganyika’s territory in Article 1, section 1.

“On the ninth day of December, nineteen hundred and sixty-one (in this Act referred to as the appointed day) Tanganyika (the limits of which are defined in Article 1 of the


15 Blaustein et al, supra note 12.
Tanganyika Order in Council, 1920) shall become part of her Majesty’s dominions under the name of Tanganyika…\textsuperscript{16}

The British legal paradigm is evident. However, Tanzania was selected for its pertinence to showing German influences in law which was mostly wiped out in official documentation as British dominion took seat in the country. Yet, the contextualisation of law in the elitist Tanganyikan mentality may be inferred from earlier German colonisation.

Iliffe\textsuperscript{17} provides telling evidence. He describes how after the Maji Maji rebellion of 1905, Berlin ordered a German political system instituted in Tanganyika. It is the militaristic defeat of the combined Tanganyikan pluralities involved in the Maji Maji rebellion – arguably the largest resistance to early European colonisation in Africa\textsuperscript{18} – that drove the resistance into economic and educational progress. Iliffe\textsuperscript{19} explains rightly that it is in the defeat of the Maji Maji rebellion that the Tanganyikan social narrative changed as power was sought through the German context since militaristic opposition was not anymore feasible. This then demonstrates

\textsuperscript{16} Ibid.


\textsuperscript{19} Illife 2009, supra note 15.
that those Tanganyikans involved in the power struggle had already begun playing by European legal rules before English dominion. Illife’s20 work is a major contribution to German colonial law and further research in this area is warranted, but not herein.

4. Angola

The 1975 Constitution of Angola21 focuses heavily on the traditional formation of the state, but also has a certain degree of international legal standards concerning human rights – namely the protection of the person against state violence. Furthermore, although the 1975 constitution only makes use of the word ‘equal’ a total of 7 times (equity and equality both had zero incidence) in the English translation, there is no indication that the original constitution in Portuguese would have been much different. This was ascertained by scrutinizing Decree 458-A22 which in April of 1975 established the Portuguese government’s position thus granting independence to Angola.

The constitution explicitly gives land and mineral rights to the government which, as the extant literature on indigenous affairs shows, is an inappropriate legal position for protecting indigenous populations.

“Article 12 (1) All natural resources existing in the soil and subsoil, in internal and territorial waters, on the continental shelf and in the exclusive economic area, shall be

20 ibid.


the property of the State, which shall determine under what terms they are used, developed and exploited. (2) The State shall promote the protection and conservation of natural resources guiding the exploitation and use thereof for the benefit of the community as a whole. (3) Land, which is by origin the property of the State, may be transferred to individuals or corporate bodies, with a view to rational and full use thereof, in accordance with the law. (4) The State shall respect and protect people’s property, whether individuals or corporate bodies, and the property and ownership of land by peasants, without prejudice to the possibility of expropriation in the public interest, in accordance with the law.”

The law is balanced towards giving the state the necessary powers, at least felt at the time, to deal with a violent and divided country. However, the hasty pull-out by Portugal, as often cited, left the state – despite its considerable powers – unable to manage conflict.

5. The DRC

The transitional Constitution of Zaire to the DRC in 1992 is shown in its original French content. The preamble discusses the first independent Congolese government’s affirmation

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23 Angola, 1975, supra note 19.


toward unity, peace, and progress despite regional differences. This is obviously due to the extreme violence present and ultimately perpetuated by Belgian atrocities.

“Affirmant notre volonté d'organiser une transition non conflictuelle pour en faire une période de rassemblement de toutes les filles et tous les fils du pays;
Convaincus de la nécessité du changement et de la préparation dans la paix et la concorde, de l'avènement de la Troisième République réellement démocratique garantissant un développement integral et harmonieux de la Nation...”

Affirming our will to organise a non-conflict transition to create a period of reunification of all the daughters and sons of the country; Convinced of the necessity for change and the peaceful preparation and accordance concerning the coming of the realistically democratic Third Republic guaranteeing an integral and harmonious development of the Nation...

The preamble, as partially translated above, depicts this commitment to national unification. This particular constitution chosen for these comparative purposes is older than its 1960s counterparts and exhibits a similar degree of international legal standards as seen in Angola, for example, a focus on human rights, the sanctity of the individual, and no state religion.

Its shortcomings, however, are also evident. For example, Article Three states: “Le sol et le sous-sol appartiennent a l'Etat. Les conditions de leur concessions sont fixées par la loi” meaning that the land and that which is found beneath the land belongs to the State. The

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26 Ibid.
27 Ibid.
conditions regarding their concession are fixed by law. It is also evident that there is a disparity between individual and state. There is a focus on the structures of the state, parliament, voting, and so on as well as the establishment of human rights. But what is lacking is the rhetoric concerning the nature of representation, inclusiveness, and greater definitions of equality as are found for example in the 1996 Constitution of South Africa.

6. Results

It can be seen, even by the reader in these short glimpses, that international legal standards are the new shapers of constitutions. This is not entirely a bad thing. Yes, it would be more constructive to create constitutions that are culturally relevant to their pluralist populations; but international legal standards may in fact be pointing constitutions in that very direction. Recalling the South African and DRC constitutions (1996 and 1992 respectively), it can be seen that there is a greater focus on equality, equity, and equal rights not only amongst cross-cutting issues such as gender, labour, human rights, and environmental concerns, but also regarding minorities and indigenous peoples which was seen in South Africa’s focus on recognizing and preserving certain indigenous languages. International legal standards, for example, display a grave concern for peace, leveling the social playing field, and environmental safety. The argument is that these emerging standards contribute to the opportunity for greater dialogue, more education, and ultimately the time for individuals to think rather than focus mental energies on just staying alive. This then creates a chance for culturally relevant laws to emerge as citizens become more aware of the laws that govern them and as the people of the North Transvaal did, rename their regional home to something relevant like Limpopo. This process can
be sped up if a focus is taken on rejecting illegitimate laws by challenging the legal theory that they are based on and replacing it with a culturally relevant theory of law derived from pluralist citizenship statistics.

**B. Quantitative Analysis**

The qualitative survey picked one or two examples from each of the five countries’ earlier or earliest constitutions. These examples revealed the connotative baggage colonial law left in African polities that resulted in the imposition of alien legal paradigms on African pluralist citizenships. South Africa had the bitter benefit of having its constitution created most recently and clearly shows a legal structure that is much further distanced from colonial law. It was also seen that South Africa is already engaging the process of legally instituting cultural relevancy at least in name (concerning the 2003 constitutional amendment).

The quantitative analysis will engage a comparative frequency analysis of terms to quantify the nature of paradigmatic correlation between the constitutions looked at in the qualitative analysis and their newer counterparts. This is done to gauge the level of carry-over concerning colonial legal theory so as to gain an understanding of how law is shifting in Africa: is it still supporting discriminatory colonial concepts; creating its own culturally relevant legal theory; or is it displaying accordance with international legal standards? Table 1 depicts the documents that will be comparatively analysed.

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<thead>
<tr>
<th>Table 1</th>
<th>Constitutions, old and new for comparative analysis</th>
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<tr>
<td>Country Name</td>
<td>Earlier Constitution</td>
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The methodology employed involves populating a list of key terms that are considered to be laden with colonial legal theory. These terms are selected from the earlier constitutions and searched for in the latest constitutions. The incidence of frequency between each constitution will statistically dictate the carry-over of colonial legal paradigms and reinforce the argument of legal illegitimacy. Table 2 depicts the list of explicit search terms.

<table>
<thead>
<tr>
<th>Country</th>
<th>Year (earlier)</th>
<th>Year (latest)</th>
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<tbody>
<tr>
<td>Algeria</td>
<td>1963</td>
<td>2008&lt;sup&gt;28&lt;/sup&gt;</td>
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<tr>
<td>Angola</td>
<td>1975</td>
<td>1998&lt;sup&gt;29&lt;/sup&gt;</td>
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<tr>
<td>The Democratic Republic of the Congo (formerly Zaire)</td>
<td>1992</td>
<td>2006&lt;sup&gt;30&lt;/sup&gt;</td>
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<tr>
<td>Tanzania</td>
<td>1961</td>
<td>2005&lt;sup&gt;31&lt;/sup&gt;</td>
</tr>
<tr>
<td>South Africa</td>
<td>1996</td>
<td>2003&lt;sup&gt;32&lt;/sup&gt;</td>
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<sup>28</sup> Algeria, 2008. Constitution de la République Algérienne Démocratique et Populaire. JORADP, n. 76.


The relevancy of this analysis would mean little without some political theory behind the choice of the explicit search terms found above. To begin, ‘people’ was chosen due to its aspects relating to mass society, populism, representation, and the incorrect theory of the ‘mass majority’. African countries are in no circumstance culturally homogenous and this incorrect theoretical application of the ‘people’ over these diverse populations is inappropriate.

‘Liberty’ is another oddly applied legal paradigm relating to those freedoms found within the constructs of law. In other words, liberty is the capacity to act in the confines of the way society is ordered.\(^{33}\) This viewpoint, indeed askance from many theorist perspectives, is however built on, for example, a combination of Nozick,\(^ {34}\) Rawls,\(^ {35}\) Montesquieu,\(^ {36}\) Mill,\(^ {37}\) and

\(^{33}\) With the standard proviso that should laws be unjust, citizens have the right to peacefully protest, which in terms of violence, does not infringe upon the normative freedoms of others.


\(^{37}\) Mill, J. S. *On Liberty*. London: Longmans, Green, Reader, and Dyer (1873)
Locke\textsuperscript{38} (yes, Nozick and Rawls are at times contradictory but this example still works despite that). It is contended that much of liberal theory describes the parameters that can be used to achieve liberty: liberal theory in that manner is mature. However, polities today are having liberty with parameters already preset foisted upon them which is entirely wrong. Liberty, like democracy, is something that needs to be culturally relevant and defined by the pluralist citizenry. Thus, the people of those five African countries need to re-arrange the furniture found in the room of liberty (to borrow from Turner)\textsuperscript{39} so as to create the right Feng Shui: they were never given the capacity to generate meaningful contexts of liberty and rather had that predetermined Europeanised political theory shoved down their throats.

Patriotism, socialism, nationalism, territories, and republics are all terms clearly vested in Western legality. The extant literature regarding, for example, peace and conflict resolution in Africa consistently cites the Berlin Conference of 1884 which arguably began the official ‘territorialisation’ of Africa. That arbitrary period of settling borders solely based on land unequivocally claimed by a European country with no consideration for the populations becoming fragmented by these policies has caused a great deal of discord in Africa. Different examples include the way patriotism, nationalism, and unity in the form of republics, democracies, or other forms of governmentality led to the forceful implementation of xenophobic and homogenous mass social paradigms which resulted in civil wars and


\textsuperscript{39} Turner, S. The Maturity of Social Theory. eds, C. Camic and H. Joas. \textit{The Dialogical Turn: New Roles for Sociology in the Postdisciplinary Age}. Lanham, MD: Rowman and Littlefield (2004). With Locke as the sofa, Rawls the armoire, Montesquieu the lamp, and Nozick the rug, ad infinitum.
international conflicts due to conflicting and vague power structures between ethnicities. This is not to say that countries in Africa should not be governed by Western political concepts, but rather that they should be given the chance to shape their governmentality rather than having to continue playing by ex-colonial rules. The irony of the West still pushing these notions of democracy, for example on ‘developing’ countries, is that the West does not have a common agreement as to what democracy is. Political theory has not in any way shape or form provided a universally accepted theory concerning the general laws of democracy. So why is this alien dogma still being pushed?

1. Results

Rather than extrapolate on correlative results, which are evident in themselves, it is best herein to take a causative approach. Figure 1 depicts a nearly mirrored result between both constitutional documents. However, the 2008 document has a stronger focus on liberty and the idea of ‘people’. Patriotism and socialism maintain the same constant which is intriguing in itself. It is uncertain as to why a focus on the people has increased without a noticeable impact on other aspects logically attached to the term like ‘patriotism’.

Figure 2 shows the complete distancing of Angola’s previous focus on ‘nation’ and nationality. It could be that the state of internal affairs and regional politics gradually came to the point where Angolan political theory could remove the enormous focus on the state. In 1975, the government of Angola was fractured and its citizenry suffering the perils of civil war between various liberation armies – not to mention the encroachment of Congo-Kinshasa
rebels from the north. Yet the civil war in Angola was still active in 1998. The reasoning behind this paradigmatic shift in between constitutions is in need of further research.

Figure 3 shows that the latest constitutional focus of the DRC is toward state building due to the growth of attention concerning democracy and the republic. It is quite obvious that this may be so simply due to the fact that the country is aptly named the Democratic Republic of the Congo. More in-depth causative analysis is certainly called for. Tanzania (Figure 4) exemplifies a similar approach as the one taken in the DRC. There is the complete abandonment of the ‘Queen’, a twelve point drop for the incidence of ‘commonwealth’, and a grand spike regarding ‘republic’. Obviously a ditching of colonial ties and focus on state building has occurred over the last 49 years, but Tanzania remains a member of the Commonwealth. Finally, Figure 5 depicts South Africa’s contrast. Other than a greater focus on the republic and the nation, there is understandably little change between the two constitutions concerning these concepts. This result again depicts the growth of state building and it is suggestible that an increase in the frequency of terms concerning equality and democracy would be evident as well.

In overall, the quantitative results answer the research questions in part. It is apparent that in most cases, save for Angola, the use of illegitimate legal terminology has grown. This is no surprise as few, if any, African politicians would feel their legal structures to be illegitimate in the sense that these professionals operate within the system. But in the realm of political theory, it seems a terrible shame that alien constructs of the state, society, and governmentality have grown in promulgation. The qualitative study was more helpful in showing that yes, international legal standards are the new foundations for redrawn or
amended constitutions, and that South Africa has just shown a tad of information pertaining to culturally shaping the legal constructs of the state (concerning the Limpopo amendment). It is cautioned that these empirical results should not be read into greatly – clearly the study is miniscule. However, it is hoped that it will spark interest into pursuing the open-ended questions created herein and further debate concerning the theoretical point about the illegitimacy of law if its political theory is alien to the resident population it is meant to order.

CONCLUSION

Clearly, when extrapolating the results of this study over the rest of African polities, African legal structures based on colonial theories of law are illegitimate. This was seen by an analysis of five former colonies in Africa (Algeria, South Africa, Tanzania, Angola, and the DRC) representing five different influences of European imperialism (French, English, German, Portuguese, and Belgian respectively) so as to depict the necessary breadth this argument required.

Algeria displayed an initial constitution laden with revolutionary remarks and a focus on the power of its society’s avant-garde which was arguably carried through to the modern era by an increased focus on the ‘people’. South Africa based its changes on nation building but as the amount of time between constitutions wasn’t as great, the differences were subtle. Tanzania showed the same concern as South Africa on state building but also completely abandoned its previous constitution’s inclusion of the Queen and for the most part the commonwealth as well. Angola revealed, for reasons still unknown, a major decline in the use of the concept of nation in its latest constitution by 188 points; and the DRC exemplified, like South Africa and
Tanzania, a much larger focus on state building. But these results, although interesting, are marginal to the point. What is evident, and what has come out of this study, is that the law in Africa is still illegitimate and that for the most part international legal standards are influencing modern constitutions in a way that will likely produce conditions viable to allow the plural citizenry to shape its laws into something culturally relevant and ultimately legitimate.

As previously detailed, and now evident, legitimizing the law in African polities is a current necessity. It not only provides the requisite rationality that law needs, it also helps to shape and order a unique culture based on its tailored needs. From this it can be inferred that the progress of a particular country will go in the direction the plural citizenry want, rather than something influenced by elites, interest groups, business, or supranational entities. The added legitimacy can also be inferred to provide a greater chance for trust to form between the plurality and its governing structure which the extant literature has shown lowers the incidence of political violence. Trust in governance is also a boon to accountability, transparency, and representation. Understandably there are a lot of other possible benefits from legitimizing the law, but such results require robust empirical analysis during and after the legitimation process.

In light of that, future research regarding the feasibility of converting legal structures from illegitimate colonial structures to laws that are tailored to the plural citizenry is needed. Questions such as “what is the most realistic way for this transition to be made?”, “how much would this transition cost?” and “who are the most relevant partners for this kind of endeavour?” require answers. Finally, a new population surveying methodology was recently
suggested in the author’s doctoral thesis which allows for the needed data to be generated concerning the formation of new legal parameters.\footnote{\footnotesize The ‘Super-Census’ is a long-term, moderately cost-intensive, but high quality data collection methodology. It depends on the integration of ICTs (such as cell phones with internet connectivity) for quicker data generation and is designed for the pluralist citizenry to define, for example, their notions of equality, justice, and long-term progress.}
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Figure 3  The DRC

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Figure 4  Tanzania

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Figure 5  South Africa

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<td>2003 Constitution</td>
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</tbody>
</table>