Legal Pluralism and Hybrid Governance: Bridging Two Research Lines

Filip Reyntjens

ABSTRACT

Legal pluralism and hybrid governance are two lines of research that address the interactions between state (official) and non-state (unofficial) norms. Both come to similar observations, yet they seem hardly aware of each other's existence. With very few exceptions, the one does not refer to the other. This article seeks to explore whether links can be established. It presents both lines of research, identifies common ground, explores what they can learn from each other, and seeks to find whether the distance can be bridged. It concludes that legal pluralism and hybrid governance could be mutually reinforcing if scholars in the two lines were aware of and used each other's findings and methods, and saw each other as complementary.

INTRODUCTION

The discovery of similar phenomena in several different realms, independently of each other, is not exceptional in science or in human activity generally. Writing and agriculture, but also chairs and tables are just examples of such parallel inventions. There are two lines of research that address the interactions between state (official) and non-state (unofficial) norms: legal pluralism and hybrid governance. Although they study similar phenomena and come to similar observations, they operate in near total isolation and seem hardly aware of each other's existence.

Both threads address issues that are highly relevant to discussions on governance and the normative ordering of social and economic relations. They both arose out of practical concerns, albeit in different historical contexts. Well before the term was used, legal pluralism addressed problems and conflicts that arose through the meeting of written colonial law and oral 'customary' law. The latter was the subject of codification attempts, and parts of

it were seen as 'repugnant to natural justice, equity and good conscience'.[1] These issues continued to exist after decolonization, when independent states attempted, largely in vain, to unify the law. Hybrid governance emerged to investigate the challenges posed to weak states by alternative, generally informal and sometimes criminal normative orderings that are nevertheless seen by some authors as avenues of state formation.

Modern legal pluralism as a coherent research strand was first comprehensively presented in an edited volume that appeared in 1972, *Le pluralisme juridique* (Gilissen, 1972). In this volume, Vanderlinden proposed the following definition: 'the existence, within one given society, of different juridical mechanisms that apply to identical situations' (Vanderlinden, 1972: 19).[2] As will be seen later, earlier authors — apart from Gurvitch — had done similar analyses, without using the term legal pluralism. Since the 1970s, legal pluralism has developed into a mature school, to the extent of having an active association[3] and a journal[4] devoted to it. What I will call hybrid governance here (although it has many other names, see below) is a much younger line of research. Born in the first half of the 2000s, it is in its infancy and understandably still in a state of flux. It has not (yet) become a school, as several strands have evolved as islands, with hardly any reference to each other.[5] Generally situated in a context of fragile statehood, hybrid governance was said in a recent article to reorganize 'a whole range of indigenous institutions that create local forms of order "in the shadow of the state"' (Meagher, 2014: 501). Many authors in this literature refer to the 'pluralization' of regulatory authority or norms.

Given that law, whether state or non-state, is a widely used instrument of social and economic engineering, the questions raised by both lines of research have considerable academic and practical importance. Their relative isolation from one another impoverishes both. While this paucity of bridges is to some extent understandable for legal pluralism, which developed well before the hybrid governance literature came into being, the almost complete lack of links to legal pluralism in the hybrid governance literature is surprising. This article seeks to explore whether such links can be made. It is structured as follows. The following two sections briefly present the

---

1. Known as the 'Repugnancy Clause' introduced by the British to test the applicability of customary law in their colonies.
2. Vanderlinden later revisited his position, moving his analysis away from legal orders or systems to the individuals facing them (Vanderlinden, 1989). Although he considered this a major reorientation, discussing it here is not essential for this article.
3. Affiliated with the International Union of Anthropological and Ethnological Sciences (IUAES), the Commission on Legal Pluralism was founded in 1978 (http://commission-on-legal-pluralism.com).
4. The *Journal of Legal Pluralism*, currently published by Routledge, appeared under the title *African Law Studies* until 1981.
5. Hoffmann and Kirk (2013) identify several emerging approaches and attempt to unpack their assumptions.

two research lines. This is not an attempt to offer an encyclopaedic survey; rather it is a sample that does not seek to be exhaustive, and that leaves out much relevant literature. This presentation is, and must be, deliberately unsophisticated. Inside these strands many debates are taking place which this article does not fully address. Instead it seeks to identify common features in each research line, at the risk of presenting an image that is more monolithic than is actually the case.[6] Several authors identified here as belonging to the hybrid governance stream do not themselves use that term. The conclusion identifies common ground, explores what both lines can learn from each other, and seeks to discover whether the distance can be bridged.

LEGAL PLURALISM

Presentation

As early as 1926, Malinowski proposed a very broad definition of law as 'all the rules conceived and acted upon as binding obligations' (Malinowski, 1926: 18), thus creating the 'Malinowski problem' (Tamanaha, 1993: 205–7), that is, defining law as any normative ordering (see below). Referring to the 'opposition between monism and legal pluralism', Gurvitch noted the 'existence of numerous centres of legal production, of autonomous sources of law' (Gurvitch, 1935: 145–6). A year later, Ehrlich proposed the notion of 'living law' which 'dominates life itself even though it has not been posited in legal propositions' (Ehrlich, 1936: 493). By 'legal', he refers to state law, and, while arguing that the state is just one of the many 'associations' that produce law, his remains very much a legal centralist stance. Distinguishing 'state law' and 'extra-state law', Weber acknowledged the existence of legal orders within social groups where instruments of coercion are sometimes more efficient than those of the state (Weber, 1978: 316–9). He 'categorically' denied that '"law" exists only where legal coercion is guaranteed by the political authority. ... A "legal order" shall rather be said to exist wherever coercive means ... are available' (ibid.: 317). A year before *Le pluralisme juridique* (Gilissen, 1972) was published, Pospisil argued that no society 'has a single consistent legal system, but as many such systems as there are functioning subgroups' (Pospisil, 1971: 98). All these approaches, apart from Malinowski's, were, however, hierarchical and exhibited a more or less explicit bias towards a state-centred conception of law.[7]

---

6. Recent discussions of debates within these research lines can be found, for instance, in Tamanaha (2008) and Twining (2010) for legal pluralism, and in Hoffmann and Kirk (2013) and Raeymaekers (2014) for hybrid governance.
7. Elaborate surveys of antecedents of modern legal pluralism can be found in Griffiths (1986) and Woodman (1998).

Another seminal article appeared a year after Vanderlinden's 1972 'Essai de synthèse'. Without a single reference to legal pluralism,[8] Sally Falk Moore introduced the semi-autonomous social field (SASF) as a way to study law and social change (Moore, 1973; see also Moore, 1978). She defines the SASF by a processual characteristic, namely that it can generate rules and coerce or induce compliance with them (Moore, 1978: 57). Based on two very different cases — the garment industry in New York City and the Chagga in Tanzania — Moore argues that SASFs are autonomous in that they can generate rules internally, but their semi-autonomy lies in the fact that they are also vulnerable to rules emanating from other SASFs: 'The semi-autonomous social field has rule-making capacities, and the means to induce or coerce compliance; but it is simultaneously set in a larger social matrix which can, and does, affect and invade it' (ibid.: 55–6). While Moore does not say so explicitly, the state is but one of many SASFs, because its normative capacity is also 'affected and invaded' by the normative activity of other SASFs.

Moore ends with an issue that has haunted legal pluralism for much of its existence, namely the question of whether 'it is all law' (ibid.: 81), an implicit reference to the 'Malinowski problem'. As this issue is not directly relevant to this article (for reasons explained later), and space is limited, I will address it only briefly here. While Moore expressed doubts and argued that 'there are occasions when ... it may be of importance to distinguish the sources of the rules and the sources of effective inducement and coercion' (ibid.: 81), that is, to distinguish between state and non-state norms, Merry offers a more unforgiving critique. She believes that 'it is essential to see state law as fundamentally different in that it exercises the coercive power of the state and monopolises the symbolic power associated with state authority' (Merry, 1988: 879). But the most radical onslaught came in 1993, when Tamanaha denounced the 'folly' of legal pluralism. He attempted to show that 'the concept of legal pluralism is constructed upon an unstable analytical foundation which will eventually lead to its demise', claiming 'the inability of legal pluralists to locate an agreed definition of "law"' (Tamanaha, 1993: 192). His bottom line: '"[L]aw" is the law of the state. And legal pluralists must stop charging those who hold to this view of law with suffering from ideologically-induced blindness' (ibid.: 212). The issue caused heated debate (see, for example, von Benda-Beckmann, 2002, and Woodman, 1998) until Tamanaha, fifteen years after his 'folly' article, made peace with legal pluralism. Having announced its inevitable demise, he now observed that '[l]egal pluralism is everywhere' (Tamanaha, 2008: 375) and that it is 'unusual to see a single notion penetrate so many different disciplines' (ibid.: 376). However, while Tamanaha acknowledged that people consider as law norms that are not produced by the state and

---

8. This may be due to the fact that *Le pluralisme juridique* was published in French, and that it started to be quoted in publications in English only years later.

that '[l]egal pluralism exists whenever social actors identify more than one source of "law" within a social arena' (ibid.: 396), he goes on to distinguish between legal (i.e. state) systems and normative (i.e. non-state) systems (ibid.: 397–9). He uses the two terms interchangeably, and in his conclusion refers to 'normative and legal pluralism' (ibid.: 409), and more broadly, to 'coexisting regulatory systems' (ibid.: 410). In the end, '[i]t is unnecessary to resolve [the debate on "what is law?"] to come to grips with legal pluralism' (ibid.: 411).

As the hybrid governance literature does not address this issue and uses notions like 'norms' and 'regulations', Tamanaha's argument that this issue cannot and need not be resolved is useful for this article. Since I do not wish to be seen as non-committal, I would like to stress that I fail to see an empirical distinction between state law and non-state law. The distinction is an ideological one,[9] derived from the state's hegemonic project (Gramsci) and the ensuing perceived uniqueness of the state in the political order. But this is a self-proclaimed uniqueness, as all normative orderings are 'unique'. I find support in Englebert's observation that the state retains a residual of 'legal command', that is, the capacity to control, dominate, extract or dictate through the law, but that this authority 'is derived mainly from the fact that the state is law', and that its sovereignty is defined by its (international) legality rather than its effectiveness (Englebert, 2009: 62).[10] To me, therefore, it is indeed 'all law'.

The literature on legal pluralism has studied the interaction, compromise and struggle — in brief, the articulation — between normative systems[11] in a vast number of areas of interaction between individuals, individuals and institutions, and between institutions. Unlike the hybrid governance literature, the array of normative activity studied by legal pluralism covers most domains of human behaviour: land and property, contracts, tort, marriage and the family, petty crime, bureaucratic practices, (local) political dynamics, citizenship, commercial networks, dispute settlement, access to and management of natural resources, human rights, inheritance, gender, witchcraft, religion and even issues covered by constitutional, comparative and international law, as well as legal history. A Google Scholar search on 'legal pluralism' generated around 23,200 results at the time of writing.

---

9. Von Benda-Beckmann invites us to 'take analytical distance from the dominant legal ideology in which law and state are directly connected conceptually' (von Benda-Beckmann, 2002: 55).

10. In an article that remains seminal, Jackson and Rosberg (1982) distinguish the empirical and the juridical, the *de facto* and the *de jure* attributes of statehood, and find that international recognition (and rewarding) of juridical statehood may be at odds with developing empirical states.

11. From now on I will generally use the term 'normative' instead of 'legal' as both legal pluralism and hybrid governance encompass norms.

Main Threads

Some core observations of the legal pluralism literature are briefly presented here, so as to draw a comparison with those of hybrid governance later on. The first observation concerns the interactions between normative orders. This is quite obvious when looking at the definition of legal pluralism provided above. Twining, among others, notes that relations between legal orders include 'symbiosis, subsumption, imitation, convergence, adaptation, partial integration and avoidance as well as subordination, repression or destruction' (Twining, 2010: 489). Absent from this list are the cases where there is no conflict between legal registers, when the norms have similar contents but emanate from different sources of production, something that is well understood by Tamanaha, who writes that normative orderings are poised to clash 'particularly when their underlying norms and processes are inconsistent' (Tamanaha, 2008: 400).

Second, the playing field in the production of norms, be they state or non-state, is not level. 'The room for manoeuvring is usually structured unequally. ... [It] depends on the relationship of power and dependence between the parties and the respective institutions of decision-making' (von Benda-Beckmann et al., 2009: 12).

Third, the issue of 'who wins, who loses?' resulting from the uneven playing field leads to a tension between empirical observation and normative proposition. Zips and Weilenmann (2011: 11–12) argue that, as it is a strictly analytical, heuristic concept, legal pluralism avoids moral and ideological judgements. Because it does not determine what is 'good' or 'bad',[12] as a research perspective, it is unable to determine which law *should* be more valid than the other. In other words, legal pluralism observes, but does not prescribe. Legal pluralists nevertheless often, at least implicitly, issue value judgements on the desirability of state or non-state law. Thus Isser (2012: 244) points out that it helps to 'move beyond the obsession with what justice systems *should* look like to an empirical inquiry as to what they *do* look like'. At the same time she offers 'cautionary tales' about the potential manipulation of legal pluralism to the detriment of those for whom the pursuit of justice is not self-evident (ibid.: 241–4). Tamanaha, too, wavers between empirical and normative approaches when writing that the implications of legal pluralism 'can be good or bad, depending on one's objectives and the circumstances at hand' (Tamanaha, 2012: 47).

Fourth, although most research focuses on the global South, legal pluralism is a universal phenomenon. Both historically and spatially, it is a normal state of affairs. SASFs exist everywhere, and no state is fully autonomous, although of course its normative capacity is challenged more in some

---

12. Boaventura de Sousa Santos warns against romanticizing legal pluralism, stating that 'there is nothing inherently good, progressive or emancipating about legal pluralism' (de Sousa Santos, 1995: 114–15, quoted in Twining, 2012: 117).

countries than in others. Beginning in the late 1970s, there has been an interest in applying the concept of legal pluralism to Western countries in what Merry calls 'new legal pluralism' (Merry, 1988: 872–4). Examples include work on the Moluccan community in The Netherlands (Strijbosch), local justice in a religious community in Staphorst, The Netherlands (van den Bergh), legal practices in communities of Maghribian origin in Brussels (Foblets), dispute settlement in the US (Galanter), young people in Paris suburbs (Le Roy), community justice in Britain (Henry), or the garment industry in New York City mentioned earlier (Moore), to name but a few.[13] While it is true that the state occupies more terrain in the Western than in the developing world, Tamanaha overstates the difference when writing that 'Western societies have never had to grapple with this sharp normative contrast [between state and non-state law] because capitalism, liberalism, and their legal systems collectively developed in sync with their own cultures and societies' (Tamanaha, 2012: 45).

Fifth, legal pluralism notes forms of 'devolution of governance competences from the state to alternative organisations' (von Benda-Beckmann et al., 2009: 5). These can be private institutions in the charitable or commercial sphere, decentralized entities, parallel centres of governance, political authorities or legal frameworks based on neo-traditional, religious, ethnic or local legitimations, or international actors. This shared sovereignty results in practices of 'forum shopping', where disputants have a choice — although by no means a free choice — between different institutions. This choice is based on which normative ensemble they see as being in their best interest. But there are also 'shopping forums' seeking to attract disputes in order to acquire or maintain relevance or to gain political advantage (von Benda-Beckmann, 1981).

Sixth, legal pluralism is resisted by both states and the international (aid) community mainly on account of the purported supremacy of the state and of the universality of human rights. Woodman (2012: 130–2) summarizes the problem 'development actors' have with legal pluralism as follows. Development promoted through state law is frustrated by people's adherence to non-state law; the strengthening of the rule of law is conceived as the strengthening of the rule of *state* law; legal pluralism complicates the planning of development projects; it gives rise to conflicts between normative orders, which produces inconsistency and uncertainty in the normative field; and domestic and international engineers of change do not have an adequate knowledge of non-state legal orders. Isser (2012: 239) notes three challenges from a human rights perspective: the rights of women and minorities, due process, and fair trial standards; the principle of the equal application of

---

13. More references can be found in Merry (1988: 872), who, however, notes that '[i]n societies without colonial pasts . . . , the non-state forms of ordering are more difficult to see' (ibid.: 873). Nonetheless, for those shedding the legal centralist ideology (see Griffiths, 1986: 2–8), non-state legal orders can be seen everywhere.

the law to all citizens; and the role of the state as the legal guarantor of human rights under the international treaty regime.[14] While such concerns are understandable from the perspective of domestic and international public actors, they denote a refusal to accept an empirical fact, and so their position is not only normative and ideological, but above all unrealistic. Woodman (2012: 130–1) rightly pointed out that 'the idea to "skip straight to Weber" is based on unrealistic optimism as to the effects to be achieved by a rationally acting state bureaucracy: it is thought that social change can and should be produced by state law alone'.

HYBRID GOVERNANCE

Presentation

That several designations are used to refer to hybrid governance[15] indicates that this idiom is still in its formative stage.[16] Zips and Weilenmann (2011: 12) note that the relative clarity of legal pluralism stands in sharp contrast to the 'notoriously slippery' term of governance. Hybrid governance addresses alternative, non-state normative production in fragile or (post-)conflict state environments, often with a focus on borderlands. This new research line followed a shift from approaches based on state fragility, at first, to approaches based on criminalization of polities, later. Most regulation studied is related to economic issues (taxation, smuggling) and to security/protection. Some authors in this line of research see 'illegal'[17] activities as a form of resistance against failed and/or predatory states, while others adopt a Tillyan approach, arguing that violence can be an authentic process of state formation (Reyntjens, 2014).

   The hybrid governance literature initially focused on West Africa.[18] Referring to the 'pluralization'[19] of regulatory authority, Roitman found that

---

14. Also see Quana (2013) and a special issue on human rights and legal pluralism, *Journal of Legal Pluralism* — volume 42, issue 60 (2010).
15. Such as 'hybrid political orders', 'negotiated statehood', 'mediated statehood', 'real governance', 'twilight institutions' and 'governance without government'.
16. A Google Scholar search for 'hybrid governance' yielded 3,550 results at the time of writing, compared to the 23,200 mentioned earlier for 'legal pluralism'. However, this is an unfair comparison as much of what I capture under 'hybrid governance' does not appear under that name.
17. In that context, meaning forbidden by state law.
18. I focus this presentation on the research of Janet Roitman, as she explicitly addresses regulatory authority. Others have also studied alternative forms of governance in West Africa, but not in these terms. See, for example, Reno (1988) for an analysis of warlord politics in Liberia and Sierra Leone.
19. Interestingly, this research often refers to 'the plural character' or the 'pluralization' of regulatory or normative production, but almost never to legal pluralism (the most often, but still rarely, quoted text in this literature is von Benda-Beckmann, 1981).

regional elites in the Chad Basin exercise such authority by controlling access
to possibilities for wealth accumulation, for instance through commissions
on deals, rights-of-entry taxes, tribute, royalty payments, protection fees, and
fees for safe delivery of goods through customs fraud (Roitman, 2004: 130).
Searching for the location of power, she sees new modes of self-government
and sovereignty, with sovereigns other than the state emerging (ibid.: 138–
40). Likewise, Bierschenk and Olivier de Sardan argue that '[t]here is no
favoured political locus, no single legitimacy and no central institution ca-
pable of imposing its law and norms on other institutions. In other words,
neither the state nor any other political institution has a monopoly on regula-
tion' (Bierschenk and Olivier de Sardan, 2003: 159). Hansen and Stepputat
seek to explore de facto sovereignty, that is, 'the ability to kill, punish, and
discipline with impunity' (Hansen and Stepputat, 2006: 296), and argue that
although effective legal sovereignty is always an unattainable ideal, it is
particularly tenuous in many post-colonial societies where sovereign power
historically was distributed among many forms of local authority (ibid.: 297).

While she does not refer to it, Roitman's (2005: 18) later elaboration
resonates well with legal pluralism. She sees pluralization of regulatory ac-
tivity in the exercise of effective authority 'by an amalgam of personalities
associated with the state bureaucracy, the merchant elite, the military, and
non-state militia groups. . . . They manage to regulate local populations and
regional exchanges . . . . Through levies and duties imposed on local popula-
tions, they establish autonomous fiscal bases'. Interestingly, a trafficker says
that 'trafficking is not governed by the law of the government. It is governed
by the law of the roads' (ibid.: 187), an unintended nod to legal pluralism.
And in a nod to SASFs, traffickers, the police and customs officials have
'become family' (ibid.: 188).

The volatile and violent context of the Great Lakes region became the
focus of much research in the late 2000s. While the vast majority of West
African smuggling networks were neither criminal nor violent, this other
environment produced a shift to practices that became increasingly inimical
to people's welfare (Meagher, 2014: 503, 505). Informal cross-border trade
offers the context for a vibrant production of norms and regulations, different
from the state's framework but not disconnected to it. In the Semliki valley on
the Congo–Uganda border, Raeymaekers found that non-official 'governors'
of the border region, such as Nande smugglers, gradually became recognized
as local 'village lords' involved in juridical and political negotiations and
fulfilling state-like functions (Raeymaekers, 2009a). In the Beni-Lubero
(DRC) — Kasese (Uganda) area, the regulation of economic activity is
constantly (re-)negotiated, and formal ('legal') rules become enmeshed with
informal, unofficial, 'illegal' norms (Raeymaekers, 2009b). In Butembo,
a pact between a local trading cartel and the RCD-ML (Rassemblement
Congolais pour la Démocratie — Mouvement de Libération) rebels included
a 'pre-financing scheme' agreed with the local branch of the Fédération des
entreprises du Congo (FEC). This pluralistic regulatory arrangement drew

from state and non-state practices, and aimed at regulating trans-border commercial activities (Raeymaekers, 2010).

There is nothing extraordinary about strong regulatory activity in the margins (which, by the way, may well be located in the capital city). Indeed all relations are regulated (*ubi societas, ibi ius*), whether mainly by state or non-state actors, and generally by both. All these players exercise institutional capacity in the sense proposed by North (1990): institutions are the 'rules of the game', consisting of both state and non-state norms that govern individual behaviour and structure social interactions. This non-state regulatory activity can take quite advanced forms. Titeca (2011) describes how the rebel group Forces Armées du Peuple Congolais (FAPC) behaved like a state for a period of approximately two years in a small area of north-eastern Congo. The group levied taxes that were much lower than the official ones, whence the nickname 'Monaco' given to FAPC-controlled land where trading conditions were very favourable. The rebel movement even invested some of the taxes collected in a local development fund, built a football stadium and co-funded a university. No wonder people referred to the FAPC-controlled area as a *républiquette* (small republic) (Titeca, 2011).

Another interesting example of semi-autonomous norm production is offered by the way in which the 85th FARDC (Forces Armées de la République Démocratique du Congo) brigade, made up of former Mai-Mai militia, organized the economy in Walikale territory, controlling and regulating mining, mineral marketing and the taxation of transport routes. A strong illustration of the *décharge* of the Congolese state, it financed itself through these activities. A negotiated, mutual accommodation of economic and political interests was linked with the need to provide a minimum of security (Garrett et al., 2009). Raeymaekers notes that this way of solving private problems (such as security provision or profit making) generated a 'fundamental *public* outcome of changing rules and conventions to determine rights and duties' (2014: 144).

Common to the setting up of regulatory frameworks is that even those possessing a monopoly on armed force cannot impose them unilaterally. Rather, norms are the result of negotiations between several players whose influence varies from one local situation to another. The FARDC revenue-generating practices are the outcome of negotiations both within the military and with civilian actors (Verweijen, 2013). Titeca (2011) also found that local networks had to be taken into account even by those with armed power. Instead of outright domination, this led to situations of mutual dependency between local traders, the FAPC and its Ugandan sponsors.

Multiple regulatory activity is not only found in the production of norms, but also in dispute settlement which is a corollary of norm production. Verweijen (2013) found that the FARDC are involved in dispute resolution and arbitration in a vast array of fields, including cases that belong to the domain of private law, such as inheritance, bridewealth, marriage, debt, contracts and land. Here again, commanders behave as 'shopping forums', while civilians

engage in 'forum shopping'. The military generally offer cheaper, faster and more effective solutions than the police, the administration or the judiciary. However, in many cases coercion and intimidation affect people's ability to choose, and Baaz and Verweijen warn against painting too rosy a picture of the role played by the military, just as de Sousa Santos cautioned against romanticizing legal pluralism: 'military engagement in civilian disputes should be understood as driven by an often complex mix of overlapping and at times contradictory logics and expectations' (Baaz and Verweijen, 2014: 811).

This literature exhibits two types of non-state regulation: (i) where the state is (relatively) absent and where non-state actors formulate and enforce norms (e.g. the case of the FAPC);[20] and (ii) where state actors are involved but act outside of the state's regulatory framework (e.g. FARDC units). This distinction links up with the notion of the 'negotiated state' (Hagmann and Péclard, 2010) and allows us to see the importance of locally defined power positions of those engaged in the production of norms. The cases presented here exhibit strong local and unofficial regulatory activity in areas such as economic organization, trade, security and protection, social relations and taxation. Most instances of smuggling, fraud and illegal taxation take place with the complicity or active involvement of certain agents or bodies of the state. Formal, official, 'legal' rules interact with informal, unofficial, 'illegal' regulations. Raeymaekers (2009a) points to the high level of overlap and collaboration that often exists between different systems of survival and regulation, and to the ambiguous relationship that exists between the state and the non-state and between different regulatory systems. In fluid regulatory contexts, the state is indeed just one of the framers of norms, one of the users of force, and often not even the most powerful one. Officials keep one foot in the 'bush and border' and another in the state bureaucracy and the national economy (Vlassenroot et al., 2012), such as when diverse 'official' agents exploit informal taxation points.

Other approaches can also be captured under the heading of hybrid governance. Let me briefly mention two. Despite the diversity of meanings associated with the term, a rich literature has developed around the theme of (neo-)patrimonialism since it was first proposed by Eisenstadt (1973), and later applied to African states by Médard (1979). By no means limited to Africa, it also studies interactions between the public and the private sphere, and how they produce public policies (for a recent survey, see Bach and Gazibo, 2012). The straddling of those spheres and the articulation of the endogenous and the exogenous — in other words, the hybridity of political

---

20. It must be noted that such situations can move close to the limits of the notion of hybridity. Indeed, if the state is totally absent, the regulatory order would no longer seem to be hybrid. However, even when the state is physically absent, it is not absent as an idea. The extent to which non-state players refer to the state and use its paraphernalia is striking. For instance, the headings of documents issued by rebel movements often contain the mention 'Republic of X', followed by the group's name. 'Illegal' tax collectors issue 'state-like' receipts and stamps.

and administrative orderings — are hidden by the formal adherence to a legal-bureaucratic logic. Neo-patrimonialism has recently shed some of its association with a predominantly anti-development orientation, as shown in the work of the Africa Power and Politics Programme (see, for example, Kelsall, 2013).

The second approach is the work of Olivier de Sardan and others on practical norms.[21] Although he does not consider himself to belong to the hybrid governance line (personal communication), Olivier de Sardan addresses various modes of 'real governance'. Referring to neo-patrimonialism, he writes that the 'notion of hybridity . . . conveys in an intuitive way this coexistence of official norms and practices that are inconsistent with them' (Olivier de Sardan, 2008: 7, fn 24). He uses the term 'normative pluralism' (ibid.: 15–18), draws attention to the 'variety of social regulation methods and real governance patterns' (ibid.: 18), and insists on the need for 'rigorous empirical and documentary research which is open to capturing diversity' (ibid.: 19).[22]

Main Threads

The observations of hybrid governance correspond remarkably well with those of legal pluralism, as shown by the six main threads identified for the latter. In order to facilitate comparison, the same order is followed here. First, the interactions between normative orders 'are highly ambiguous; they are often reciprocal and complicitous as much as they are competitive and antagonistic' (Roitman, 2005: 19). Raeymaekers refers to a political complex that combines different and often contradictory legal orders (2009a: 62) and to pluralistic regulatory arrangements that draw on both state and non-state practices (2010: 574). Luckham and Kirk (2013: 9) highlight the 'complex interplay among multiple and often contradictory forms of social ordering, each having their own sources of power, distinct organisational logics and sources of legitimacy'. Insisting on their 'twilight character', Lund (2007a: 1) argues that many institutions 'are not the state but they exercise public authority'. Accordingly, he focuses on institutions 'which are partly regulated by, and partly independent of, larger encapsulating political structures' (ibid.: 2). Helmke and Levitsky (2004: 728–30) distinguish several ways in which formal and informal institutions interact: they can be complementary, accommodating, competing and substitutive. Just as can be seen in legal pluralism, a state-centred bias is not totally avoided, as Helmke and Levitsky assess the functioning of informal institutions in relation to the qualities of formal ones. Showing a similar bias, Börzel and Risse (2010:

---

21. The distinction between normative and pragmatic rules in social structures was first developed by Bailey (1969).
22. A recent state of the art exposition can be found in De Herdt and Olivier de Sardan (2015).

118) point out the 'ability of the state to enforce collectively binding deci-
sions, ultimately through coercive means, via its monopoly over the means
of violence' and the 'ability of public authorities to exercise effective control
within the borders of their own polity'. Yet empirically many states do not
have a monopoly on the means of violence.

Second, hybrid governance recognizes, as does legal pluralism, the uneven
nature of the playing field, and notes inequality and coercion. Hagmann and
Péclard (2010: 545) find that, '[c]ontrary to commonsensical assumptions,
negotiation does not occur between co-equal parties or in an inclusive man-
ner'. Likewise, Lund argues that while a plurality of institutions may open
up new avenues — also for poorer people — it is generally the most affluent,
the better connected and the more knowledgeable who have the upper hand
in such contexts (2007b: 27). In light of the very unequal nature of the differ-
ent parties' access to power and resources, Doornbos finds that 'negotiation'
is often a euphemism (2010: 767). Meagher has serious reservations about
the enthusiasm with which some embrace the 'strength of the weak states',
and questions in whose interest such blurring between formal and informal
regulation functions (2012: 1077). Of course, insights like these are not in
themselves sufficient to uncritically adhere to liberal-democratic beliefs, as
liberal democracy does not guarantee a level playing field either.

Third, again as with legal pluralism, this leads to discussions on the
desirability and legitimacy of non-state orders. Meagher argues for a dis-
tinction between 'constructive and corrosive forms' of such orders (2012:
1074). Observing that they are 'fracturing rather than transforming regula-
tory authority', she concludes that this 'reworking of the state undermines
rather than enhances public accountability and national resource control'
(Meagher, 2014: 514–15). Börzel and Risse (2010: 128) push this issue very
far, claiming that 'whoever governs must be held accountable against inter-
national legal standards of human rights, the rule of law, and democracy'
— obviously an idealist requirement without much regard for pluralist em-
pirical reality. Hard-core hybrid governance scholars are more flexible: the
negotiated character of governance practices implies that legitimacy is not
a stable or given factor. 'Legitimacy is continuously re-established through
conflict and negotiation among the different actors' (Titeca and Flynn, 2014:
75).

Fourth, due to the fragile state environments in which the hybrid gov-
ernance research has developed, hybrid governance scholars tend to limit
their observations to these contexts and do not enquire into the broader,
indeed universal applicability of hybrid governance. Boege et al. (2008), for
example, speak of statehood in the 'OECD world' and in the 'rest' of the
world. They apply their notion of 'hybrid political orders' to the latter only.
Likewise, Luckham and Kirk (2013: 10–17) study hybrid political orders in
conflict-torn regions in the developing world, and they focus on specific po-
litical spaces: 'unsecured borderlands', where state authority is suspended
or violently challenged; 'contested Leviathans', where the authority and

capacity of state security structures are weak; and 'securitised policy spaces', where international actors intervene to secure peace in unsecured regions. However, Hagmann and Péclard (2010: 544) stress, albeit in a footnote, that, '[f]rom the vantage point of a political sociology of the state, there is no difference *per se* between African and non-African states'. If the hybrid governance research were to extend its reach in a vein similar to the 'new' legal pluralism, it would find a multiplicity of regulatory orders everywhere in the world. Such an extension could link up well with the multilevel approach that has emerged in political science and public administration theory over the last twenty years, as well as in the more recent anthropology of Western states (see, for example, Sharma and Gupta, 2006).

Fifth, the discharge of state functions to alternative arenas of authority is at the core of hybrid governance. The literature discussed earlier shows non-state actors exercising core state governance functions such as taxation, trade and border regulation, and the provision of (in)security abandoned by or wrested from the retreating state. This *décharge* often takes place when the state is unable or unwilling to exercise its sovereignty. Using the term 'twilight institutions', Lund (2007b: 15) argues that 'if public authority — or "stateness"— can wax and wane, it follows that state institutions are never definitively formed, but that a constant process of formation takes place. Such institutions operate in the twilight between state and society, between public and private'. A strong example of *décharge* was Mobutu's incitement of the military and other state agents to 'fend for themselves' (*se débrouiller*) (Baaz and Verweijen, 2014: 805). Equally indicative of such devolution was state-approved vigilante activity in countries such as Nigeria (Lund, 2007b: 16; Meagher, 2012: 1090–5), Uganda (Titeca, 2009) and South Africa (Buur, 2007). In the latter case, the Amadlozi vigilantes 'engage[d] in sovereign acts that mimic the state's monopoly on violence' (Buur, 2007: 80). The hybrid governance literature agrees that relative statelessness does not imply chaos or the absence of institutions. Boege et al. (2008: 7–9), for instance, see a great deal of regulation by customary law and traditional societal structures and authorities, but also by warlords, gang leaders, vigilantes, protection rackets, millenarian religious movements, transnational networks of extended family relations, organized crime and new forms of tribalism. These locally embedded orders increasingly link into the globalized market and global society, for example, through drug trafficking, migration, remittances, trade networks or religious affiliations.

Sixth, Boege et al. (2008: 16) note that the 'international state-building industry . . . is guided by western political thinking that takes the existence of states and an international system of states for granted and, accordingly, entertains a deep-rooted "*horror vacui*": the assumption that where there are no states, there is chaos and there are terrorists'. Luckham and Kirk (2013: 2) note that, since 9/11, the emphasis has turned increasingly to stabilizing insecure regions and 'fragile states'. Deviations from ideal-typical notions of the state 'as a monopolist of legitimate physical violence, as an autonomous

bureaucratic apparatus, as the embodiment of popular sovereignty, and as a spatially and territorially coherent entity' (Hagmann and Péclard, 2010: 541) are considered 'pathological' or 'problematic'. African states are contrasted with the Western model. They are therefore 'identified as failed not by what they are, but by what they are *not*, namely, successful in comparison to Western states' (Hill, 2005: 148). This state-centrist approach, prevalent in many academic and policy circles, is challenged by the hybrid governance scholarship in a manner similar to the legal pluralism scholarship. It should be added that while publicly adhering to the internationally promoted state-building axiom, many of those occupying higher (and lower) functions in African states take full advantage of hybridity: 'While these endeavours potentially undermine state regulatory authority and national security, they also contribute to the viability of the state through the production of new rents and possibilities for redistribution among strategic military, political and commercial personalities' (Roitman, 2004: 136). The relationship between the international community and domestic elites on the issue of state building is thus ambiguous, to say the least.

CONCLUSION

As Table 1 shows, the overlap between legal pluralism and hybrid governance is considerable.[23]

It is therefore surprising that the two threads have not yet found each other. Nevertheless, legal pluralists von Benda-Beckman et al. (2009: 1) argue that the concept of governance points to a turn from a normative substantive conception of government towards a functional characterization of governing activities. Noting 'practices and social relationships where neither the law of the national state nor state agents are dominant *per se*', they document 'the widening ranges of regulation and legal structures' (ibid.: 2). For their part, hybrid governance scholars acknowledge that 'concerns that engagement with . . . institutional plurality is unchartered territory ignore more than thirty years of detailed empirical research on precisely these issues emanating from the vast literature on legal pluralism' (Meagher et al., 2014: 4). Zips and Weilenmann note that 'governance[24] as much as legal pluralism may be considered as still evolving paradigmatic shifts from (a predominant focus on) state government and state law to pluralized modes' (2011: 7).

The need to integrate the methodologies and findings of both lines of research goes well beyond the banal and obvious, that is, that scholars should be aware of what others are writing. However, in this discussion not even

---

23. I am grateful to one of the anonymous referees for this suggestion.
24. To avoid misunderstanding, this is not a reference to the general literature on governance. Zips and Weilenmann do not use the adjective 'hybrid', but that is what they refer to as 'interactive governance' (2011: 8).

Table 1. Summary Comparison Legal Pluralism – Hybrid Governance

Dimension	Legal Pluralism	Hybrid Governance
Sources of regulation	Multiple	Multiple
Domains under investigation	Multiple (most domains of human interaction)	Few (mainly economic organization, taxation and security)
Norms	Focus on content of norms	Focus on existence of normative diversity
Playing field	Uneven	Uneven
Orientation	Rather empirical	Rather normative
Coverage	Universal	Post-conflict/Fragile states
Arenas	Multiple	Multiple
Relation to state	De-central, complementary, often conflictual	De-central, complementary, often conflictual
Development policy	Relevant, complicating	Relevant, complicating

the banal and obvious is achieved as scholars from both strands rarely refer to each other's work. More fundamentally, if they engaged with each other, both lines would make substantial gains in methodology, explanatory power and policy relevance. This is clear when looking at their complementarity and the potential for mutual reinforcement.

First, legal pluralism addresses a much wider array of substantive normative orderings. While hybrid governance is essentially limited to norms in the fields of economic organization (taxation, trade, access to resources) and security (protection or lack of it for persons and goods), legal pluralism covers practically the entire range of human interactions, as outlined earlier.

Second, legal pluralism analyses the *contents* of norms much more than hybrid governance does. Perhaps because it has been developed mainly by lawyers by training (many of whom became anthropologists), case studies often address substantive law in great detail. Thus, for instance, Sally Moore presents the rules governing the textile workshops in New York City and changing Chagga life in Tanzania, showing the substance of official and unofficial norms and their articulation. In contrast, hybrid governance tends to mention the *existence* of both types of norms, without offering much detail on the content of these regulations.

Third, hybrid governance is more perceptive than legal pluralism of the processes and dynamics of regulatory activity. Power relations, negotiations, the use of violence, mutual dependency and collusion between state and non-state actors are highlighted, as is the agency of armed groups, state and traditional authorities, local and regional traders and ordinary people trying to make a living in often challenging circumstances. Lund (2007a: 3), for example, insists on the need to take into account 'the processual aspects of the formation of public authority, and in particular how it takes place in day-to-day encounters'. Luckham and Kirk (2013: 8) propose that governance should be 'empirically investigated as a collection of loosely coordinated and constantly changing processes'.

Fourth, as it looks at how governance in itself is constructed, hybrid governance has a wider focus than legal pluralism which addresses only one mode of governance, namely through the production of legal norms. In addition, while legal pluralism is about the articulation between different centres of normative production, hybrid governance also looks at transgressions of norms within one such centre (Olivier de Sardan's practical norms are a good example).

Fifth, legal pluralism claims universal application, including in the most advanced countries, while hybrid governance does not (yet). However, as mentioned earlier, it could easily extend its reach, akin to the way in which the 'new' legal pluralism has, if it went beyond the study of fragile and (post-)conflict settings.

Sixth, and linked to the previous point, hybrid governance has focused on situations of weak statehood, and has shown a bias towards peripheries, while hybrid regulatory orders can be found in strong states and at the centre as well. For its part, legal pluralism has found applications in both performing and less performing state contexts, as well as at the core of polities.

Seventh, the observations of both streams have obvious policy relevance. Indeed 'development policies' often assume that law can be an instrument of social change. Roscou Pound's School of Sociological Jurisprudence advocated 'social engineering through law' based on the belief that there is an unambiguous causal link between legal intervention and human behaviour. 'Law' in this approach refers to state law. However, the operation of state law is influenced, diverted or even annihilated by the operation of non-state normative orderings. 'Development actors' may dislike plural orderings (see above), but engineering that does not take into account alternative governance processes and norm production will continue to risk failure in achieving its intended outcomes.

It is clear from this discussion that legal pluralism and hybrid governance could learn a great deal from each other if scholars from the two lines of research were aware of and used each other's findings and methods, and if they viewed each other's research as complementary and mutually reinforcing. Both lines would be considerably strengthened by such mutual recognition, since they both challenge a centralist view that the state has a monopoly on norm production. The assumption held by 'centralists' that the 'state' needs to be reinforced and that the 'non-state' must yield to the 'state' is empirically unsound, and not necessarily in the interest of people, their development or well-being. In addition, there is no indication that the survival of the state is threatened by a degree of self-regulation, whether designated as 'hybrid regulatory authority' or as 'plural legal orders'. On the contrary, it may well be in the interest of states, strong and weak alike, to allow the devolution of certain roles to non-state, sub-state or supra-state fields, certainly if these offer cheaper, faster, more accessible and understandable, and even — albeit not always — more legitimate ways of ordering society and settling disputes. Tamanaha (2012: 40) notes that

the high percentage of people who take their disputes to non-state legal institutions for resolution testifies to their usefulness.

Of course, taking into account the evidence offered by legal pluralism and hybrid governance is a challenge to states and the international (aid) community. Donors tend to deal with states and fear that their 'one-size-fits-all' remedies cannot be applied to a complex myriad of sub-national or cross-border situations. In addition, a world focusing on the war on terror associates the relative absence of the state with lawlessness, a breeding ground for terrorism, even though states often generate more chaos than non-state entities. Such entities are seen by states as threatening their hegemonic project, even in cases where empirically the state does not represent much (Jackson and Rosberg, 1982).

REFERENCES

Baaz, M.E. and J. Verweijen (2014) 'Arbiters with Guns: The Ambiguity of Military Involvement in Civilian Disputes in the DR Congo', *Third World Quarterly* 35(5): 803–20.

Bach, D.C. and M. Gazibo (eds) (2012) *Neopatrimonialism in Africa and Beyond*. London and New York: Routledge.

Bailey, F. (1969) *Stratagems and Spoils: A Social Anthropology of Politics*. New York: Schocke.

von Benda-Beckmann, F. (2002) 'Who's Afraid of Legal Pluralism?', *Journal of Legal Pluralism* 47: 37–82.

von Benda-Beckmann, F., K. von Benda-Beckmann and J. Eckert (2009) 'Rules of Law and Laws of Ruling: Law and Governance between Past and Future', in F. von Benda-Beckmann et al. (eds) *Rules of Law and Laws of Ruling. On the Governance of Law*, pp. 1–30. Farnham: Ashgate.

von Benda-Beckmann, K. (1981) 'Forum Shopping and Shopping Forums: Dispute Processing in a Minangkabau Village in West Sumatra', *Journal of Legal Pluralism* 19: 117–58.

Bierschenk, T. and J.-P. Olivier de Sardan (2003) 'Powers in the Village: Rural Benin between Democratisation and Decentralisation', *Africa* 73(2): 145–73.

Boege, V., A. Brown, K. Clements and A. Nolan (2008) 'On Hybrid Political Orders and Emerging States: State Formation in the Context of "Fragility"'. Berlin: Berghoff Research Center for Constructive Conflict Management.

Börzel, T. and T. Risse (2010) 'Governance without a State: Can it Work?', *Regulation and Governance* 4: 113–34.

Buur, L. (2007) 'Reordering Society: Vigilantism and Expressions of Sovereignty in Port Elizabeth's Townships', in C. Lund (ed.) *Twilight Institutions: Public Authority and Local Politics in Africa*, pp. 62–82. Oxford: Blackwell.

De Herdt, T. and J.-P. Olivier de Sardan (eds) (2015) *Real Governance and Practical Norms in Sub-Saharan Africa. The Game of the Rules*. London: Routledge.

Doornbos, M. (2010) 'Researching African Statehood Dynamics: Negotiability and its Limits', *Development and Change* 41(4): 747–69.

Ehrlich, E. (1936) *Fundamental Principles of the Sociology of Law*. Cambridge, MA: Harvard University Press.

Eisenstadt, S.N. (1973) *Traditional Patrimonialism and Modern Neo-Patrimonialism*. Beverly Hills, CA and London: Sage Publications.

Englebert, P. (2009) *Africa. Unity, Sovereignty, and Sorrow*. Boulder, CO and London: Lynne Rienner.

Garrett, N., S. Sergiou and K. Vlassenroot (2009) 'Negotiated Peace for Extortion: The Case of Walikale Territory in Eastern DR Congo', *Journal of Eastern African Studies* 3(1): 1–21.

Gilissen, J. (ed.) (1972) *Le pluralisme juridique* [*Legal Pluralism*]. Brussels: Université Libre de Bruxelles.

Griffiths, J. (1986) 'What is Legal Pluralism?', *Journal of Legal Pluralism* 24: 1–55.

Gurvitch, G. (1935) *L'expérience juridique et la philosophie pluraliste du droit* [*The Legal Experience and the Pluralist Philosophy of Law*]. Paris: Pédone.

Hagmann, T. and D. Péclard (2010) 'Negotiating Statehood: Dynamics of Power and Domination in Africa', *Development and Change* 41(4): 539–62.

Hansen, T.B. and F. Stepputat (2006) 'Sovereignty Revisited', *Annual Review of Anthropology* 35: 295–315.

Helmke, G. and S. Levitsky (2004) 'Informal Institutions and Comparative Politics: A Research Agenda', *Perspectives on Politics* 2(4): 725–40.

Hill, J. (2005) 'Beyond the Other? A Postcolonial Critique of the Failed State Thesis', *African Identities* 3(2): 139–54.

Hoffmann, K. and T. Kirk (2013) 'Public Authority and the Provision of Public Goods in Conflict-Affected and Transitioning Regions'. London: LSE Justice and Security Research Programme.

Isser, D.H. (2012) 'The Problem with Problematizing Legal Pluralism', in B. Tamanaha et al. (eds) *Legal Pluralism and Development. Scholars and Practitioners in Dialogue*, pp. 237–47. New York: Cambridge University Press.

Jackson, R.H. and C.G. Rosberg (1982) 'Why Africa's Weak States Persist: The Empirical and the Juridical in Statehood', *World Politics* 35(1): 1–24.

Kelsall, T. (2013) *Business, Politics and the State in Africa: Challenging the Orthodoxies on Growth and Transformation*. London and New York: Zed Books.

Luckham, R. and T. Kirk (2013) 'The Two Faces of Security in Hybrid Political Orders: A Framework for Analysis and Research', *Stability: International Journal of Security & Development* 2(2): 1–30.

Lund, C. (2007a) 'Twilight Institutions: An Introduction', in C. Lund (ed.) *Twilight Institutions: Public Authority and Local Politics in Africa*, pp. 1–12. Oxford: Blackwell.

Lund, C. (2007b) 'Twilight Institutions: Public Authority and Local Politics in Africa', in C. Lund (ed.) *Twilight Institutions: Public Authority and Local Politics in Africa*, pp. 13–32. Oxford: Blackwell.

Malinowski, B. (1926) *Crime and Custom in Savage Society*. London: Kegan Paul.

Meagher, K. (2012) 'The Strength of Weak States? Non-State Security Forces and Hybrid Governance in Africa', *Development and Change* 43(5): 1073–101.

Meagher, K. (2014) 'Smuggling Ideologies: From Criminalization to Hybrid Governance in African Clandestine Economies', *African Affairs* 113(453): 497–517.

Meagher, K., T. De Herdt and K. Titeca (2014) 'Unravelling Public Authority. Paths of Hybrid Governance in Africa'. IS Academy Research Brief No. 10. Wageningen: IS Academy Human Security in Fragile States.

Médard, J.-F. (1979) 'L'Etat sous-développé au Cameroun' ['The Under-developed State in Cameroon'], *Année Africaine* 35–84.

Merry, S.E. (1988) 'Legal Pluralism', *Law and Society Review* 22: 869–96.

Moore, S.F. (1973) 'Law and Social Change: The Semi-autonomous Social Field as an Appropriate Subject of Study', *Law and Society Review* 7(4): 719–46.

Moore, S.F. (1978) *Law as Process: An Anthropological Approach*. London: Routledge & Kegan Paul.

North, D.C. (1990) *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press.

Olivier de Sardan, J.-P. (2008) 'Researching the Practical Norms of Real Governance in Africa'. Africa Power and Politics Programme, Discussion Paper No. 5. London: Overseas Development Institute.

Pospisil, L. (1971) *Anthropology of Law: A Comparative Theory*. New York: Harper & Row.

Quana, H. (2013) 'Legal Pluralism and International Human Rights Law: Inherently Incompatible, Mutually Reinforcing or Something in Between?', *Oxford Journal of Legal Studies* 33(4): 675–702.

Raeymaekers, T. (2009a) 'The Silent Encroachment of the Frontier: A Politics of Transborder Trade in the Semliki Valley (Congo–Uganda)', *Political Geography* 28: 55–65.

Raeymaekers, T. (2009b) 'The Central Margins. Congo's Transborder Economy and State-Making in the Borderlands'. DIIS Working Paper 2006–5. Copenhagen: Danish Institute for International Studies.

Raeymaekers, T. (2010) 'Protection for Sale? War and the Transformation of Regulation on the Congo–Uganda Border', *Development and Change* 41(4): 563–87.

Raeymaekers, T. (2014) *Violent Capitalism and Hybrid Identity in the Eastern Congo. Power to the Margins*. New York: Cambridge University Press.

Reno, W. (1988) *Warlord Politics and African States*. Boulder, CO: Lynne Rienner.

Reyntjens, F. (2014) 'Regulation, Taxation and Violence: The State, Quasi-state Governance and Cross-border Dynamics in the Great Lakes Region', *Review of African Political Economy* 41(142): 530–44.

Roitman, J. (2004) 'Power is not Sovereign: The Pluralization of Economic Regulatory Authority in the Chad Basin', in B. Hibou (ed.) *Privatising the State*, pp. 120–46. London: Hurst.

Roitman, J. (2005) *Fiscal Disobedience. An Anthropology of Economic Regulation in Central Africa*. Princeton, NJ: Princeton University Press.

Sharma, A. and A. Gupta (2006) *The Anthropology of the State: A Reader*. Oxford: Blackwell.

de Sousa Santos, B. (1995) *Toward a New Common Sense*. London: Routledge.

Tamanaha, B.Z. (1993) 'The Folly of the "Social Scientific" Concept of Legal Pluralism', *Journal of Law and Society* 20(2): 192–217.

Tamanaha, B.Z. (2008) 'Understanding Legal Pluralism: Past to Present, Local to Global', *Sydney Law Review* 30(375): 375–411.

Tamanaha, B.Z. (2012) 'The Rule of Law and Legal Pluralism in Development', in B. Tamanaha et al. (eds) *Legal Pluralism and Development. Scholars and Practitioners in Dialogue*, pp. 34–49. New York: Cambridge University Press.

Titeca, K. (2009) 'The "Masai" and Miraa: Public Authority, Vigilance and Criminality in a Ugandan Border Town', *Journal of Modern African Studies* 47(2): 291–317.

Titeca, K. (2011) 'Access to Resources and Predictability in Armed Rebellion: The FAPC's Short-Lived "Monaco" in Eastern Congo', *Africa Spectrum* 46(2): 43–70.

Titeca, K. and R. Flynn (2014) '"Hybrid Governance", Legitimacy and (Il)legality in the Informal Cross-Border Trade in Panyimur, Northwest Uganda', *African Studies Review* 57(1): 71–91.

Twining, W. (2010) 'Normative and Legal Pluralism: A Global Perspective', *Duke Journal of Comparative and International Law* 20(473): 473–517.

Twining, W. (2012) 'Legal Pluralism 101', in B. Tamanaha et al. (eds) *Legal Pluralism and Development. Scholars and Practitioners in Dialogue*, pp. 112–28. New York: Cambridge University Press.

Vanderlinden, J. (1972) 'Le pluralisme juridique: essai de synthèse' ['Legal Pluralism: An Attempted Synthesis'], in J. Gilissen (ed.) *Le pluralisme juridique* [*Legal Pluralism*], pp. 19–56. Brussels: Université Libre de Bruxelles.

Vanderlinden, J. (1989) 'Return to Legal Pluralism: Twenty Years Later', *Journal of Legal Pluralism* 28: 149–57.

Verweijen, J. (2013) 'Military Business and the Business of the Military in the Kivus', *Review of African Political Economy* 40(135): 67–82.

Vlassenroot, K., S. Perrot and J. Cuvelier (2012) 'Doing Business out of War. An Analysis of the UPDF's Presence in the Democratic Republic of Congo', *Journal of Eastern African Studies* 6(1): 2–21.

Weber, M. (1978) *Economy and Society*. Berkeley, CA: University of California Press.

Woodman, G. (1998) 'Ideological Combat and Social Observation. Recent Debate about Legal Pluralism', *Journal of Legal Pluralism* 42: 21–59.

Woodman, G. (2012) 'The Development "Problem" of Legal Pluralism. An Analysis and Steps towards Solutions', in B. Tamanaha et al. (eds) *Legal Pluralism and Development. Scholars and Practitioners in Dialogue*, pp. 129–44. New York: Cambridge University Press.

Zips, W. and M. Weilenmann (2011) 'Governance and Legal Pluralism: An Emerging Symbiotic Relationship?', in W. Zips and M. Weilenmann (eds) *The Governance of Legal Pluralism. Empirical Studies from Africa and Beyond*, pp. 7–34. Vienna: LIT Verlag.

Filip Reyntjens (filip.reyntjens@uantwerp.be) is Professor of Law and Politics at the Institute of Development Policy and Management (IOB), University of Antwerp, Belgium. His main area of interest is the African Great Lakes region on which he has published several books and numerous articles, including *Political Governance in Post-genocide Rwanda* (Cambridge University Press, 2013). *Aid and Authoritarianism in Africa* (Zed Books, 2016), co-edited with Tobias Hagmann, is forthcoming.