

**Rule of Law, Corruption, and the Limits of Accountability in International Development
Law**

A Review of Prof. Rumu Sarkar's Book (2025)¹

Reviewed by Hellen Mutellah²

¹ Rumu Sarkar, *International Development Law: Rule of Law, Human Rights & Global Finance* (Springer, 3rd ed., 2025).

² Master of Laws, LL.M. Candidate in Rule of Law for Development (PROLAW) at Loyola University Chicago School of Law and an Assistant Director of Public Prosecutions at the Office of the Director of Public Prosecutions (ODPP), Kenya.

1. Introduction

1.1 Framing the Rule of Law Inquiry

In her book *International Development Law (IDL): Rule of Law, Human Rights & Global Finance*, Professor Rumu Sarkar sets out the normative and operational framework for IDL in the context of human rights, global finance, and the rule of law.

The book views development not only through economic and policy lenses but also through legal norms and institutional frameworks that incorporate rule-of-law principles such as transparency, accountability, cooperation, and participation. The book further demonstrates how human rights and global finance (international agreements, financial rules, and global institutions such as the World Bank and the IMF) play a significant role in shaping IDL.

The author highlights that International Development Law is shaped by law, human rights, global financial systems, and institutional power asymmetries between developed and developing countries, which in turn determine development outcomes. To achieve meaningful development, particularly in the Global South, the book calls for managing sovereign debt, regulating financial flows, and ensuring fair conditionality. This is a significant contribution to the existing International Development Law scholarship.

A question that, however, arises is whether the normative framework set out in the book translates into enforceable, accountable mechanisms capable of addressing issues such as corruption, which, as the author notes, continues to pose a significant obstacle to development. This is where the word “law” immediately raises the question (particularly in a lawyer's mind) of what the consequences for non-compliance are. Further, in the context of International Development Law, what constitutes binding or operative legal norms capable of establishing accountability?

The book's main target audience is professors, instructors, graduate students, and undergraduates, and is presented as a “*student edition*”. Notwithstanding this intended audience, the book remains an accessible and valuable resource for a broad range of development practitioners, including those without a legal background, who are interested in a global understanding of International Development Law and human rights (chapter 4).

This third edition distinguishes itself through an innovative interactive learning design, incorporating interactive learning tools such as audiovisual recordings (for each chapter) and Flashcards (at the end of each chapter) that enhance reader engagement and support comprehension and self-assessment. The flashcards include Q&A, multiple-choice, and fill-in-the-blank formats whose answers are available for download from the publisher's (Springer) website. The audiovisual recordings that accompany each chapter give the book an interactive, asynchronous classroom feel.

1.2 Book Review Approach

This book review adopts a rule-of-law and anti-corruption approach informed by the reviewer's background in human rights and prosecution. It looks into how the normative framework and principles set out in the book translate into enforceable accountability mechanisms that can address corruption and institutional governance in international development, particularly in the absence of an international instrument that codifies International Development Law. The book review is complemented by an interview graciously granted by the author.

1.3 About the Author

Professor Rumu Sarkar has extensive experience in International Development Law and holds a background in law. Her interaction with International Development Law began when she was an Attorney–Advisor with the Office of the General Counsel at the US Agency for International Development (USAID). She is admitted to practice in several U.S. jurisdictions, holds a Ph.D. in Law from Cambridge University, and serves as an adjunct law professor at Case Western Reserve University School of Law. She also served on the PROLAW Advisory Committee for the Loyola University Chicago School of Law LL.M. Program and is currently working in social impact investment. This background shapes the book’s interdisciplinary approach.

2. The Rule of Law Analysis

2.1 The Paradox of International Development Law

The first question any researcher seeks to answer at the beginning of any reading is the question of definition. In this case, what is **International Development Law, the Rule of Law, and Corruption**, and what is the **interplay between the three** within the **realm of International Development Law**? Answering these three questions is important for determining whether governance, accountability, and development are effective.

Rather than prescribing a specific definition to International Development Law, Professor Rumu Sarkar first notes that defining the term “development” is problematic and depends on the perspective adopted. The author consequently situates International Development Law in an interdisciplinary, complex manner that incorporates diverse theories, histories, policies, and viewpoints.

The author's hesitance to ascribe a specific definition to International Development Law resonates with several scholars in the field. David Trubek and Marc Galanter, for example, in their renowned article “*Scholars in Self-Estrangement* (1974), criticized law and development for lacking conceptual coherence in the field, rather than being a “movement”, despite the amount of work in the area. The scholars argued that the work in the area had led to fragmentation rather than organization.³ Prof. Rumu Sarkar also holds this view in her book.

In 2014, forty years after the “*Scholars in Self-Estrangement*” article, David M. Trubek still holds the view that law and development has fragmented into multiple “silos”: human rights and development, finance and development, environmental governance, trade and development, and rule of law reform.⁴ Therefore, despite enriching the scholarship, Trubek argues that it has weakened the creation of a unified field and intellectual coherence. This leads to what Professor Sarkar notes in her book: International Development Law has a distinct and substantive evolution of legal principles.

³ David M. Trubek & Marc Galanter, *Scholars in Self-Estrangement: Some Reflections on the Crisis in Law and Development Studies in the United States*, 1974 Wisconsin Legal Review 1062 (1972). Available at: <https://api.law.wisc.edu/repository-pdf/uwlax-library-repository-omekav3/original/5b7236a8af6822ecf61dd7f3b234e9160bdf28b8.pdf>

⁴ David M Trubek, *Law and Development: 40 Years after Scholarship in Self– Estrangement – A preliminary Review* (2014) University of Wisconsin Legal Studies Research Paper No. 1255. Available at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2435190

The absence of a universally prescribed definition of International Development Law raises issues of ambiguity and pertinent rule-of-law questions – what are the legal boundaries?

The rule of law, which also lacks a single agreed-upon definition, has, however, been conceptualized around key principles. These principles require that both state authorities and individuals be governed by publicly established, clear, stable, and prospective legal norms rather than by arbitrary discretion.⁵ In addition, procedural fairness and accountability mechanisms are needed to redress violations, particularly in courts.⁶

International Development Law lacks a specific definition; therefore, it raises the question of whether it satisfies rule-of-law principles requiring laws to be publicly established, clear, stable, and prospective. This lack of a clear framework creates opportunities for ambiguity, accountability gaps, and enforcement challenges, fostering an environment conducive to corruption. It further complicates decisions about which parameters to use to measure success.⁷

2.2 Rule of Law Framework: Law, Institutions, and Power

Professor Sarkar incorporates the rule of law in her conceptualization of International Development Law, particularly regarding governance, institutional design, and legal frameworks. The book constructs the rule of law through governance principles such as accountability, transparency, participation, and institutional legitimacy through which development is to be undertaken. However, the mechanism for exercising these principles remains unclear.

The author notes institutional and power asymmetries between developed and developing countries, particularly developing countries' dependence on sovereign borrowing. This, as the author puts it, creates unequal bargaining power and limited remedies. The author notes that “*there are remedies that can only be exercised by the institutional actor and are not available to the borrower.*”⁸ The author further notes that there are “*no institutional means for seeking redress for any dispute*” in such instances; the only available options for the borrower against international financial institutions such as the IMF and World Bank are to undertake negotiations with a view to reaching an amicable resolution, in which case, as the author puts it, it is “*not always politically feasible*”. This challenges the rule-of-law principle of equality before the law.

In the context of International Financial Institutions, they create the law through the contracts they sign, and the borrower, in most instances, does not know about these legal obligations until signing the contracts. The requirement that laws be publicly available and certain does not meet muster. In this case, power becomes more determinant than the law, supporting the author's position that International Development Law operates within unequal power structures. Moreover, what happens if the one who does not adhere to the terms of the

⁵ Waldron, J. (2016). *The rule of Law*. In E. N. Zalta (Ed.), *The Standard Encyclopedia of Philosophy*. Standard University. Available at: <https://plato.stanford.edu/entries/rule-of-law/>

⁶ The United Nations (UN) system defines the rule of law as “*a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency.*” See <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>

⁷ Daniel D. Bradlow (2005). *Differing Conceptions of Development and the Content of International Development Law*. Available at: https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1935&context=facsch_lawrev

⁸ Supra Note 1, page 89

agreement is the International Financial Institution, the lender? What recourse mechanisms, if any, are available for the borrower?

2.3 Corruption as an obstacle to the rule of law and development

Corruption is one of the biggest challenges to development, governance, human rights, and the rule of law. Mr. Kofi Annan highlighted in the foreword to the United Nations Convention Against Corruption (UNCAC) how corruption undermines the rule of law and democracy, violates human rights, and enables terrorism, organized crime, and other threats to human security to flourish. He further noted that it diverts funds earmarked for development, discourages foreign aid and investment, and impedes a state's ability to provide basic services to its citizens.⁹

Professor Rumu Sarkar identifies corruption as one of the “biggest obstacles to development.” The author points out that it diverts resources, weakens institutions, and undermines trust in public institutions. The author frames corruption as “the abuse of public power for private gain” and identifies its causes as institutional instability, weak governance structures, poverty, and ineffective public administration.

Emerging jurisprudence from the Global South shows that Professor Rumu Sarkar’s principles on the effects of corruption in international development law are subject to enforceable legal obligations. In the case of *SERAP v Federal Republic of Nigeria & UBEC (Right to Education)*¹⁰ and *SERAP V Federal Republic of Nigeria (Environmental Rights)*,¹¹ litigated before the ECOWAS Community Court of Justice, the court was called upon to determine an application on the violation of the applicants’ rights to the quality of education, dignity, people's rights to their natural resources and economic and social development as safeguarded under the African Charter, Articles 1, 2, 17, 21 and 22. The Court noted that the State's failure to prevent corruption directly contributed to the violation of economic and social rights, as the mismanagement of funds affected citizens' access to education and a healthy environment.

This was similarly the case in *SERAP v Federal Republic of Nigeria & UBEC*, where corruption was alleged to have occurred through the government's failure to prevent it within the Universal Basic Education Commission (UBEC). The court found that this violated children's right to education. The court ordered the Nigerian government to provide the funds needed to cover the shortfall to avoid denying its people the right to education and further asked the government to ensure that corruption does not undermine the right to education. Just as the right to development is justiciable, this case shows that corruption-driven financial gaps are actionable as

⁹ United Nations Convention Against Corruption. Available at: https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf

¹⁰ *SERAP v Federal Republic of Nigeria & UBEC* ECW/CCJ/JUD/07/10 (ECOWAS Court of Justice, 30 November 2010). Available at: https://www.chr.up.ac.za/images/researchunits/bhr/files/extractive_industries_database/nigeria/national_case_law/SERAP%20v%20Nigeria.pdf

¹¹ *SERAP v Federal Republic of Nigeria* ECW/CCJ/APP/08/09, Judgment No. ECW/CCJ/JUD/18/12 (ECOWAS Court of Justice, 14 December 2012). Available at: <https://caselaw.ihrda.org/entity/pftlz3gneo0wxsgq0kdszto6r?file=1650956721947oath9e3rph8.pdf&page=2>

human rights violations. Despite the ruling, the respective governments are yet to give effect to the judgments.¹²

These cases therefore demonstrate, as Rumu Sarkar argues, that corruption is not merely an obstacle to development but also a direct threat to the rule of law and human rights. In that case, States can be held accountable for failing to prevent, investigate, and remedy corruption where it impedes the realization of economic, social and cultural rights and development.

The book highlights mechanisms required to address or mitigate corruption, such as institutional anti-corruption frameworks, including the roles of investigators and prosecutors, as well as the recovery of proceeds of crime, as contemplated under UNCAC, but leaves open questions regarding the effectiveness of these institutional measures. Can corruption be detected, can evidence be gathered, can cases be prosecuted, can convictions be sustained, and can assets be recovered? What does this mean for development, particularly in the Global South?

At its 58th Session in April 2025, the Human Rights Council discussed the negative impact of the non-repatriation of illicit funds to their countries of origin on the realization of human rights. In its discussion, the Council noted that Africa loses more to illicit financial flows (\$88.6 billion annually) than it receives in official development assistance (\$48 billion) or foreign direct investment (\$54 billion). In this regard, member states were called upon to seek the return of these ill-gotten funds as part of their duty to realize economic, social, and cultural rights, including the right to development. The call to action also urged states to ensure that repatriated funds are used transparently for development and the realization of rights.¹³

The Human Rights Council therefore positions anticorruption, asset recovery, and human rights as interconnected enablers of the right to development, like Professor Rumu Sarkar's core theory that the rule of law, corruption, and global finance are interconnected components of international development. The success of international development law, particularly in the Global South where it has been noted that illicit financial flows outweigh development assistance, will largely depend on whether States possess the capacity and independence to investigate corruption, prosecute offenders, and recover proceeds of crime, and whether stolen resources can be rechanneled back to communities where they were illegally obtained for development purposes and the realization of human rights. In this context, investigators, prosecutors, anti-corruption agencies, financial intelligence units, and courts are key institutions in advancing the rule of law and the right to development.

2.4 Limitations and Critique

Professor Rumu Sarkar's book takes a global focus on international law and offers a strong theoretical grounding through a doctrinal, legal, and policy-oriented methodology. This provides an excellent conceptual overview and a basis for understanding International Development Law, especially for a reader entering the field of IDL. However, when evaluated through a rule-of-law

¹² Mumuni, A. (2016, October). *Litigating corruption in international human rights tribunals: SERAP before the ECOWAS Court*. Open Society Foundation. Available at: <https://www.justiceinitiative.org/uploads/7e3c503b-8749-4929-b432-920a22776e1a/legal-remedies-8-mumuni-20161014.pdf>

¹³ United Nations Human Rights Council. (2025). The negative impact of the non-repatriation of funds of illicit origin to the countries of origin on the enjoyment of human rights, and the importance of improving international cooperation (Resolution A/HRC/REC/58/7). United Nations Digital Library. <https://digitallibrary.un.org/record/4082983>

lens, the limited engagement with empirical evidence, case law, and institutional practice proves limiting.

The book notes that the author opted for a deductive rather than an inductive approach in defining substantive principles of development law, citing the absence of case law on IDL, save for the human right to development, as the reason for this choice. The author notes: “*Although this is changing slowly, judicial and adjudication bodies (outside of trade – based tribunals) are not focused on development – law – oriented questions.*”¹⁴

Although it can be argued that there are limited documented case law from the Global North, there is emerging jurisprudence (other than on the right to development) from the Global South, which can be traced back to as early as 2000, when the South African Court was faced with the state's developmental obligation as regards the provision of the right to housing in the case of *Grootboom and Others*.¹⁵

Emerging jurisprudence, particularly in the Global South, indicates a trend of litigants going to court to seek accountability in respect of development processes. Courts are gradually treating development not as a policy and economic issue but as a right-based, participatory, and accountability process. Development-related rights, particularly socio-economic rights, are increasingly being subject to judicial determination of the extent of the state's obligations regarding legal entitlements rather than policy goals.

The South African court, in the *Grootboom case*,¹⁶ was called upon to determine a developmental issue concerning the state's housing programs' failure to provide emergency relief to people in desperate need where development processes had to take an inclusive and participatory approach. This was similarly the position in *Mitu-Bell Welfare Society v Kenya Airports Authority & Others (Petition 3 of 2018) [2021] KESC 34 (KLR)*¹⁷, where the Supreme Court of Kenya noted that where the Government failed to provide accessible and adequate housing for all people, the very least it could do was to protect the rights and dignity of people in informal settlements.

In *Khosa and Others v Minister of Social Development and Others*,¹⁸ The South African Court again held that excluding permanent South African residents from social assistance grants was unconstitutional, as it violated their rights to social security and equality.

In the cases of the *Center for Minority Rights Development (Kenya) and Others (Endorois Case) V Kenya*, Comm. No. 276/2003(2010)¹⁹ and *Mayagna (Sumo) Awas Tingni Community v Nicaragua*

¹⁴ Supra Note 1, page xiv

¹⁵ *Government of the Republic of South Africa and Others v Grootboom and Others* (CCT11/00) [2000] ZACC 19; 2001 (1) SA 46 (CC); 2000 (11) BCLR 1169 (CC) (4 October 2000). Available at: <https://www.saflii.org/za/cases/ZACC/2000/19.html>

¹⁶ Ibid

¹⁷ Judgement available at: <https://new.kenyalaw.org/akn/ke/judgment/kesc/2021/34/eng@2021-01-11>.

¹⁸ *Khosa and Others v Minister of Social Development and Others, Mabhale and Another v Minister of Social Development* (CCT 13/03, CCT 12/03) [2004] ZACC 11; 2004 (6) SA 505 (CC); 2004 (6) BCLR 569 (CC) (4 March 2004). Available at: <https://www.saflii.org/za/cases/ZACC/2004/11.pdf>

¹⁹ https://www.globalhealthrights.org/wp-content/uploads/2013/10/Center_for_Minority_Rights-Kenya-2010.pdf The case challenged the eviction of the Endorois community from the Lake Bogoria area, which they informed the court was their ancestral land to pave the way for a game reserve without proper prior consultations and adequate and effective compensation. The African Commission on Human and Peoples' Rights (ACHPR) held that the Kenyan government had violated the Endorois community's right to property, religion, culture, and development. The court recommended that the Kenyan government pay the Endorois royalties on existing economic activities and grant them employment opportunities within the Reserve.

(2001),²⁰ the respective courts found that part of the rule of law requirements in development was ensuring the participation, free, prior, and informed consent (FPIC), and involvement of affected communities, thereby marking a shift toward people-centered development.

These cases show that the normative framework and principles set out in Professor Rumu Sarkar's book can be translated into enforceable legal rights and mechanisms to hold institutions accountable. They further illustrate that development creates legal obligations, is measurable through the realization of socio-economic rights, and that governments can be held accountable for development processes. The cases also set out rule-of-law requirements that development processes be participatory, respect human rights standards, and take into account marginalized and vulnerable groups such as indigenous peoples' rights. In this context, government institutions play a critical role in enforcement and in providing remedies in the event of rights violations.

The authors' deductive approach to highlighting International Development Law and their limited reference to emerging jurisprudence, particularly from the Global South, risk marginalizing substantive principles of International Development Law from cases adjudicated within the region, thereby contributing (not intentionally) to what scholars on Third World Approaches to International Law (TWAIL) such as Makau Mutua²¹ and James T. Gathii²² posit as the exclusion of Global South views and jurisprudence in the framing of International Law.

3. Conclusion

Emerging jurisprudence in International Development Law suggests that development is no longer measured by how much a country's economy has grown or how many projects are completed. The central question now is: was the process fair, legal, open to the public, honest, and did it protect people's rights?

The legal debate shows a clear shift – development is no longer just a matter of government choice or policy. Governments and institutions must now answer for how they develop, not just whether they develop. Issues such as business conduct, debt, and people's basic right to development require institutions to comply with the law, combat corruption, engage local communities, and provide remedies for affected communities.

In conclusion, Professor Rumu Sarkar's book provides an excellent understanding of the advancement and the framework of International Development Law to its current state. The question that remains, however, is how the normative framework and principles espoused in the

²⁰ <https://caselaw.ihlda.org/entity/apxgm5zqmv7?file=16099273124381pbpt4ikdi4.pdf&page=1>. The Inter-American Commission on Human Rights found that the act of the Nicaraguan government in issuing a 30-year logging concession to a foreign company (SOLCARSA) to exploit timber on an indigenous community (Awes Tingni) land was a violation of their collective land rights despite the lack of land titles.

²¹ Makau Mutua and Antony Anghie, "What Is TWAIL?" (2000) 94 *Proceedings of the Annual Meeting (American Society of International Law)* 31. Accessible at https://digitalcommons.law.buffalo.edu/u/cgi/viewcontent.cgi?article=1559&context=journal_articles. The article explains what the Third World Approaches to International Law are and highlights that their purpose was to expose international law as a system constructed through European imperial power and to deconstruct the bias it perpetuates. Makau Mutua, on page 31 of the article, notes that historically, the Third World's general view of international law was one of "domination and subordination, not resistance and liberation." On page 35, Professor Makau Mutua directly references a statement by the former President of Tanzania, Julius Nyerere, on the Third World's place in international law: "In international rulemaking, we are recipients not participants."

²² James Thuo Gathii, "TWAIL: A Brief History of Its Origins, Its Decentralized Network, and a Tentative Bibliography" (2011) 3 (1) *Trade, Law and Development* 26. Accessible at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1933766, Professor Gathii notes on page 43 that Third World views and scholars of international law do not receive favorable responses.

book can translate into enforceable accountability mechanisms, particularly in addressing corruption and the governance of institutions involved in international development. The analysis ultimately demonstrates that the legitimacy and effectiveness of International Development Law will increasingly depend on the clarity, enforceability, and operationalization of its legal norms, and, as the author posited, on the creation of a distinct legal system codified in an international instrument.