The Challenges of Democratic Consolidation in Africa

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THE CHALLENGES OF DEMOCRATIC CONSOLIDATION IN AFRICA

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Table of Contents
I. Introduction ........................................................................................................ 2

II. Challenges of Democratic Consolidation ..................................................... 11
   A. Domestic Challenges ...................................................................................... 15
   B. Organizing Credible Elections ...................................................................... 16
   C. Improving the Condition of Government .................................................... 22
   D. Revamping Public Institutions ..................................................................... 32
   E. Improving Security ......................................................................................... 36
   F. Counteracting Anti-Democratic Sentiments ............................................... 40
   G. Citizens ........................................................................................................... 41
   H. Leaders ........................................................................................................... 47

III. Challenges for the International Community ............................................ 51
   A. Containing Africa’s Tyrants ........................................................................... 55
   B. Fighting Corruption ....................................................................................... 58
   C. Building Capacity ......................................................................................... 61

IV. Conclusion ..................................................................................................... 63

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I. Introduction

Africans overwhelmingly prefer democracy to dictatorship but approach democratic transitions with a mixture of hope and anxiety.¹ Hope is inspired by the prospects of a better life under a democratic government, while anxiety is fueled by fears that the new leaders may, like their predecessors, both civilian and military, lead the country down the often traveled road to perdition.² The predominating emotion ultimately will depend upon how democracy is practiced. Hopes that democracy will usher in a better life for Africans will prove well founded if leaders seize the opportunities presented by democracy to transform the society, regenerate governance, provide better and more efficient public and social services, maintain security, respect civil rights and liberties, and generally provide an enabling environment for citizens to pursue their economic, social and political interests, shorn of unnecessary restraints.³ On the other hand,

¹ Jennifer Widner, *Africa’s Democratization: A Work in Progress*, CURRENT HISTORY, May 2005, 216, 220 (“Subsaharan Africa is in an ambiguous transition period, with signs of hope as well as grounds for pessimism.”); *TATAH MENTAN HELD TOGETHER BY PINS: LIBERAL DEMOCRACY UNDER SIEGE IN AFRICA* [hereinafter held together by Pins] 113 (2007) (in most African states, a high level of popular support exists for the concept of democracy.).

² Nsongurua J. Udombana, *Articulating The Right to Democratic Governance in Africa*, 24 MICH. J. INT’L L. 1209, 1220 (2003) (“While joyful progress has been made in parts of the continent, anxiety has exceeded happiness in others because many transitions to democratic polities have not been smooth. . . . For reasons that are not altruistic, newly established democratic orders have devolved into pseudo-democracies. In other cases, superficial changes have been used as a cosmetic screen for the continuation of often brutal regimes.”); Crawford Young, *Africa: An Interim Balance Sheet*, J. DEM. July 1996 at 53, 60 (“Africa’s third wave of democratization is now well into the second half of the decade. . . . Yet the euphoria that accompanied the arrival of the third wave in Africa has long since evaporated; even the most optimistic advocate of democratization would join Larry Diamond in cautioning that democracy is “bound to be gradual, messy, fitful and slow with many imperfections along the way,” in no other region of the world has has the global third wave encountered such a hostile economic and political environment.”)

³ President Abraham Lincoln’s statement about democracy and its capacity to elevate the well being of citizens resonates powerfully in Africa:

This is essentially a peoples’ contest. . . . It is a struggle for maintaining in the world, that form, and substance of government whose leading object is to elevate the condition of men - to lift artificial weights from all shoulders - to clear the path for all - to afford all men an even start and a fair chance in the race of life.

President Lincoln’s July 4th, 1861, message to Congress available at www
frustration, even despair, will result if democracy fails to deliver appreciable values to the citizens. Inchoate suspicions and quotidian concerns that democracy is not the panacea for Africa’s ills will not dematerialize if human rights abuses continue, freedoms and liberties are curtailed and citizens lack meaningful opportunities to uplift and improve their lives.4

The fears of citizens seem well-founded because democracy initiated in the hopes of improving the welfare of citizens risks turning into a plaque, perhaps even absolutism because elected leaders, far too often, operate governments antipodal to democracy.5 Anguishing, despairing, restive, and occasionally brutalized citizens have seen none of the progress they were promised from democratic governments.6 The once buoyant optimism toward democracy in Africa has faded to foreboding, as citizens helplessly watch their leaders arrantly ignore their

4 Professor Van de Walle eloquently stated the concerns widely nursed by Africans about constitutional democracy. He stated that “over much of Africa, therefore, fin-de-siecle optimism has given way to early twenty-first century gloom. Leaving behind the romance of transition, we have entered the era of “democracy with adjectives” as observers strain to invent qualifiers that capture the actual quality and texture of multi party politics as it is practiced in the region.


5 This probably explains why Larry Diamond argues that “a number of the African countries classified as electoral democracies are really better scored “competitive authoritarian states” Larry Diamond, The Rule of Law versus the Big Man, 19 J. DEM 138, 139 (2008); Femi Falana, President of West African Bar Association noted that:

... Most of the countries in Africa operate semi-authoritarian regimes because they have the facade of democracy; that is they have political systems, they have all the institutions of democratic political systems, they have elected parliament, and they hold regular elections. They have nominally independent judiciaries. They have constitutions that are by and large completely acceptable as democratic institutions - but they are, at the same time, very serious problems in the functioning of the democratic system.


6 Peter M. Lewis, Nigeria: Elections in a Fragile Regime, 14 J. DEM. 131 (2003) (“the much anticipated “democracy dividend” whether construed as improvements in governance, stability or economic welfare has not materialized.”)
needs and systematically violate their rights. Though professing commitment to democracy, and assuming power through elections, albeit dubiously, African leaders espouse and display the trappings of tyranny. They treat and abuse their citizens as rulers often do in a dictatorship or a tyrannical regime. Human rights abuses still exist, this time committed by civilians, the economy is in shambles, provision of social amenities is erratic and unreliable, public institutions are neither effective nor efficient, unemployment and poverty have reached

7 Jeffrey Herbst, The Incomplete Triumph of Democracy in Africa, lecture delivered at the American Enterprise Institute, Nov. 1, 2004 available at www.aei.org (noting that “given how hard it is for leaders to cede power generally to the people and specifically to their opponents when they lose, there is no doubt that in the next decade or more, a significant number of the democratic experiments in Africa will fail outright)

8 Daniel Chirot, Post Colonial Africa and Middle Eastern Tyrannies: Combining the Worst of the Classical and Modern Traditions in CONFRONTING TYRANNY: ANCIENT LESSONS FOR GLOBAL POLITICS 85 (Toivo Koivukoski & David Edward Tabachnick eds. 2005) describing the nature and quality of rulers in Africa, the author stated that:

Even in the classical sense of the word, “tyranny” as the rule by an individual or small clique that has low legitimacy with the population, that is abusive and corrupt, and that has damaged the well-being of most of those it rules, the average post colonial African regime has been tyrannical.

9 The United Staes Department Country Report on Human Rights Practices contained troubling accounts of human rights abuses and practices that significantly diminish the quality of life for Nigerian citizens. The report stated that:

The government's human rights record remained poor, and government officials at all levels continued to commit serious abuses. The most significant human rights problems included the abridgement of citizens' right to change their government; politically motivated and extrajudicial killings by security forces; the use of excessive force, including torture, by security forces; vigilante killings; impunity for abuses by security forces; beatings of prisoners, detainees, and suspected criminals; harsh and life-threatening prison conditions; arbitrary arrest and prolonged pretrial detention;


10 UNITED NATIONS ECONOMIC COMMISSION FOR AFRICA AFRICAN GOVERNANCE REPORT 2005 at 172 available at www.uneca.org/agr2005 (“While African countries have overwhelmingly subscribed to most international and regional human rights norms and standards, ratified numerous treaties and enshrined these norms and standards in their constitutions and legislations, a significant gap remains in their realization.”).

11 Jean Herskovitz, Nigeria’s Rigged Democracy, FOR. AFFRS July/August, 2007 (noting that Nigeria has some of the worst economic indicators in the world).

12 Richard Joseph, Challenges of a Frontier Region, 19 J. DEM. 94 at 103 (2008) (“Africans are still overwhelmingly denied basic public goods of health care, education, clean water, electrical power, physical security, a sanitary environment, and decent transport infrastructure because the institutions required to provide then are . . . constantly being eroded from within.”).
stratospheric levels.\textsuperscript{13} Citizens are painfully realizing that politicians are not exactly an antidote to kleptocratic, abusive and corrupt military dictators.\textsuperscript{14}

This paper, using Nigeria as a case study, examines the challenges of democratic consolidation in Africa.\textsuperscript{15} It will critically and objectively identify the problems and challenges of democratic consolidation in Africa and offer suggestions that will move Africa further along the path of constitutional democracy. It proceeds from the basic proposition that Africans’ thirst for genuine democracy is at present unslaked and perhaps unslakeable under the current circumstances in Africa.\textsuperscript{16} Democracy is off kilter in Nigeria, and indeed, most parts of Africa and appears to be spiraling over the edge into dictatorship, and perhaps even social disorder, fatally assaulted by political elites whose moral equipoise have been disarranged by narcissism and

\textsuperscript{13} \textsc{United Nations Economic Commission for Africa: Meeting the Challenges of Unemployment and Poverty in Africa} I available at www.uneca.org/era2005/overviewpdf (“Poverty in Africa is substantially higher than in other developing regions. More enigmatic is that poverty if Africa is chronic and rising.”); USAID Democracy and Governance www.F6aid.gov/our_work/democracy_and_governance/regions/afr/Nigeria.html (despite a political transition to democracy in 1999, Nigeria continues to face enormous challenges. Two-thirds of the country’s citizens live in poverty)

\textsuperscript{14} In his well researched and articulately written book appropriately titled the trouble with Africa, Robert Calderisi, a former world Bank employee with extensive contacts and experience in Africa, derisively referred to Africa’ leaders as “Thugs in Power” see ROBERT CLADERISI THE TROUBLE WITH AFRICA 56 (2006) he provides detailed and, at times, disgusting accounts of their excesses. \textit{Id. at} 56-76

\textsuperscript{15} My choice of Nigeria is informed by my familiarity with Nigeria, having practiced law in the country and lectured in one of Nigeria’s premier law schools for several years. Also, Nigeria’s strategic importance in Africa has been widely acknowledged by scholars and policy makers. The problems of democracy in Nigeria are fairly similar to situations in other African countries. It is therefore hoped that a well-functioning democracy in Nigeria will provide a model for other countries in the continent.

\textsuperscript{16} Wole Soyinka Nobel Laureate and one of the most persistent and consistent advocates of a better life for Africans in his characteristic eloquence, captures Africans’ dissatisfaction with the state of events. He stated that African dreams of peace and prosperity have been shattered by the greedy, corrupt and unscrupulous rule of the strongmen. . . . One would be content with just a modest cleaning up of the environment, development of opportunities, health services, education, eradication of poverty. But unfortunately even these modest goals are thwarted by the power crazed and rapacious leadership who can only obtain their egotistical goals by oppressing the rest of us. Quoted in ROBERT CLADERISI, THE TROUBLE WITH AFRICA 77 (2006)
corruption. Available evidence provides a disturbing hint that Africans are losing confidence in the democratic process. The opportunities presented by democratic transitions have been squandered by the cocktail of hubris, arrogance, and corruption — the trademark of Africa’s political elites. Elected officials upon assuming office tend to emulate the military despot they denounced and replaced. The specters of the past — corruption, human rights abuses and economic mismanagement remain for the most part unsolved and unaddressed.

Larry Diamond paints a gruesome picture of the state of democracy in some countries including Nigeria. He stated that:

Some countries such as Nigeria . . . . occupy an ambiguous or disputed space between democracy and overt authoritarianism. They have a multi party electoral system, with significant opposition. They have some space for civil and intellectual dissent. However, individual and associational freedoms are under such mounting pressure, or elections are so riddled with fraud, or the arenas of political opposition and competition are so constrained and intimidated by the domineering power of the incumbent, that it is difficult to call the systems democratic, even in the minimal sense.

Human Rights Watch provides an accurate assessment of the deficiencies of Nigeria’s democratic rulers when it stated that:

Nigeria is mirred in a crisis of governance. Eight years since the end of military rule, the country’s longest-ever stretch of uninterrupted civilian government, the conduct of many public officials and government institutions is so pervasively marked by violence and corruption as to more resemble criminal activity that democratic governance.

Human Rights Watch Criminal Politics Violence, “GODFATHERS” and Corruption in Nigeria 1 (2007). *(hereinafter CRIMINAL POLITICS)*; Diamond, *The Spirit of Democracy*, supra note 17 at 70 (“in Africa’s most populous country [Nigeria], the promise of democratic reform was squandered in the early 2000s by a combination of gross electoral fraud, rising levels of political violence and criminal penetration of politics and a relentless effort by President Obasanjo and his supporters to permit him to run for a third term.”)

Joseph, *supra* note 12 at 99) (noting that following the political openings of the 1990s, the newly elected executives moved quickly to shift power away from the people and the other arms of government, and soon began to emulate the recently departed authoritarians when it came to the avid appropriation of public resources.)

Etannibi Alemika Corruption, Governance Performance and Political Trust in Nigeria, University of Cape Town Center for Social Science Research Paper No. 77, p. 2 (2004) (“after five years of civil rule and democratic transition, many of the inherited socio-political and economy problems are worsening. In essence, five years of civil rule has not produced the socio economic dividends that are expected by citizens.”)
antagonisms and reciprocal ethnic hatreds remain unrequited. Poverty, unemployment, inadequate and unsatisfactory social services continue to threaten social equilibrium. Rulers addled by the enormity of the nation’s problems and unable to proffer meaningful solutions often delude, manipulate and abuse citizens to prevent them from demanding accountability and respect for their civil rights and liberties.  

Despite these ominous warning signs, I argue, however, that disaster in Africa may be imminent but not inevitable. Disaster may be avoided if African leaders and citizens make the right choices and decisions. Professor Bates was resoundingly correct when he stated that “the realities of contemporary Africa compel us to realize that political order is not a given: it is the product of decisions.” The problems that bedevil democracy in Africa are intractable but can be addressed if citizens make the right decisions and the necessary attitudinal and behavioral adjustments. Consolidating democracy in Africa requires reciprocal commitments from both the leaders and the citizens to change their attitudes toward constitutional democracy. Leaders must commit to operate an open, transparent and accountable government that respects the rule of law. Citizens, on their part, must supplant the current culture that engenders apathy and disinterest in

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22 Professor Ndulo’s assessment of the state of African citizens in 2003 remains valid in contemporary African societies. He stated that too many Africans are trapped in conditions of grinding poverty, face daily violence and abuse, suffer under corrupt and oppressive regimes, and are condemned to live their lives in squatter settlements or rural slums with inadequate sanitation, schooling and health facilities. Muna Ndulo, The Democratic Process and Structural Adjustments in Africa 10 IND. J. GLOBAL LEGAL STUD. 315 (2003).

23 For an excellent account of strategies employed by African rulers to blunt domestic demands for democratic reform see ROBERT H. BATES WHEN THINGS FELL APART: STATE IN LATE CENTURY AFRICA 129 (2008) (hereinafter Bates When Things Fell Apart)

24 Id at 129.
the democratic process. The fate of constitutional democracy depends on the extent to which Africa is able to extract these concomitant commitments for both the elites and the citizens.

The battle for democratic consolidation in Africa was poignantly framed by Ike Oguine, a Nigerian lawyer and novelist, who stated that the battle has morphed from “fighting bare-knuckled dictatorships . . . to guarding the new processes of democracy from the rampaging ambitions of political leaders.” Executive excesses, especially human rights abuses and corruption, undermine the legitimacy and credibility of leaders and lead citizens to respond to democracy with torpor, skepticism, and sometimes, downright indifference. Discontent with leaders is deep, wide, strong and will perdure unless the dictatorial instinct so dominant in African leaders is anesthetized. Only by disciplining and subduing their dictatorial tendencies will African leaders inspire and encourage uninterested, skeptical and unconvinced citizens to embrace constitutional democracy. Citizens will be willing and perhaps eager to support democracy if the political elites rise above crass self seeking, corruption, and give primacy to citizens’ needs, which for the most part are relatively simple and uncomplicated: free and fair elections, a transparent and accountable government constrained by law that appreciates the doctrine of separation of powers among the three branches of government; respect for their rights and liberties, an end to corruption and abuse; attention and sensitivity to their welfare and needs;

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25 See pages 40–47 of text infra

26 Ike Oguine, Democracy Faces Major Obstacles in Africa, in THE THIRD WORLD 127 (David M. Haugen ed. 2006).

27 Surveys by Afrobarometer show a declining public support for democracy in Nigeria. For example, in 2000, 84% of Nigerians expressed satisfaction with the democratic process, the number declined to 57% in 2001, 35% in 2003 and 25% in 2005. See Peter Lewis, Identity, Institutions and Democracy in Nigeria, Afro Barometer Working Paper no 68, March 2007 available at www.afrobarometer.org/paperts/Afropaperno68.pdf

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and viable economic, social policies and programs that give citizens the opportunity to overcome the twin ills of unemployment and poverty.\textsuperscript{28}

I also argue that democracy will not function as intended unless citizens claim their rightful and important roles in the democratic process.\textsuperscript{29} At present, citizens disappointed by the conduct of elected officials approach their civic obligations with little enthusiasm and far less optimism.\textsuperscript{30} Democracy, after all, in its basic and pristine form recognizes citizens as the ultimate source of power.\textsuperscript{31} The people make democracy what it is. An active, engaged, vigilant and alert civil society remains central to the proper functioning of constitutional democracy.\textsuperscript{32} If citizens, for whatever reasons, are uninterested or not sufficiently involved in the process, democracy will continue to flounder. Citizens’ apathy will confirm Russell Kirk’s prescient warning that:

\begin{quote}
An imposed or induced abstract democracy thrust upon people unprepared for it would produce at first anarchy, and then, as in nearly all of emergent Africa, over the past four decades - rule by force and a master.\textsuperscript{33}
\end{quote}

\textsuperscript{28} These expectations that form the bedrock of good governance are eloquently stated Chapter II of the 1999 Nigerian constitution dealing with fundamental objectives and directives of state policy.

\textsuperscript{29} Christain Welzel & Ronald Inglehart, \textit{The Role of Ordinary People in Democratization}, 19 J. DEM 126, 131 (2008) (noting that effective democracy does not emerge because elites choose in a vacuum to adopt democracy. As publics become increasingly articulate, well-organized, and motivated to demand democracy, elites have less choice in the matter.).

\textsuperscript{30} \textsc{International Crisis Group, Nigeria: Failed Elections, Failing State?} 8 (2007) (‘The flawed election may also have diminished voter confidence in the democratic process, particularly electoral institutions.’).

\textsuperscript{31} \textsc{Ashraf Ghani & Clare Lockhart Fixing Failed States: A Framework for Rebuilding a Fragmented World} 83 (2008) (“there has been an assumption in democratic theory that people are the principals and the government their agent.”)

\textsuperscript{32} \textsc{UNDP Human Development Report} 2002: DEEPENING DEMOCRACY IN A FRAGMENTED WORLD, 46 (2002) (hereinafter Deepening Democracy in a Fragmented World) (“an alert citizenry is what makes democratic institutions and processes work.”)

\textsuperscript{33} Kirk Russell, Prospect for Conservatives, Part 1: Prospects Abroad, Heritage Lecture No. 274 p.8 available at \url{www.heritage.org/Research/Europe/HL274.cfm}.
Africa can avoid the fate predicted by Russell Kirk if it can simultaneously redirect and
counteract tendencies and attitudes that spun citizens’ disinterest and apathy toward constitutional
democracy. Professor Diamond, a doyen of constitutional democracy with special interests in
Africa, correctly diagnosed the attitude of Nigerians toward democracy when he observed that
“the democratic spirit survived in Nigerian society, but it was sorely disillusioned, and it lacked a
democratic state and political class to give it room to grow.”

Rejuvenating the democratic spirit in Nigeria demands a new approach to governance, an approach that shows heightened sensitivity to the rights, needs and welfare of citizens. Political elites cannot convince the masses to embrace democracy unless they offer concrete and viable alternatives to dictatorship. They, unlike tyrants and despots, must diligently and consistently respect citizens’ rights and liberties, improve their welfare and generally present themselves as capable of providing an effective and accountable leadership. This new approach to governance will assuage the feelings of citizens dispirited by the excesses of the leadership. It will also bolster public confidence in the leadership, ease, and even eliminate public concerns and fears about democracy, and ultimately lead to the consolidation of democracy in Africa.

This paper is divided into two parts. Part I examines the challenges Africa must surmount to entrench democracy. Though Africa needs help from the international community, the struggle for democracy rests predominantly on the shoulders of African leaders and citizens. President

34 Diamond THE DEMOCRATIC SPIRIT supra note 17 at 74.

35 Democratic consolidation in this context means:

The process of achieving broad and deep legitimization, such that all significant political actors, at both the elite and mass levels, believe that the democratic regime is the most and appropriate for their society, better than any other realistic alternative they can imagine. . . . This legitimacy must be more than a commitment to democracy in the abstract; it must also involve a shared normative and behavioral commitment to the specific rules and practices of the country’s constitutional system...

Mandela spoke for a majority of Africans when he stated that “Africa is beyond bemoaning the past for its problems. The task of undoing the past is on the shoulders of African leaders themselves with the support of those willing to join in a continental renewal.” Africa must lead the charge for democratic consolidation in five important areas: conducting credible elections, improving the condition of government, revamping public institutions, improving security, and counteracting citizens’ apathy and disinterest toward constitutional democracy. Ultimately, democracy will be consolidated if leaders perform two vital functions: providing good leadership that embodies and exemplifies a model of appropriate behavior for citizens; and using their powers and authority to advance the common good and welfare of their citizens. Citizens will copy the examples set by their leaders and will be more energized and inspired to commit to democratic ideals once they see their leaders espouse those virtues. Part II examines the role the international community must play to help Africa in its struggles with constitutional democracy. Africa needs help in three significant areas: containing Africa’s numerous and increasingly dictatorial tyrants, fighting corruption and helping the civil society to build capacity necessary to promote democracy.

II. CHALLENGES OF DEMOCRATIC CONSOLIDATION

Most African nations maintain a semblance of order but the future of the continent of Africa faces significant and dangerous threats. Beneath the facade of order, lies corruption, human rights abuses and simmering ethnic tensions that often erupt into violence. To characterize the system in most African countries as democratic requires a mangled or Pickwickian definition of democracy.

36 Quoted in Ross Herbert, Implementing NEPAD; A Critical Assessment available at www.nsi.ins.ca
the word democracy. Marina Ottaway, an authority on democracy in Africa, accurately depicts the situation in Africa:

Now 43 of 48 Sub-Saharan African countries had held multi party elections. But this superficially rosy picture hides a mucharker reality. In most of these countries, democracy is a sham. Much of the continent’s population lives in deeply troubled, even disintegrating states.

Democratic consolidation in Africa has been painfully slow, often headed the wrong direction, and easily reversed by African leaders shortsightedly pursuing self-indulgent policies. The African landscape is already crowded with faltering democracies hurtling toward disaster. Some

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37 Research by scholars have crystallized the point that transitional democracies straddle both ends of the spectrum from dictatorship to democracy. They possess some attributes of dictatorship while at the same time displaying some attributes associated with constitutional democracy. See e.g Thomas Carothers, *The End of the Transition Paradigm*, 13 J. DEM. 5, 19 (2002) (“most of the transitional countries are neither dictatorial nor clearly headed toward democracy. They have entered a political gray zone. They have some attributes of democratic political life, including at least limited political space for opposition parties and independent civil society, as well as regular elections and democratic constitutions. Yet they suffer from serious democratic deficits, often including poor representation of citizens’ interests, low levels of political participation beyond voting, frequent abuse of the law by government officials, elections of uncertain legitimacy, very low levels of public confidence in state institutions, and persistently poor institutional performance by the state.”)


39 Arch Puddington, *The 2007 Freedom House Survey: Is the Tide Turning*, 19 J. DEM. 60, 71 (2008) (“sub-Saharan Africa has made incremental if uneven democratic progress over the last several years, but 2007 saw hard won freedom gains deteriorate. . . . . No one trend explains all the downturns, though political manipulation of ethnic and regional tensions and many leaders’ lack of tolerance for the opposition played a role in a number of countries. . . . Hopes raised by Nigeria’s first transition between elected civilian administrations faded when massive fraud, vote-rigging and violence marred the April 2007 general elections.”).

40 Stephen Ellis provides a devastatingly accurate account of the state of most African countries. He stated that: The continent’s countries are along a spectrum of effective statehood. At the one end are South Africa, Botswana and Mauritius — the few Sub-Saharan success stories in terms of both governance and economics. At the other end lie the abject failures, including Liberia, Sierra Leone and Somalia. And in between fall the vast majority. Notwithstanding the optimistic talk of international development officials, the vast bulk of Africa’s countries are doing just about enough to get by . . . . Of the African Union’s 53 members, eight or nine could currently be described as war zones, and there are plenty more – such as Chad, Togo and Guinea – that could go any way at any moment.

African countries are presently convulsed by violence, while others are mooting perilously close to state failure. At a personal level, constitutional democracy has not offered Africans a brake on human rights abuses, corruption and incompetence. Despite democracy, African nations are slowly regressing back to the old ways of despotism. Human rights abuses, corruption, violence, and ethnic conflicts, continue unabated. These problems provide stark warning to both Africa and the world community of the impending danger that will engulf Africa if nothing is done to address the problems.

The tocsin of danger in Africa continues to ring with increasing urgency and frequency. Any hopes that military intervention in governance is a passé in Africa were quickly dashed by the recent coup d’etat in Mauritania. The recent coup in Mauritania provides a disturbing indication that “democratic legitimacy does not entirely insulate African states from military intervention. . . . especially if there is a crisis of institutions or a sudden change in a country’s economic fortunes.”


43 See notes 7—10.supra and accompanying text.

44 Africa and the world community can ignore at great cost to humanity Robert Calderisi’s peroration that: Africa’s future is hard to predict – except to say that if correct trends continue, it will be very dark indeed... Something has to change if Africa is not to become a graveyard, as well as the birthplace of the human race.

Calderisi, THE TROUBLE WITH AFRICA supra note 14 at 225.

45 Lydia Polygreen, Army Officers Seize Power in Mauritania, N.Y. TIMES Aug. 6, 2008 (reporting that “a group of senior military officers in Mauritania arrested the country’s president and prime minster in a bloodless coup.”

The genocide in Darfur Sudan, the blood letting in Congo, the ongoing debacle in Zimbabwe, disturbingly demonstrate that the democratic mooring is not secure in Africa and that social upheavals, civil wars and state failures remain real and distinct possibilities.

Holding elections and replacing tyrants and dictators with civilian leaders, though important foundational steps, in no way assure the success of constitutional democracy. So much more needs to be done in Africa to consolidate democracy, to make governments accountable, to address human rights violations, to make public institutions more effective and efficient, and to create an environment where citizens can uplift themselves and pursue their legitimate goals without undue interference and restraints by government. Africa needs a fundamental recasting of its political environment to simultaneously entrench the rule of law and create an enabling environment for democracy to prosper. An enabling environment is very essential because “when tried in countries poorly prepared for it, democratization can and often does result in bad outcomes.” The “bad outcomes” of democracy are conspicuously present in Africa – corrupt, unaccountable and abusive leaders, deteriorating public institutions, and poverty caused by crushing economic conditions.

The failures of democracy in Africa urgently and dramatically bring to the forefront the need for more work and attention by both Africans and the international community. The

47 For an excellent discussion of the crisis in Darfur, see BRIAN STEIDLE & GRETCHE STEIDLE THE EVIL CAME IN HORSEBACK: BEARING WITNESS TO GENOCIDE IN DARFUR (2007)


49 HUMAN RIGHTS WATCH BULLET FOR EACH OF YOU: STATE SPONSORED VIOLENCE SINCE ZIMBABWE’S MARCH 29 ELECTIONS (June 2008) (documenting and discussing human rights abuses, repression and government sponsored violence in Zimbabwe); Thomas Woods & Brett D. Schaefer, Africa Must Confront the Growing Crisis in Zimbabwe, available at www.heritage.org/research/africa/wm1970.cfm (Noting that Mugabe’s increasingly sage efforts to maintain political power have triggered economic and humanitarian crisis).

movement away from dictatorship to democracy has been remarkable, even impressive but “there are still many tasks that need to be accomplished, conditions that must be established, and attitudes and habits that must be cultivated before democracy would be considered consolidated.” Some of the problems can be adequately addressed by Africans; other require the support and cooperation from the international community. This portion of the paper examines the challenges facing African nations as they battle to consolidate democracy.

A. Domestic Challenges

Though Africa counts on the international community, democratic consolidation ultimately rests with Africans. The international community, however well-intentioned, can only do so much. Citizens whose lives and fortunes depend on democracy must accept and bear the responsibility for its survival. Democratic reform ultimately depends on citizens to make choices, frame options and initiate changes. Only Africa citizens who live with the painful realities of failing democracy “can break the cycle of terror, poverty and mediocrity that keeps them subdued.

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51 Juan Linz & Alfred Stepan, Problems of Democratic Transitions and Consolidation: Southern Europe, South America and Post-Communist Europe 5 (1886)

52 See Mandela, supra note 36.

53 Paul Collier, an authority on Africa remarked during an interview that “there are severe limits on what we as outsiders can do.... Our role is just to do as much as we can to strengthen the position of the forces for change within these societies. Five Steps to Sustainable Governance in Africa, Interviewed by Stephanie Henson, June 27, 2008 available at www.cfr.org

54 Calderisi, Trouble With Africa supra note 14 at 230.
The international community can only assist the citizens to realize their stated goals. Africans must undertake a genuine, good faith and objective assessment of the problems that thwart their democratic aspirations. The 2003 African Development Report provides useful insights into Africa’s problems:

. . . Africa needs to look at itself — especially the nature of political power and governance institutions. In most African countries, the economy is still dominated by the state — with the state as major provider of formal employment, contracts, and patronage while parties are regionally and ethnically based. And politics in most of these countries is such that victor assumes a “winner-takes-all” form with respect to wealth and resources, patronage and the prestige and prerogatives of office. If there is lack of transparency and accountability in governance, inadequate checks and balances, non-adherence to the rule of law, absence of credible and peaceful means to change or replace leadership, or lack of respect for human rights, political control becomes excessively important and the stakes dangerously high.

To address the concerns raised by the AD report, Africa must confront five major challenges: organizing fair and credible elections, improving the condition of government, revamping public institutions, improving security and counteracting anti democratic sentiments in the society.

B. Organizing Credible Elections

The first challenge for Africa in its struggles to consolidate democracy is to conduct credible elections. Conducting credible election in Africa has always been a big challenge, given the unsatisfactory state of public institutions. Ensuring that the elections are free, fair and credible

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55 Thomas Carothers, The Sequencing Fallacy, 18 J. DEM. 12, 22 (2007) (noting that the role of outside actors in most attempted democratic transitions is relatively limited. . . . They may cajole, beseech or pressure officials in the country in question to move forward with democratic reforms. . . . The democracy-promotion community does not in most cases drive or even shape political institutions in the world. Instead, trying to help domestic actors achieve what they have already decided they want for themselves.

56 AFRICAN DEVELOPMENT BANK, AFRICAN DEVELOPMENT REPORT 2003 at 38
represents an even bigger challenge.\textsuperscript{57} Nephrologists and scholars are unanimous in their condemnation of elections in Africa.\textsuperscript{58} Available evidence indicates that African leaders often allow elections not with any sincerity or hope to deepen democracy. Rather, they conduct elections to poutice international concerns by creating the impression of democracy while they manipulate and rig such elections to maintain power.\textsuperscript{59} No one has been fooled. Citizens, international observers and scholars see through the scheme and have written a blizzard of papers and reports disapproving of the conduct of elections in Africa.\textsuperscript{60}

Africa’s bold democratic aspirations are often marred by electoral fraud and other irregularities that deny citizens the right to choose and control their leaders.\textsuperscript{61} Electoral fraud erodes public trust and support for the government and leads to citizens’ disinterest in the democratic process.\textsuperscript{62} To sustain the hopes of consolidating democracy, African countries must conduct credible and fair elections in which citizens’ choices of leaders are not disturbed by

\textsuperscript{57} For an analysis of the relationship between elections and democracy, see generally Staffan I. Lindberg Democracy and Elections in Africa (2006).

\textsuperscript{58} See notes 59 and 60 infra and accompanying text.

\textsuperscript{59} Daniel Calingaert, Election Rigging and How to Fight It, 17 J. Dem 138 (2006) (“Although elections are now held in most countries around the globe, in many cases they are anything but free and fair. Up to sixty regimes in the world today can be classified as “electoral authoritarianism.” They restrict the exercise of democratic freedoms, yet allow periodic multiparty elections in an attempt to bolster their domestic and international legitimacy.”)

\textsuperscript{60} See, e.g., Thomas Carothers Confronting Weakest Link: Aiding Political Parties in New Democracies 35 (2006) (“entrenched leaders often associated with dominant parties use elections as a tool in many countries to legitimate their hold on power, rather than a means of deepening representational institutions or advancing democratic values.”) Fareed Zakaria The Future of Freedom: Illiberal Democracy at Home and Abroad 91 (2004) (describing countries that mix elections and authoritarianism as illiberal democracies)

\textsuperscript{61} Robert A. Dahl, A Preface to Democratic Theory 3 (1956) (noting that if ordinary citizens cannot exert a relatively high degree of control over their leaders, then the minimal threshold of democracy has not been reached.)

\textsuperscript{62} Bruce Fein, Nigeria’s Rule of Law Challenges, Wash Times, July 15 2008 at A22 (noting that “citizens will shortchange willing obedience to their government if their governors were elected by fraud, violence or other manipulations in contravention of popular sovereignty.”)
electoral fraud or manipulation. Fair and free elections provide opportunities for citizens to reject and eject corrupt governments and send a clear message to prospective leaders that corruption, incompetence and hubris should find no sanctuary in a democratic society. The power to reject an underperforming government remains one of the most potent accountability mechanisms in a democracy.\textsuperscript{63} Fear of losing elections will keep governments honest, responsive and more attentive to the needs and opinions of the citizens. Prospects of rejection at the polls will force leaders to expunge themselves of despotic tendencies, hubris and arrogance that all too often constitute the defining traits of leadership in Africa.\textsuperscript{64}

Ultimately, the powers of the electorate to reject candidates for elective offices compellingly reinforce the notion that powers in a democracy lie, not with the government, but with the people.\textsuperscript{65} Credible, fair and free elections will enable the citizens to reassert their power and influence over the government.\textsuperscript{66} Political elites fearful of rejection at the next poll will

\textsuperscript{63} Molly Bentz, \textit{Functional Democracy: Responding to Failures or Accountability}, 44 HARV. INT’L.L.J. 387, 402 (2003) ("accountability mechanisms on the other hand not only require leaders to face the consequences of their decisions, but place the power to sanction those leaders in the hands of those most affected by the decisions—citizens.")

\textsuperscript{64} Jennifer Widner, \textit{Africa’s Democratization: A Work in Progress}, CURRENT HISTORY, May 2005, p. 216 ("if citizens could vote against poorly performing politicians at the ballot box, political elites would have a stronger incentive to attend to the needs of ordinary citizens, choose policies that would generate economic growth, and reduce corruption.")

\textsuperscript{65} Staffan I. Lindberg, \textit{The Surprising Significance of African Elections}, 17 J. DEM. 139, 150 (2006) (noting that elections despite their flaws are the best available mechanism for translating this right of self government into the effective governance of a modern state)

\textsuperscript{66} ROBERT A DAHLM \textit{A PREFACE TO DEMOCRATIC THEORY} 3 (1956) (if ordinary citizens cannot exert a relatively high degree of control over the leaders then the minimal threshold of democracy has not been reached.)
operate with a heightened sense of their limitations and vulnerabilities, and hopefully, display
greater sensitivity to the needs and welfare of the citizens.\textsuperscript{67}

The main impetus for electoral fraud is that the electoral process has turned into a
consequence free zone where perpetrators of electoral fraud are rarely investigated and punished.
Citizens waiting for comeuppences for electoral fraud have been dismally disappointed. When
electoral fraud is ineffectively investigated and sufficiently punished, electoral fraud proliferates
as emboldened candidates and their cohorts at the Independent electoral commission and the
Nigerian Police ply their fraud without fear of reprisals.\textsuperscript{68} Any attempt to deepen democracy will
be marginally effective, if at all, unless electoral irregularities are addressed. The effort to ensure
free and fair elections must be complimented by adequate mechanisms to sleuth out and punish
fraudsters and criminals who distort and manipulate the electoral process. Efforts must be made to
investigate electoral irregularities at all levels – local governments, state and federal, and to
prosecute all those involved in electoral fraud. The incentive to engage in electoral fraud will
shrink once citizens know that electoral fraud will draw swift and condign punishment. Punishing
fraudsters will also reassure the public about the government’s commitment to deepen
democracy.\textsuperscript{69}

\textsuperscript{67} G.\textsc{SHABBIR CHEEMA} \textsc{BUIKDING DEMOCRATIC INSTITUTIONS: GOVERNANCE REFORM IN DEVELOPING COUNTRIES}
25 (2005) (noting that elections provide the direct participation and ultimately accountability that translates into a
higher degree of inclusion and consequently, less alienation and cause for violent dissent)

\textsuperscript{68} For an excellent analysis of electoral irregularities in Nigeria see \textsc{INTERNATIONAL CRISIS GROUP, NIGERIA: FAILED ELECTIONS, FAILING STATE} (2007)

\textsuperscript{69} Wole Soyinka advocates the setting up of a judicial commission to investigate the conduct of the recent election
“to arrest and send for prosecution those whom they find guilty of having abused the trust of the nation.” A similar
suggestion was offered by the International Crisis Group, which argued that “all crimes committed within the
electoral context must be investigated and where appropriate prosecuted expeditiously.” See \textsc{INTERNATIONAL CRISIS GROUP: FAILED ELECTION, FAILING STATE}, 14 (2007).
Another way to improve the credibility and transparency of elections is to change the mode of appointing members of the electoral commission. In Nigeria, for example, the President appoints the Chairman of the Independent Electoral Commission, and national commissioners subject to confirmation by the Senate. The appointment of 36 resident commissioners, one for each state and the Federal Capital Territory Abuja, rests solely with the President. The appointing powers vested in the President is predicated on the implicit and gravely flawed assumption that the President will exercise his powers guided solely by the best interests of the nation. Recent experience reveals that commission members appointed by the President often do not disguise their fealty to the appointing authority. Instead of acting as a neutral umpire, the Independent Electoral Commission was vibrant with partisanship as electoral commissioners and other INEC officials unabashedly displayed bias for the ruling party. Some turned into cats paw for the ruling party, helping it to rig and manipulate election results.

Members of the electoral commission are not invulnerable to the prevailing societal ethos and it would be dangerously naive to expect that members appointed by the government will feel no loyalty toward the ruling party. Given the level of corruption in Nigeria, it appears likely, even inevitable that commission members will display loyalty to the government and the ruling party in

70 See Nigeria Constitution 1999 section 153(1) establishing the Independent Electoral Commission. Section 154(1) requiring Senate confirmation for the Chairman and members of the Commission.

71 Id. Part 1 schedule 3 of the constitution, section 14(2).

72 Peter Takirambudde, African Director at Human Rights Watch, expressed a view that fairly reflects the prevailing public and international sentiments about the role of the Electoral Commission and the Federal Government in the Nigerian 2007 elections:

Instead of guaranteeing citizens’ basic right to vote freely, Nigerian government and electoral officials actively colluded in the fraud and violence that marred the presidential polls.

an attempt to reap the rewards extended to obstreperous allies of government.\textsuperscript{73} The conduct of INEC officials during the 2007 general elections compellingly demonstrates the commission’s vulnerability to manipulation and cooption by the executive. Discussing the obvious partiality of the Independent Electoral Commission, Professor Suberu stated that:

Such partisan abuse of a nominally independent body was possible because of its parallel existence as a subordinate presidential or federal executive body. The naming of the chairman and twelve national commissioners is effectively in the hands of the president (subject to senate confirmation) INEC’s resident electoral commissioners . . . are direct presidential appointees. Despite efforts in the National Assembly to guarantee INEC’s budgetary autonomy, INEC still depends directly on funds from the federal executive. Under Maurice Iwu, a professor of pharmacy whom Obasanjo had nominated for the chairman’s post in 2005, INEC not only helped the president and hampered his foes, but also turned a hostile eye on foreign election observers and domestic monitors alike.\textsuperscript{74}

The Independent Electoral Commission officials stand a better chance of asserting their independence if they are appointed by an ad hoc committee instead of the president. The appointment of commission members should be handled by an ad hoc committee comprising of the Chief Justice of the Federation, the President of the Court of Appeal, the Chairman of the Nigerian Bar Association and four randomly selected members chosen from the pool of candidates nominated by local non governmental organizations, professional bodies and religious organizations. To preserve the integrity of the committee and ensure its independence, members should serve for only one election circle, i.e. every four years. Commission members appointed by the ad hoc committee, with operational funds approved by the Senate will be in a better position to conduct elections without undue pressures to favor the ruling party.

\textsuperscript{73} As a wealthy oil producing nation, the Nigerian government has vast resources and typically uses them to bolster its support by doling out largesse to its allies. For an excellent examination of this phenomenon, see RICHARD JOSEPH, DEMOCRACY AND PREBENDAL POLITICS IN NIGERIA: THE RISE AND FALL OF THE SECOND REPUBLIC (1987)

C. Improving the Condition of Government

Democracy is out of kilter in most African nations because “they have poor governance, which generates poor policy performance and disillusioned citizens.” The chief impediment to democratic consolidation in Africa is the attitude of leaders, especially their conflicting attitudes toward democracy. They laud, and indeed, relish the powers and authority of democracy and revel in its glory but loathe its restraints, especially fidelity to the rule of law, accountability and respect for citizen’s rights. As Africa moves from dictatorship to democracy, one thing has remained constant: the failure of leadership. The most fundamental problem in post independent African states has been hubristic leaders who distort governance and turn it into an instrument for self aggrandizement. A cursory survey reveals that, in a disproportionate number of African countries, the democratic process is in tatters, disfigured and lobotomized by the

75 DIAMOND, THE SPIRIT OF DEMOCRACY supra note 17 at 296

76 Chinua Achebe, Nigeria’s internationally acclaimed novelist and writer, laconically diagnosed Nigeria’s major ailment when he declared in a book appropriately titled the trouble with Nigeria that: the trouble with Nigeria is simply and squarely a failure of leadership.” CHINUA ACHEBE THE TROUBLE WITH NIGERIA (1983.); GEORGE ATITTEY AFRICA UNCHAINED: THE BLUE PRINT FOR AFRICA’S FUTURE 48 (2005) (hereinafter Africa Unchained (“Africa’s woes have more to do with bad leadership and the enabling role played by the western Governments and institutions.”)

77 Mentan HELD BY PINS, supra note 1 at 287 observed that:

Africa’s interminable and innumerable crisis all share a similar origin. Each of Africa’s crises begins when someone assumes power through an election or a coup d’etat. The new leader then proceeds to entrench in the office by amassing power and surreptitiously debauching all key government institutions, namely, the military, the civil service, the judiciary, the parliament, and the financial system. With all the powers in his hand, he transforms into his private property to benefit himself, his cronies, and tribesmen, who all proceed to plunder the national treasury with impunity. All others who do not belong to these privileged groups are excluded as the politics of exclusion is practiced. The tyrant employs a variety of tactics to decimate opposition of his rule such as co-optation, bribery, infiltration, intimidation, and “divide and rule.”
imposture of political elites.\textsuperscript{78} The much vaunted democracy in Africa has ushered in leaders who display and espouse the same weaknesses and predilections of dictators that ruled Africa for the better part of the 1990s.\textsuperscript{79} They often lack the capacity or willingness to address Africa’s pressing and important problems, are terminally corrupt, increasingly autocratic, unaccountable and often use the instrumentalities of power for self aggrandizement.\textsuperscript{80} The enormous concentration of powers in the president has produced what Larry Diamond aptly described as “highly centralized and overpowering presidencies” who use the machinery of government to overwhelm accountability mechanisms and exercise virtually unchecked powers.\textsuperscript{81} Very few, if any, analysts will disagree with Fareed Zakari’s trenchant observation that:

\textsuperscript{78} The excesses of African leaders have spurned a litany of articles. See e.g. Robert I. Rotberg, \textit{Africa’s Mess, Magabe’s Mayhem}, Foreign Affairs July-August 2000, 47-61 (discussing Mugabe’s excesses); Tripp, \textit{supra}, note 66 (examining dictatorial attitude of Uganda’s President); Robert Rotberg, \text{Strengthening African Leadership: There is Another Way}, in \textit{BEYOND HUMANITARIANISM: WHAT YOU NEED TO KNOW ABOUT AFRICA AND WHY IT MATTERS} 165 (Princeton Lyman & Patricia Dorff eds. 2007) (“Africa has long been saddled with poor, even malevolent leadership; predatory kleptocrats, military-installed autocrats, economic illiterates, and puffed-up posturers.”); Nicholas van de Walle, \textit{Africa’s Range of Regimes}, 13 J. DEM. 66, 69 (2002) (“in most African countries, power lies with a president and a small ruling class who use the state’s resources to keep the support of a large network of political clients.”)

\textsuperscript{79} Richard Joseph, \textit{Challenges of a Frontier Region}, 19 J. DEM. 94, 99 (2008) (“following the political openings in the 1990s, newly elected executives moved quickly to shift power away from the people and the other arms of government and soon began to emulate the recently departed authoritarians when it came to avid appropriation of public resources.”)

\textsuperscript{80} For an account of leadership styles in some African countries, including Uganda, Zambia, Malawi, Senegal, Nigeria, and Zimbabwe, see Edward Kannyo, \textit{Liberization, Democratization and Political Leadership in Africa}, in \textit{TOWARDS AFRICA’S RENEWAL} 63-84(Jeggan C. Senghor & Nana K. Poku, eds. 2007) Renewa

\textsuperscript{81} Id. at 63 “ In the realm of governance, there has been much less progress towards “good governance.” Venality and other types of abuse of power for personal gain remain very serious problems. Power remains concentrated in the hands of the executive that usually intervenes in all aspects of governance.” see also Larry Diamond, \textit{The Rule of Law Versus the Big man}, 19 J. DEM 138 (2008) (discussing authoritarian rule by Africa’s democrats);Prempeh, \textit{supra} note 1 at 293 (“now as before, power at the center remains excessively concentrated in the bosom of the President . . . . practically nothing good that needs to be done and nothing bad that needs to be undone in the contemporary African state can advance without the initiative or intervention of the president.”); Maina Kiai, \textit{The Crisis in Kenya}, 19 J. DEM. 162, 163 (2008) (“Kenya’s constitution provides for an imperial presidency in which the office holder can run the country as a personal fiefdom.”)
The basic problem confronting the developing world is not an absence of democracy but an absence of governance. From Iraq to Palestinian territories to Nigeria to Haiti, this is the cancer that is eating away at the lives of people across the globe, plunging countries into chaos, putting citizens’ lives and livelihood at risk.82

Problems of bad governance have been recognized by scholars,83 politicians84 and even by African leaders themselves.85 Kofi Annan, the former United Nations Secretary General declared that “good governance is perhaps the single most important factor in eradicating poverty and promoting development.”86 The African Union, the umbrella organization for African nations, recognized the problems of bad governance and made the promotion of good governance one of its driving objectives.87

82 Fareed Zakari, Nations Need Good Governance, Buffalo News, Jan. 23, 2007 at A7

83 See e.g. Robert Strengthening African Leadership: There is another Way in BEYOND HUMANITARIANISM: WHAT YOU NEED TO KNOW ABOUT AFRICA AND WHY IT MATTERS 165 (Princeton Lyman & Patricia Dorff eds. 2007). Robert I. Robert describing the adverse effects of bad governance on Africa and its citizens stated:

Under their stewardship of these leaders, infrastructure in many African countries has fallen into disrepair, currencies have depreciated, and real prices have inflated dramatically, while job availability, health care, education standards, and life expectancy have declined

Calderisi, supra note 14 at 57 (“the simple way to explain Africa’s problem is that it has never known good government.”)

84 For example Senator Barack Obama during his visit to Kenya accurately touched on Africa’s problems with bad governance. He stated that:

Like many nations across this continent, where Kenya is failing is in its ability to create a government that is transparent and accountable, one that serves its people and is free of corruption.


85 I adopt the UNDP’s definition of good governance as “the responsible exercise of political, economic and administrative authority in the management of a country’s affairs at all levels.” See UNDP, Governance for Sustainable Human Development (1997) http://magnet.undp.org/policy/default.htm

86 Quoted in Frank Tenente, Feeding the World One Seed at a Time: A Practical Alternative for Solving World Hunger 5 NW. U.J INT’L HUM RTS 298 (…)

87 According to NEPAD, a peer review mechanism is “a systematic assessment of a country by other states. The goal of the peer review mechanism is to help the country under review to improve policy-making,
bolstered its commitment to democracy and good governance through the New Partnership for African Development (NEPAD) launched in 2001,88 where African heads of state led by South African President Thabo Mbeki promised to commit to political reform and economic development.89 One of the innovations initiated by NEPAD to promote good governance and development in Africa is the African peer review mechanism by which African governments would monitor each other’s progress.90 Some western countries, notably the United States and European countries, have also made commitments to promote good governance in the continent of Africa.91 Similarly, international donor agencies and organizations, including the World Bank, European Union and International Monetary Fund, emphasize good governance as a predicate for cooperation with, or assistance to, African countries.92


89 See Herbert, supra note 36 at 136; See also Okezie Chukwumerije, Peer Review and the Promotion of Good Governance in Africa, 32 N.C.J. Int’T L. & COM. REG. 49 (providing an assessment of NEPAD and is efforts to deliver on the promises of peer review and good governance)


91 USAID, is an agency under the state department that focuses almost exclusively on promoting democracy, good government and development in Africa and else where.; See Richard Youngs, What Has Europe Been Doing? 19 J. DEM. 160 (2008) (discussing European efforts to promote democracy and good governance in Africa) for a discussion and detailed analysis of specific programs by European countries to support democracy and good governance in Africa, see Survey of European Democracy Promotion Policies 2000 - 2006 (Richard Youngs et al. FRIDE 2006)

92 ROWLAND AXTMANN DEMOCRACY: PROBLEMS AND PERSPECTIVES 79 –111(2007) (discussing the efforts by international organizations including the European Union, World Bank and the International Monetary Fund to promote good governance in Africa) ;Richard Youngs, Fusing Security and Development: Just Another Euro-Platitude Fride Working Paper 43 (Sept. 2007) (discussing efforts by the European Union to make good and effective governance as a predicate for its bilateral cooperation with Africa) Devesh Kapur & Moises Naim, The IMF and Democratic Governance, 16 J. DEM. 89 (2005) (discussing IMF’s role in promoting democratic governance); Calderisi, supra note 14 at 172 (noting that the EU has cut off aid to
But so far in Africa, good governance is more talked about and celebrated than practiced. African leaders have spent considerable time preaching about the need for and benefits of good governance but virtually no time initiating changes to improve governance. Despite the emollient rhetoric of good governance, African leaders have dismally failed to transform the slogan of good governance into reality.\textsuperscript{93} Rather, African leaders remain noisome, unsavory cautionary figures, not exemplars of good governance. Leaders who assume office promising to uplift the citizens quickly degenerated into paradigms of arrogance and hubris. They are unconcerned about their citizens’ welfare, insensitive to public opinion, and for the most part, are brazenly and provocatively corrupt.\textsuperscript{94} Political realities in Africa, especially the desire for self preservation, quickly drowned African Union’s well-intentioned efforts to promote good governance in Africa.\textsuperscript{95} African leaders, most of them with less than stellar records in the area of good governance, refused to press their colleagues to live up to the ideals of good governance. As an international journalist elegantly put it “leaders with glass democracies won’t

\textsuperscript{93} Calderisi, \textit{supra} note 14 at 75 (noting that despite glaring opportunities to deliver on the refreshing promise, Africa’s leaders utterly failed the test. In particular, they refuse to rein in the Zimbabwean president, Robert Mugabe who had given a whole new meaning to the term political brutality. And as late as 2005, the three leading NEPAD countries failed to ratify the African Union’s own anti corruption convention.)

\textsuperscript{94} See notes 7-10 \textit{supra} and accompanying text.

\textsuperscript{95} Professor Ayitteh explains why African leaders are unwilling to practice good governance. He stated that:

\begin{quote}
Sad it does not appear likely that African vampire state can be reformed. . . . Reform can mean collective suicide. It is a neopatrimonial state where good governance principles advanced by NEPAD would deprive such rulers of the means to maintain their patronage networks. It would be naive to expect the ruling elites to implement broad accountability measures and a functioning democracy would undermine their positions.
\end{quote}

Ayittey \textit{AFRICA UNCHAINED}, \textit{supra} note 76 at 430.
throw stones.”96 NEPAD’s legacy, or perhaps tour de force remains the cynical maneuvers and pharisaical declarations by hubristic African leaders who proclaimed desire for good governance and did exactly the opposite.97

The activities of African leaders continue to betray a disheartening lack of commitment to good governance. For example, Nigeria’s President Obasanjo, one of the chief architects of NEPAD, soon engaged in devious schemes to secure a third term in clear violation of the constitution.98 Recent investigations in Nigeria reveal a troubling level of corruption and abuse during his tenure as president.99 Also, African leaders who promised to review the activities of their peers often lacked the courage or the inclination to condemn or criticize their colleagues.100 The proponents of good governance who


97 The failures of African leaders to live by their commitments to good governance confirms Professor Richard Joseph’s doubts that “it remains unclear how NEPAD will induce African governments to do what, for a quarter century or more they have fervently promised but failed to do: better protect human rights, build vibrant democracies, curb corruption, improve governance and reduce civil conflicts.” Richard Joseph, Witnessing Africa’s Woes and Hopes 15. J. DEM. 173, 175 (2004)

98 President Obasanjo’s efforts to secure a third term elicited national outrage and was ultimately defeated by the National Assembly. See Daniel N. Posner & Daniel J. Young, The Institutionalization of Political Power in Africa, 18 J. DEM. 126 (2007) (discussing the intrigues and politics of Obasanjo’s efforts to secure a third term)

99 See e.g. Sufuyan Ojeifo, Finance Minister Slams Obasanjo Over Award of Contracts, THIS DAY June 24, 2008 available at http://allafrica.com.stories/200806240625.htm (Reporting that the finance minister Dr. Usman in his testimony before the Senate Committee, stated that “they [Obasanjo administration] awarded a lot of contracts without design, sometimes without due process; there were extra budgetary spending and there was a lack of proper planning); Emmanuel Aziken et. al. Senate Probes Obasanjo on Bad Roads, Rail, Aviation, VANGUARD, April 30, 2008 available at http://allafrica.com/stories/200804300170.html (Reporting that the Senate Ordered a probe of President Obasanjo’s activities in the transportation sector. The probe followed disclosure that trillions of niara invested in the transportation sector could not be accounted for.)

100 Professor Akokpari, an African scholar persuasively explains the reluctance or unwillingness of African leaders to criticize or condemn one another:

Generally, African leaders seem to share a membership in a cryptic club, what Sandbrook has humorously yet aptly characterized as a “presidential brotherhood” in which there is little inclination to castigate but greater tendency to empathize with members. . . . . The natural proclivity of African leaders for condoning bad
promised to hold each other accountable conspicuously refuse “to take a stance against the rape of democracy in Zimbabwe.” Criticisms of fellow leaders occur infrequently and when they do, they are often couched in tentative and mild expression of concern instead of a strong denunciation of clear abuse of power. Professor Ayitteh was painfully correct in his assessment of governance in African Countries:

There is utter institutional chaos and mis governance. Here common sense has been murdered and arrogant lunacy rampages with impunity. At the helm of the affairs of the state is a hardened coconut who has debauched all key institutions of government — the military, the judiciary, civil service, banking and government itself. Government has ceased to exist in many African countries, replaced by vampire or a gangster state, which evolves into a coconut republic and eventually implodes.

Repeating endlessly the virtues of good governance does nothing to reassure citizens who bear the consequences of leadership failures. Africans need no further sermons on good governance; they already know its attributes and values. Citizens need leaders to display commitment to good governance through concrete actions, not talk or governmental practices of their peers, as a way of insulating themselves from future criticisms, is a cautionary signal that high expectations on the APR, as a catalyst for good governance may be misplaced.


101 Ayitteh, AFRICA UNCHAINED, *supra* note 76 at 427

102 Urging the African Union (AU) to take a tougher stand on Mugabe’s excesses, Tiseke Kasambala, a Senior Researcher, Africa Division of Human Rights Watch stated that:

At the end of the summit, the AU issued a weak resolution that essentially rewarded Mugabe’s intransigence and his brutal methods. Not only did AU ignore Mugabe’s responsibility for the widespread violence, it failed to recognize the illegitimacy of his presidency.


103 Ayitteh, AFRICA UNCHAINED, *supra* note 76 at 22-3
slogans. Ultimately, governance will be evaluated not by public statements and pious declarations from African leaders but by the actions and activities of leaders. Good governance is no longer an aspirational ideal: it must be displayed and reflected in the policies, programs, and activities of leaders. Democracy demands a better approach to governance than what currently exists in Africa. Good governance entails dramatic and wholesale changes in the way African leaders govern their countries. To entrench democracy, leaders must act and govern in a manner that reflects the noble ideals of constitutional democracy. Leaders must govern responsibly and honestly, respect rights and liberties and allow institutions and processes that strengthen democracy to function as intended.\textsuperscript{104}

The antidote to most of Africa’s problems is good government that will meaningfully address the three major issues that grate citizens and dampen their zeal about democracy, namely corruption, human rights abuses, and government’s lack of sensitivity to the needs and welfare of citizens.\textsuperscript{105} Democracy will not deliver its promises

\textsuperscript{104} Richard Sandbrook, Democracy in Africa Can Succeed, in AFRICA OPPOSING VIEW POINTS 37 (Laura Egendorf ed. 2005) (“democracy will have little meaning if, between periodic electoral contests, rulers govern autocratically. The consolidation of democracy therefore involves the internalization of rules of democracy governing the exercise of power on a day-to-day basis as well as rules underpinning free and fair electoral contests.”)

\textsuperscript{105} USAID provides an accurate description of the relationship between good governance and democratic consolidation. It stated that:

Democracy and good governance provide the foundation for sustainable development in Africa. Effective government which represents the interests of the people and is accountable and transparent, is the best insurance that the needs and desires of citizens will be met. Long term improvements in health, education, economic growth or the environment in African countries ultimately require responsive and representative that can implement the changes necessary to promote and consolidate such gains.

without effective leadership that can transmit democratic values to citizens. More importantly, Africans expect their leaders to confront, unequivocally and tenaciously, the evils of dictatorship, human rights abuses, and corruption disinterred by civilian administrations. Political elites must liberate themselves from the thralldom of hubris and provide a more honest, transparent and accountable leadership. Leaders must, by the power of examples, set the template for probity in government. If leaders espouse and demonstrate the virtues of honesty, integrity and probity, it will not only enhance the quality of government, but it will make it easier to persuade the masses to emulate their examples. It will be easier for a government that serves as an exemplar of the democratic spirit to change the attitude of citizens who are dismayed, demoralized and ultimately cynical about constitutional democracy.

Imperatives of good governance demand that leaders release their grip on institutional accountability mechanisms like courts, legislatures and electoral commissions and allow them to function as expected, i.e., independently, fairly, objectively and predicably. These institutions, especially the judiciary, freed from the

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106 Mariane Camerer, *Measuring Public Integrity*, 17 J. DEM. 152 (2006) (“if democratic states are to endure, reliably uphold law-based rule, safeguard human rights, and offer their citizens reasonable opportunities for betterment, such states must govern not only democratically, but effectively as well.”).

107 I adopt the definition of good governance stated by Daniel Kaufmann et al in their study for the world bank. They defined governance broadly as the traditions and institutions by which authority in a country is exercised for the common good. This includes (1) the process by which those in authority are selected, monitored, and replaced; (2) the capacity of the government to manage its resources effectively and implement sound policies; and (3) the respect of citizens and the state for the institutions that govern economic and social interactions among them. DANIEL KAUFMANN ET AL, GOVERNANCE MATTERS VII: AGGREGATE AND INDIVIDUAL GOVERNANCE INDICATORS 1996-2007 (World Bank Policy Research Working Paper 4654, June 2008)

108 Kanayo, *supra* note 80 at 80 (the role of political leadership is as crucial now as it was at the time of dictatorship because the leaders are placed in the role of founders of new polities. How they manage power, their vision, strength and weaknesses will have a long term impact).

shackles of the executive will provide effective counterweights to executive excesses and abuse. They would also promote accountability and ensure that the government respects both the rule of law and rights of the citizens. African leaders must squelch their well-known antipathy to constitutional restraints and offer a clear and coherent vision of governance that uplifts the citizens, respects rights and liberties, and generally provides a better enabling environment for citizens to pursue their legitimate goals. Citizens must be allowed to enjoy their fundamental rights, liberties and freedoms without unnecessary restraints or interference by the government. They must enjoy the right to vote, participate and compete for elective offices, exercise their right of free speech and dissent and be able to criticize or question government policies without molestation or harassment.

Good governance requires a fundamental rethinking of the way African governments operate. At present, governments in Africa have neither the interest nor the inclination to open up government to review and scrutiny. The dominant impulse of African leaders has been to run a closed government. They often resort to devious schemes to shield their activities from review by restless citizens, tenacious journalists and international organizations. This mindset infects both their attitude and disposition and leads them to resist attempts and efforts by the public to review their activities. Good governance demands that leaders open government to review and scrutiny by citizens, opposition parties and international organizations. The ultimate goal is to provide the

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111 AFRICAN GOVERNANCE REPORT 2005 at 171 (“respect for human rights and rule of law is among the most important indicators of good governance.”).
public access to data and information that will help citizens to objectively evaluate their
government, raise questions and concerns and to demand answers without artificial
obstacles, or fear of intimidation. There will always be dissents, complaints and protests
against the government; that is an inevitable aspect of constitutional democracy. Political
elites must learn to allow people with different points of view to express them,
vociferously, if they so choose. As Professor Hazard stated, albeit in a different context,
“in a free country, the voices of protest will continue. Those who cannot stand the
complaints should get out of the kitchen.” An open government is not only essential; it
is and should be required of all democratic governments. Opening government to
review will compel corrupt governments with a skewed sense of priorities to chart a new
course and exercise its powers for the greater good of citizens.

D. Revamping Public Institutions

The third challenge is to revamp public institutions that anneal constitutional
democracy. As Professor Makinda rightly observed, “democracy is only possible if the
structures, processes and institutions through which the people’s will is expected to be


113 Maria Dakolias, *Are We There Yet?: Measuring Success of Constitutional Reform*, 39 VAND. J.
TRANSNAT’L L. 1117,1150 (2006) (noting that the success of democracy and engagement by the public
depends on the availability of information. The degree of openness and transparency of government is
central to good governance and has positive effect on economic growth, government performance, quality
of policy and integrity)

114 Similar challenge was framed by Professor Udombana who stated that “the first major challenge to
democratic governance in Africa is to develop and strengthen competent institutions of democracy such as
the media, civil service, electoral systems, independent commissions and educational institutions. These
and similar institutions implement policies that are necessary to democracy and development. They also
provide alternative voices, guaranteeing alternative mechanisms to various groups to ger a response from
the government.” Udombana, supra note 2 at 1271-2.
addressed accommodate their interests, values and aspirations.” Constitutional democracy continues to falter not only because of the conduct of leaders but also because of inefficient, ineffective and deteriorating public institutions. At present, public institutions are ineffective, inefficient, crippled by corruption and mismanagement, and the legacy of military rule. Problems of public institutions are systemic as well as personal. Public institutions are poorly funded, inadequately equipped and function in circumstances that make efficiency difficult if not impossible. Politicians treat public institutions as appanages of their office and often treat them in ways that are inimical to the objectives and integrity of the institutions. They seek to influence, manipulate and control them and retaliate against public officers who refuse to hew to their every demand.

Corruption and desire for self advantage have overwhelmed the ideal of public service and turned public institutions into crucibles of sloth, avarice and mediocrity. Poor leadership, shaggy government policies and poverty continue to expose public servants to control, manipulation and corrupt practices. Citizens with money or influence —

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115 Samuel M. Makinda, Between Authoritarianism and Post Democracy: Agenda for Democracy in Africa, AF RICA QUARTERLY, Vol 44, no. 1, p. 17, 20 (2004); Richard Joseph, supra note 12 at 103 (“democracy will not flourish in Africa until public institutions perform their most fundamental duties in a reasonably efficient and predictable manner.”)

116 Joseph, Frontier State, supra note 12 at 103 (noting that democracy will not flourish in Africa until public institutions perform their most fundamental duties in a reasonably efficient and predictable manner)

117 DEE PENING DEMOCRACY IN A FRAGMENTED W ORLD, supra note 32. at 65 (“...democratic institutions in many countries – especially newer democracies – are overburdened and lack the means to do their jobs. . . .oversight and regulatory agencies lack well trained staff. And bureaucrats are underpaid, overworked or both.”)

118 Kwesi Kwaa Prah, supra note 42 at 3 (“inert and corrupted bureaucracies have spawned in societies in which graft and pilferage have become common place. People in bureaucratic organizations treat their office as agencies through which they make money, largely because their salaries can hardly meet their needs in an ever-inflationary economy.”)
politicians from the ruling party, senior government officials, and wealthy private citizens can manipulate and control public institutions to achieve their selfish desires. Public servants who live in a culture dominated by greed succumb to the prevailing orthodoxy and use their public offices to make money. Without a strong and upright leadership to set the right examples and demand accountability from public institutions, civil servants engage in arbitrary, unprincipled and ultimately corrupt and improper exercise of power to advantage themselves.\textsuperscript{119} They orchestrate inexplicably circuitous and long drawn out schemes to frustrate their patrons with the ultimate aim of extorting money from them.

Justice Emmanuel Ayoola, the current Chairman of the Independent Corrupt Practices Commission that has spent considerable time and energy trying to restore probity in government, stated recently that:

> Corruption in civil service is so widespread and involves common occurrences of delayed files, making wrong claims, favoritism, truancy, outright demand for bribes and abuse of office. Vouchers of contractors and pensioners are delayed by officers who claim to be very busy, but in actual fact, they are mere well rehearsed and orchestrated ploys to collect bribes or make contractors or pensioners play ball before processing their documents.\textsuperscript{120}

Another subtle, but ultimately more dangerous component of corruption in public institutions is that it puts undue and unnecessary pressures on honest public servants who want to diligently discharge their duties. Public servants often operate in environments and circumstances where they cannot easily assert their independence and resist the

\textsuperscript{119} As I stated elsewhere: fueled by greed and the absence of meaningful supervision, government officials use their powers to enrich themselves. They often engage in various forms of illegal activities, including demanding bribes, extortion, embezzlement, fraud, and even outright expropriation of the state’s resources.


\textsuperscript{120} Segun Olatunji, \textit{Civil Service, Breeding Ground for Corruption}, ICPC, Punch, August 20, 2008 available at \url{www.punchontheweb.com}
demands of overbearing and all too powerful politicians, especially members of the ruling party. They are also exposed to pressures that can overpower even the strongest human beings and disable their moral compasses. As they watch their bosses and colleagues luxuriate in ill-gotten wealth while facing straitened and harsh economic circumstances themselves, some public servants succumb to the morals of the marketplace and become participants in schemes to enrich themselves.\textsuperscript{121}

As an informed scholar of Africa presciently stated more than four decades ago, “it is difficult to see how Africa’s crisis can be surmounted without... national institutions that function efficiently and predictably.”\textsuperscript{122} Professor Richard Joseph poignantly and perceptively observed that “the most daunting frontier still to be crossed in much of post colonial Africa is the creation and maintenance of institutions that will uphold transparency and the rule of law.”\textsuperscript{123} Public institutions require vast structural and attitudinal readjustments that will curtail corruption, inefficiency, and expand the frontiers of accountability and transparency. Public institutions should no longer be allowed to function in an atmosphere of corruption, executive interference and indifference to public good. Competence, efficiency, autonomy and transparency should be the defining characteristics of public institutions. For public institutions to function

\textsuperscript{121} This phenomenon was explained by Robert Calderisi who stated that: Imagine being a minister of finance trying to raise a family of five or six on a salary of $500 a month . . . and surrounded by less competent colleagues who have already sent their children to American or French universities and have handsome apartments in London or nice. Only the rarest of human beings could resist such temptations very long. Remarkably, many still do. One way of honoring that resistance is to close the yawning gaps in government rules – foreign and domestic– that allow officials to rob public money with impunity. Calderisi, supra note 14 at 90


\textsuperscript{123} Richard Joseph, Challenges of a Frontier Region, 19 J. Dem. 94, 102 (2008).
optimally, there should be no alternatives to recruiting competent and honest employees who have the autonomy and independence to act in the best interest of the public. The biggest challenge, however, is to unhook public institutions from the grip of inept and dictatorial leaders so that they can better serve the public without pandering to the wishes of the government. Efforts must be made to encourage and help citizens and government officials to approach and treat public institutions with a different mindset, one that emphasizes honesty, transparency and accountability over the pursuit of selfish interests.\textsuperscript{124} Efforts by politicians to control or manipulate public institutions should be discouraged and prohibited. Public servants should have the independence and autonomy to neutrally, fairly and objectively apply the institutions’ rules and regulations to all patrons regardless of social status or political affiliations. Then, and only then can African countries surmount the problems raised by Professor Richard Joseph.\textsuperscript{125}

E. Improving Security

The next challenge is to reclaim order from the hoodlums who have held the society hostage. Since the return of constitutional democracy in 1999, anti-government sentiments have increased exponentially.\textsuperscript{126} Nigeria is becoming an extremely disorderly,

\textsuperscript{124} Joseph T. Siegle, Michael M. Weinstein & Morton A. Halperon, \textit{Why Democracies Excel}, 83 Foreign Affairs 57, 66 (2004) (“...democracies present an enormously powerful set of institutions that propel development. The more representative, transparent, and accountable those governmental processes, the more likely policies and practices will respond to the basic priorities of the general population.”)

\textsuperscript{125} \textit{Supra} note 123...

\textsuperscript{126} \textsc{UnDP Human Development Report 2004: Cultural Liberty in Today’s Diverse World} 52 (2004) (noting that the return of democracy has reanimated regional, ethnic, religious and local identities and intensified communal mobilization. This has led to the social violence that has engulfed the country
volatile and dangerous state in which ethnic militias violently battle for supremacy with
the central government,\textsuperscript{127} and criminal gangs operate with impunity, terrorizing and
brutalizing innocent citizens.\textsuperscript{128} Citizens unable to rely on the state for protection resort to
vigilantism with adverse consequences for both the country’s democratic aspirations and
the rights and lives of citizens. As professor Robert Rotberg correctly observed:

Thus far (since Obasanjo became Nigeria’s civilian President in 1999) Nigeria is remarkably less secure that when he took office. Its external
borders are unchallenged but non state actors and a variety of indigenous insurgents groups continue to attack (rather brazenly) either the nation-
state or the government of individual states. . . . Additionally, crime
against persons, including murder, rape, and robbery, has grown in scale
and viciousness.\textsuperscript{129}

The activities of these networks of hoodlums and the seeming inability of the state to
stem the tide of violence continue to inflame the fears of an increasingly nervous society.
Citizens whose lives have been blighted by fear of violence have little or no time to
devote to other meaningful activities.

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since the return of civilian rule, where as previously such conflicts were coercively suppressed by the military\)

\textsuperscript{127} Robert Rotberg, Nigeria: Elections and Continuing Challenges, in \textsc{Beyond Humanitarianism}, \textit{supra} note...at 33 (“Thus far (since Obasanjo became Nigeria’s civilian President in 1999) Nigeria is remarkably
less secure than when he took office. Its external borders are unchallenged but non state actors and a variety
of indigenous insurgent groups continue to attack (rather brazenly) either the nation-state or the
governments of individual states. . . . Additionally, crime against persons, including murder, rape and
robbery has grown in scale and viciousness.”)

\textsuperscript{128} \textit{Id.}

\textsuperscript{129} Robert Rotberg, Nigeria: Elections and Continuing Challenges, in \textsc{Beyond Humanitarianism: What
You Need to Know About Africa and Why It Matters} 33 (Princeton Lyman & Patricia Dorff eds. 2007)
Inequitable distribution of the nation’s resources, corruption and human rights abuses continue to deepen and multiply negative sentiments against the government.\(^{130}\) The grudges against the government continue to expand and ultimately explode in violence by those ethnic minority groups who charge the government with neglect, injustice and abuse.\(^{131}\) The violent and often brazen and vicious operations of ethnic militias and the network of criminal elements in the society have diminished the quality of life and undermined economic and social activities in the country. Citizens live in fear of violence as the state’s security apparatus has repeatedly shown itself to be incapable of containing the activities of these scofflaw who have no regard for the sanctity and dignity of human life.\(^{132}\) These hoodlums murder, maim, rape and kidnap innocent citizens at will and often in broad day light without qualm or fear.

Democratic societies crave and adore security. It represents the hallmark of good governance: the platform that enables both the government and the governed to pursue

\(^{130}\) For an examination of violence and its adverse impacts on democratic consolidation in Nigeria, see URBAN VIOLENCE, ETHNIC MILITIAS AND THE CHALLENGE OF DEMOCRATIC CONSOLIDATION (Tunde Babawale ed., 2003).

\(^{131}\) Professor Ikelegbe in his study of the economy and conflict in Niger Delta region of Nigeria accurately summarized the reasons for the violence in the area:

- decades of oil exploitation, environmental degradation and state neglect has created an impoverished, marginalized and exploited citizenry which after more than two decades produced a resistance of which the youth has been a vanguard. A regime of state repression and corporate violence has further generated popular and criminal violence, lawlessness, illegal appropriations and insecurity.


\(^{132}\) Violence in Africa results from several actors including ethnic irredentism, feeling of marginalization by ethnic minorities, poverty and failure of the central government to deal fairly with all the ethnic groups that comprise the nation. See e.g. Charles Gore & David Pratten, The Politics of Plunder: The Rhetoric of Order and Disorder in Southern Nigeria, 102 AFR. AFFAIRS, 211, 212 (2003) (stating that violent local responses by youth groups mobilized around issues of resource control and community security are a widespread response to the “politics of plunder” and an endemic feature of the Nigerian social landscape.); Ndulo, supra note 22 at 315 (noting that conflict in Africa have typically been rooted in struggles for political power, ethnic privilege, national prestige and scarce resources)
their legitimate goals. Violence in Africa is driven essentially by poverty and misguided government policies, especially inequitable distribution of the nation’s resources. The nihilism that drives violence makes it difficult to solve by either violence or the legal process. Moreover the sources of and motivations for violence are so intricately enmeshed in other societal problems that violent response by the government cannot solve the problem. Alleviating the underlying social problems that engender violence will induce behavioral changes and ultimately reduce the level of violence. The impetus for violence is best salved through providing a better life for citizens. Providing a better life demands a fair and equitable distribution of the nation’s wealth, initiating programs that alleviate poverty and reduce unemployment, and providing opportunities for citizens to make a decent living through finding meaningful employment, access to social amenities, and a good health care system. A competent and good government that can process ethnic grievances and agitations through the political or legal process and not resort to brutality remains the right course of action for a democratic nation.

More fundamentally, resorting to violence to deal with ethnic agitations bespeaks a failure of democracy. One of the central values of constitutional democracy is the

133 Rotberg I. Rotberg. The Challenge of Weak, Failing and Collapsed States, in LEASHING THE DOGS OF WAR 88, 85 (Chester A. Crocker et al eds. 2007) (“governance is the effective provision of political goods to citizens. Of those political goods, the paramount one is security. There can be no economic growth or social elevation, and no societal strength as opposed to failure, without fundamental security.”)

134 Scholars and researchers continue to confirm the nexus between poverty and violence. See e.g. TOO POOR FOR PEACE?: GLOBAL POVERTY, CONFLICT, AND SECURITY IN THE 21ST CENTURY (Lael Brainard & Derek Chollet eds. 2007) (collection of essays by several experts examining various aspects of the nexus between poverty and violence).


136 Ndulo, supra note 22 at 315 (“Good governance would make a major contribution to the reduction of conflict and poverty. It would do this by creating an environment conducive to sustainable development thereby reducing poverty – the root cause of many African conflicts.”).
establishment of institutions and processes for peaceful resolution of conflicts without use of force or violence.\textsuperscript{137} Brutality and denial of due process rights are trademarks of despotic and dictatorial regimes: they do not and should not occur in a democracy.\textsuperscript{138} Resorting to violence symbolizes both the ineffectiveness of the legal process and the government’s lack of confidence in the conflict resolution processes established by the constitution.\textsuperscript{139} Such a display of disregard for the constitutional process by the government will encourage citizens to resolve their disputes violently. Ill-conceived violent response to agitations only engenders more violence. It reinforces animosities, hardens negative attitudes toward the government and ultimately strengthens their resistance against the government.\textsuperscript{140}

Moreover, the true test of a democratic government’s commitment to democracy is not only its capacity to provide security, but also how it deals with scofflaws in the society. A democratic government must extend to all defendants, all the due process rights mandated by the constitution, including even those accused of the most heinous

\textsuperscript{137}DEEPPENING DEMOCRACY IN A FRAGMENTED WORLD, supra note 32 at 85 (democracies, unlike dictatorships, offer non-violent ways of resolving political conflicts); Diamond, THE DEMOCRATIC SPIRIT, supra note 17 at 155 (‘democracy is a system of regular conflict between competing interests and ambitions but it can only survive if it resolves these conflicts peacefully and lawfully.’)

\textsuperscript{138}Democratic constitutions typically provide for due process and fair hearing requirements that preserve the due process rights of criminal defendants. See section 36 of the 1999 Constitution guaranteeing rights of fair trial.

\textsuperscript{139}HUMAN RIGHTS WATCH THE NIGER DELTA: NO DEMOCRATIC DIVIDEND 7 (2002) (“the weakness of conflict resolution structures - whether the courts, responsible elected and appointed state officials or law enforcement agencies - means that many disputes in Nigeria are settled violently.”); INTERNATIONAL CRISIS GROUP NIGERIA’S ELECTIONS; AVOIDING A POLITICAL CRISIS 9 (2007) (“such lack of confidence in the institutions statutorily established to redress injustice leads many otherwise law-abiding politicians and their supporters to take the law into their own hands, often violently.”)

\textsuperscript{140}This has been the problem in Nigeria. Efforts by the government to violently squelch ethnic agitations have served to arouse the feral instincts of ethnic militias who appear more determined to resolve their grievances with the federal government through violent means.
The challenge for a democratic government is to create and sustain an atmosphere where disputes and controversies are processed through the legal process. A democratic society should never address violence by trampling on democratic ideals or established principles of law. In dealing with violence, the government should be mindful of its obligations to all the parties concerned: the victims, the perpetrators and also the larger society whose interest in social equilibrium remains paramount. Any measure that does not meaningfully balance the obligations must be adjudged a failure and ultimately counter productive.

F. Counteracting Anti Democratic sentiments

Africa’s experience vividly illustrates that a democratic society can neither be conjured nor imposed by diktat. Ultimately, democracy will thrive if citizens support it and feel vested in the democratic process. Past errors, especially executive hubris, rights violations and corruption have contributed to apathy toward the democratic process. As a result, citizens feel that the government is insensitive, abusive and therefore...

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141 The Nigerian constitutions stipulate some procedural safeguards that ensure that criminal defendants are not deprived of their fair hearing rights. See Nigerian Constitution Chapter IV.

142 DEMOCRACY IN AFRICA: THE HARD ROAD AHEAD, 5 (Marina Ottaway ed., 1997) (noting that democracy by definition cannot be imposed by force, but it is based on largely voluntary compliance with a set of rules of the political game).

143 Professor Mentan framed it best when he stated that:

The building blocks of a durable modern democratic culture are not institutional in nature. The building blocks are not elections, parties and legislatures. Rather the building blocks of democracy are supportive cultural values. That is to say, long term survival a particular political culture. ... Four cultural factors play an essential collective role in stimulating and reinforcing democratic political system: political trust, social tolerance, a widespread recognition of the importance of basic political liberties, and popular support for gender equality and empowerment.

HELD TOGETHER BY PINS, supra note 1 at 113
the general population is less inclined to support the government. The excesses of government disaffect citizens and significantly undercut its legitimacy.\textsuperscript{144} The initial euphoria about democratic transitions has now fizzled; it is now replaced by fear and nagging doubts about the values of democracy. Worse still, the democratic process is beginning to conjure negative images in the minds of citizens. The fear and anguish caused by executive excesses continue to drive citizens away from the democratic process. In the climate of corruption, abuse and mismanagement, leaders have lost the capacity to serve the people, and more importantly to inspire or galvanize citizens to embrace democracy. The biggest challenge is to arrest the surge of public disenchantment with constitutional democracy and deflated confidence in the ability of African leaders to liberate themselves from the thralldom of corruption.

Anti-democratic sentiments are pervasive and endure with the failure of leaders to inspire and encourage citizens to embrace constitutional democracy. Democratic consolidation will continue to be threatened by citizens’ negative attitudes and excesses of leaders.\textsuperscript{145} This portion of the paper examines the impact of negative attitudes on constitutional democracy and how those attitudes can be counteracted.

G. Citizens

One of democracy’s ever present challenges is to nurture and sustain democratic values among the citizens. In the case of Africa, the challenge is even greater because of

\textsuperscript{144} \textit{Larry Diamond} Developing Democracy: Toward Consolidation 77 (1999) (‘performance of the regime is a crucial variable affecting the development and internalization of beliefs about legitimacy.’)

\textsuperscript{145} Calderisi, supra note 14 at 170 (democracy is spreading elsewhere and in Africa it is barely inching forward. Repressive governments and uneducated populations are keeping the continent mirred in traditions rather than open to dynamic forces.)
Two problems continue to dampen citizens’ response to constitutional democracy. The first is ethnic irredentism. Members of the various ethnic groups that comprise a nation identify more with their ethnic groups and often feel no loyalty toward the nation. Some citizens, especially those from minority groups, accuse the central government of unfairness and feel less inclined to support the democratic process dominated by the major ethnic groups. Accusations of unfairness, real and invented, resonate with ethnic minorities and lead them to engage in activities inimical to the democratic process. They are scarcely

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146 THE INTERNATIONAL REPUBLICAN INSTITUTE 2007 NIGERIAN NATIONAL ELECTIONS: PRE-ELECTION ASSESSMENT FINAL REPORT 7 (2007) (“there is no denying that the repeated military interventions in the constitutional history of Nigeria have had a cumulative corrosive effect on both the democratic culture as well as the overall political economy of the country.”); For a discussion of the impact of military rule on the society see Okechukwu Oko Consolidating Democracy on a Troubled Continent: A Challenge for Lawyers in Africa 33 VAND. J. TRANSNAT’L L. 573 (2000).

147 Robert Mattes South Africa: Democracy Without the People, 13 J. DEM. 22. 29 (2002) (“The common view holds that in deeply divided societies ... people identify primarily with this or that component part – often their own racial, ethnic or religious groups – rather than with the multi ethnic or multinational state.”)

148 Ethnic distrust has a long provenance in Africa, dating back to the colonial administrations’ decisions to force diverse ethnic groups to live under the umbrella of one nation. Francis Deng, a Sudanese Diplomat admirably explained this phenomenon:

The colonial nation state . . . brought together diverse groups that it paradoxically kept separate and unintegrated. Regional ethnic groups were broken up and affiliated with others within the artificial borders of the new state, with colonial masters imposing a superstructure of law and order to maintain relative peace and tranquility. . . It can credibly be argued that the list of these current internal conflicts is that the ethnic pieces put together by the colonial glue and reinforced by the cold war are now pulling apart and reasserting autonomy.

Francis Deng, Africa and the New World Dis-Order: Rethinking Colonial Borders, BROOKINGS REV., Spring 1993 at 34; see also blaming the perennial ethnic problems in Africa on colonial policy that grouped diverse ethnic groups under one nation, Professor Makau Mutua stated:

Severe cleavages, those which have been a major source of the persistent problem of the African state, are the direct result of the imposition of colonial rule and the modern state. Ethnic rivalries have arisen because previously independent and self-governing ethno-political nations, characterized in almost all cases by cultural, linguistic, and ethnic homogeneity, have been coerced to live together under single state

interested in identifying with national programs and policies including the democratic process. As I stated elsewhere:

Pervasive ethnic irredentism has reached the point where the minimum conditions necessary for democracy no longer exist in most African states. Neither the political elites who seek power nor the masses are willing to subordinate ethnic loyalties to the overriding interest of the nation.¹⁴⁹

Nigeria, for example, consists of three dominant ethnic groups and a clutter of other smaller ethnic groups.¹⁵⁰ Ethnic minorities are instinctively distrustful of the dominant ethnic groups and are often unwilling to embrace efforts by the central government to promote national unity. The also believe that the democratic process has not provided an adequate mechanism for addressing their fears and concerns and therefore generally remain unenthusiastic about constitutional democracy.¹⁵¹ Ethnic minorities believe that the dominant ethnic groups engage in schemes and practices to privilege their kith and kin while denying them their fair and equitable share of the nation’s resources. Because of the predominance of ethnicity, everything is processed through the lense of ethnicity thus making it difficult to promote unity and advance the interest of the nation.¹⁵² As two informed scholars of democracy in Africa noted:


¹⁵¹ This problem is not peculiar to Nigeria. Multi ethnic societies often encounter considerable difficulties in their attempts to consolidate democracy. See ROBERT A. DAHL, POLYARCHY: PARTICIPATION AND OPPOSITION 114-118 (1971) (generally arguing that democracy is more problematic in multi ethnic societies especially where one ethnic group has the potential to dominate other groups)

¹⁵² Richard L. Sklar et al, Nigeria: Completing Obasanjo’s Legacy, 17 J. DEM. 100, 102 (2006) the authors stated that:

In the absence of other viable social categories for the protection of group interests, one ethnic group’s apparent political gain is viewed by others as a potential loss. The zero sum prospect creates an incentive for elites to maximize their ethnic group’s position, which in turn makes other groups feel insecure and forces them to follow suit.
The problem of African democratization does not primarily lie in the absence of democratic values. . . . Rather, the problem is that members of many culturally plural African nation states simply do not define themselves as “citizens” first. Even in states that once had unifying identities and institutions . . . . the new mode and orders of colonialism and post colonialism engendered new patterns of political mobilization and competition that shattered traditional bonds.  

Ethnic sentiments warp and distort the capacity of citizens to approach the democratic process with zeal and open minds. Ethnicity has become a source of fear and disillusionment, neither of which augurs well for democratic consolidation. Citizens fearful of other citizens from different ethnic groups are hardly candidates for good faith concession and compromises necessary to make democracy work. Disillusioned citizens tend to approach their roles in a democracy and the government with distorted views and perceptions that make it difficult, if not impossible to build a consensus on important national issues, including constitutional democracy. Ethnic fervor denigrates the unity of the nation and its capacity to run and maintain an effective government. Far too often, ethnic tensions burgeon into violence as ethnic groups

Consequently, Nigerian politics occur within a broader context of ethnic insecurity and an ethnic calculus of “who’s up who’s down” in terms of relative power within the federation.


154 Bruce Ledewitz *Book Review The Promise of Democracy*, 32 Cap. U. L. REV 407, 412 (2003) (“Ethnic and religious differences are hard to compromise, compared to issues of the distribution of material goods, and this renders new, ethnically diverse democracies vulnerable to majoritarian tyranny.”)

155 Seth Kaplan, *The Remarkable Story of Somaliland* 19 J..DEM 143, 155 (2008) (noting that a population’s cohesiveness and the success of democratization efforts are closely related. States made up of competing ethnic, religious and clan groups are often torn asunder by zero-sum battles over who will control the state and its resources)
impatient with or distrustful of both the legal and the political process resort to violence with adverse implication for the nation and the democratic process.  

The second problem is that some of the citizens who yen for democracy understand neither the ethos nor values that sustain democracy nor their roles in a constitutional democracy. They, therefore, have problems appreciating or absorbing democratic values. Those who understand the dynamics of constitutional democracy are growing increasingly passive and cynical because of the excesses of the political elites. Citizens unable to hold their leaders accountable collapse into a mood of indifference. Disaffected citizens care less about the democratic process and are even more disinterested in fulfilling their civic obligations. They are also often impervious to pleas by leaders to embrace and support the democratic process. The establishment of constitutional democracy without simultaneously creating and nurturing the culture and attitudes that sustain democracy will lead to unsatisfactory results. The challenge

156 Violence in Africa stems from various sources. In some cases, violence seems to be the only available option for brutalized and marginalized citizens to draw attention to their plight. Charles Gore & David Pratten, The Politics of Plunder: The Rhetoric of Order and Disorder in Southern Nigeria, 102 AFR. AFFAIRS, 211, 212 (2003 (stating that violent local responses by youth groups mobilized around issues of resource control and community security are a widespread response to the “politics of plunder” and an endemic feature of the Nigerian social landscape). The authors further stated that “ongoing struggles for the codification of new rights and privileges combined with worsening inequalities and corruption lead to public and private violence that is increasingly uncontrolled.” Id. at 213. In some cases, some ethnic chieftains view violence as a vital means to attain power. See for example, Dennis M. Tull & Andreas Mehler, The Hidden Costs of Power-Sharing: Reproducing Insurgent Violence in Africa, AFR. AFFAIRS, 104/416 375,376 (stating that “some would-be leaders have some reason to conceptualize the organization of violence as a viable path to occupying at least parcels of state power.”)


158 Carolyn Logan, Rejecting the Disloyal Opposition: The Trust Gap in Mass Attitudes Toward Ruling and Opposition Parties in Africa, Afro Barometer Working Paper no 94 at 26 (2008) (“the formal institutions and practices of democracy are shaped and adjusted by a variety of factors, including not only the machination of political elites but also a society’s political culture, even as these institutions in turn shape and adjust that culture.”)
therefore is to counteract anti-democratic sentiments and help citizens to develop and cultivate attitudes and values that strengthen democracy.

Democracy stands a better chance of succeeding where citizens remain committed to national unity and have the right attitudes and values that sustain democracy. In plural societies characterized by a long history of mutual distrust and reciprocal ethnic hatreds, the fate of democracy depends on equitably balancing and resolving agitations and conflicts. The first and urgent step is to recapture and maintain the trust and confidence of all ethnic groups, especially the minority groups. Leaders can regain the trust of ethnic minorities by showing greater sensitivity to their concerns. A fair and trusted government will be in a better position to create and foster an environment where citizens treat and relate to each other as citizens of one country, and not as distrustful members of different ethnic groups maneuvering to outwit the other. The next step would be to re socialize the citizens to subordinate ethnic loyalties to the overriding interest of the nation, and to seek cooperation rather than competition with each other. The government can play a major part in the re socialization process by dealing fairly and equitably with ethnic minorities in the country. Efforts must be made to understand why citizens nurse anti democratic sentiments and introduce reforms to alter their behavior and help citizens to overcome environmental and cultural factors that bring dissension and distrust among the various ethnic groups in the country.

Addressing anti democratic sentiments will make citizens more receptive to the democratic process. As citizens deal with their emotions regarding constitutional

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159 ROBERT DAHL, ON DEMOCRACY 149-50 (1998) (“democratic political institutions are more likely to develop and endure in a country that is culturally fairly homogeneous and less likely in a country with sharply differentiated and conflicting sub culture.”)
democracy, they will need education and information about values and ethos that sustain democracy. Education will help them gain an enhanced understanding of the attitudes and circumstances that deepen democracy. It will help them to liberate their minds from the social forces that foster instability and lack of commitment to democratic values. More fundamentally, education can also help citizens to appreciate more fully their roles in a democracy and ultimately enhance their capacity to participate intelligently and actively in the democratic process.\textsuperscript{160} Ultimately an active, informed and engaged citizenry will bolster the efforts of the civil society whose efforts in democratic reforms remain paramount.\textsuperscript{161}

Another reason to pursue aggressive re socialization of the citizen is that leaders are, in most cases, products of a warped culture, not the cause of it. The hopes that citizens who assume leadership positions will rise above the influence and values that shape citizens’ lives have dispiritingly failed to materialize. Too much focus on leadership failures occludes the fact that leaders are members of the society and products of its prevailing ethos and cultural synthesis. It is therefore not surprising that leaders carry and espouse those values in leadership positions. It is likely, perhaps inevitable that leaders will continue to display negative character traits that render them ineffective, corrupt and hubristic unless the environmental factors that create incentives for anti democratic behavior are addressed. Broad systematic education will help political elites to overcome habits shaped by their deteriorating and deteriorated environments.

\textsuperscript{160} Robert A. Dahl On Democracy, 187 (1998) (“one of the imperative needs of democratic countries is to improve citizens’ capacities to engage intelligently in political life.”)

\textsuperscript{161} Robert Post & Nancy Rosenblum, Introduction, in CIVIL SOCIETY AND GOVERNMENT 19 (Nancy L. Rosenblum & Robert Post eds. 2002) (noting that civil society is no guarantee of democracy but it is necessary for democracy and can serve important democratic functions. A flourishing pluralist civil society and strong democratic government are reciprocally supportive.)
Addressing anti democratic sentiments in the society will choke off the sources of leadership failures and ultimately lead to better leaders who can challenge and guide citizens in their struggles with the challenges of democratic consolidation.

H. Leaders

Political elites in Africa are beset by self inflicted crippling weaknesses that render them incapable of living by the dictates and precepts of constitutional democracy. Most of them are ruled by insidious political opportunism and are willing to go to any lengths to attain and retain political power.162 Their perspectives are circumscribed by immediate concerns of self projection and wealth acquisition. Mired in this mind set it becomes difficult, if not impossible for them to serve the public and observe the restraints of constitutional democracy. Their obsessive focus on self interest has deadened their sensibilities to the problems and suffering of their citizens. They deal with disaffected and frustrated citizens not by persuasion, dialogue or accommodation, but by force and intimidation.163

Nigerian political elites have done little or nothing to dent Professor Ewelukwa’s assessment of politicians more than four decades ago. He stated disapprovingly and with understandable scorn that:

Most of the politicians were ignorant, small minded and parochial in their outlook and sought to make the Nigerian political arena congenial to their acquisitive and undemocratic tendencies in life. By their methods, they made politics a rough, uncomfortable and hazardous pursuit for anyone, and

162 Howard Wolpe & Steve McDonald, Training Leaders for Peace, 17 J. Dem. 132, 137 (2006) (noting that given the dire poverty and underdevelopment that grips most African societies . . . . the state is often seen as the most certain avenue to wealth and power, and politics becomes a desperate high-stakes affair).

163 See BATES, WHEN THINGS FELL APART, supra note 23.
in their frantic bid to enrich themselves illicitly out of public funds, they combined with certain professionals, independent contractors and even public servants to trample upon the rights and liberties of individuals and to make life difficult for the common man, thereby alienating his sympathy.\textsuperscript{164}

It would be unacceptable, indeed irresponsible to continue to ignore the leadership deficits displayed by Africa’s political elites. Citizens, scholars and international organizations who are constantly and understandably concerned about the state of democracy in Africa often single out leaders for special obloquy.\textsuperscript{165} Some political elites are yet to establish their bona fides as democrats. They mask, for the most part unsuccessfully, their dictatorial tendencies in disingenuous democratic rhetoric. In fact, most of them come to the democratic process as relative tabula rasae. Their only impression of governance was shaped during years of military interregnum.\textsuperscript{166} They therefore have no democratic framework to model their conduct. Some of their excesses are motivated more by ignorance than arrogance. Some of them are amenable to re

\textsuperscript{164} D.I.O Ewelukwa, \textit{The Constitutional Aspects of the Military Take-Over in Nigeria}, 2 Nig. L.J. 1, 2 (1967)

\textsuperscript{165} Professor Dudley damning assessment of African leaders remains unassailable: ....for the political elites, power was an end-in-itself and not a means to the realization of some “good” for the community, and whatever the instrumentalities employed in the pursuit of power, such instrumentalities were legitimate. It follows from this that any talk about “rules of the game” must be irrelevant, for to talk about “rules of the game” is to presuppose some end or ends which such rules are intended to serve but there can be no such end since power has been taken as an end in itself... The only possible kind of ethic thus becomes that of privatization, the preoccupation of the individual with his personal rather than his social situation.

Quoted in JULIUS IHONVBERE & TIMOTHY SHAW, ILLUSIONS OF POWER: NIGERIA IN TRANSITION 41 (1998); See also Michael Chege, Democratic Governance in Africa at the Start of the Twenty-first Century, in THE FATE OF AFRICA’S DEMOCRATIC EXPERIMENTS 281 (Leonardo A. Villalon & Peter VanDoepp eds., 2005) (noting that aborted democracies and systemic violence can be traced to factional leadership that values self-interested raw power above community and national interest, even at the cost of breakdowns in law and order.)

\textsuperscript{166} The military has ruled Nigeria for a better part of its history since it attained independence in 1960. The military ruled from 1966 - 1979 and again from 1983 - 1999.
socialization and will tuck upon gaining an enhanced understanding of the dynamics of
the democratic process.

Democracy will not be consolidated unless political elites understand the
intricacies and nuances of the relationship between leaders and the citizens in a
constitutional democracy. At present the relationship is characterized by arrogance,
condescension and intimidation that leave citizens frustrated, angry and resentful of their
leaders. Leaders view citizens, not as the ultimate source of power in a democracy but as
robots who must accept without questions, whatever their leaders decide to do.
Leadership deficits continue to enfeeble democracy and account for most of the problems
in the continent of Africa. As leaders grapple with the difficult choices involved in
leadership, they will need broad and systematic education to help them overcome the
negative circumstances of their environment and enable them to repair and overcome the
errors of their predecessors. Training must help leaders to nurture and sustain the
perspective which citizens expect of them— to always act on the explicit understanding
that they are representative, not masters, of the people and that their ultimate loyalty and
responsibility lie with the people and not to the deity of self aggrandizement. It will also
help them to expurgate anti democratic attitudes that have held them hostage since the
inception of constitutional democracy.

Some countries like Burundi address the leadership deficits by providing
leadership training for their leaders. Education of the political elites will counter their
negative attitudes, invite their attention to the proper attitude and role of leaders in a

167 See pages 22–30 of text supra.

Burundi’s leadership training institute)
democratic process and change their perception of the political process. The overarching aim of the education process is to help leaders understand that in a democracy power resides with the people and that their rights, needs and welfare must remain paramount. A well-structured training program can transform the culture that engenders arrogance and hubris in the leaders. It can also help leaders to develop and sharpen their communication and leadership skills. Essentially, such programs will provide valuable opportunities for leaders to “learn or relearn how to hear others’ concern and how to express their own in ways that would encourage a search for solutions rather than endless blame-throwing.”\(^{169}\)

### III. Challenges for the International Community

Africans fear that an increasingly distracted world community will pay little attention to Africa and its struggles with constitutional democracy. The world community may view the establishment of constitutional democracy as the end of its commitment to Africa, or equally as discouraging to Africans, regard Africa’s problem as intractable and avoid the difficult but urgent task of helping Africa to deepen democracy. Should any of these fears materialize, Africa and Africans will regress back into dictatorship and suffer its adverse consequences. African citizens are restive, agitated and constantly “voicing their outrage at the contumacious failure of African leaders to bring development to the continent.”\(^{170}\) It is dangerously naive, perhaps reckless, to expect them to forever remain

\(^{169}\) *Id* at 33.

calm in the face of mounting and crushing injustice and abuse. Africa is currently sitting atop a dormant volcano. The lava bubbles but the volcano has not erupted. Africans can neither prevent the volcanic eruption nor navigate their way out of danger without significant assistance from the international community. The current crisis in Zimbabwe, the genocide in Dafur Sudan, the civil unrest in the Congo, and the mounting ethnic violence in Nigeria serve as grim symbols and endless reminders to the international community that more still needs to be done to make Africa truly democratic.

The fate of constitutional democracy in Africa depends, to a substantial extent, on the attitude of the international community. In this trying time for democracy, Africans look to the international community to help them reclaim the promises of democracy. The shenanigans of Zimbabwe’s Robert Mugabe have come to be a synecdoche for all that is

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171 Wole Soyinka’s alarum demands more attention than it has received. He warns that:

> the nation [Nigeria] is at her breaking point since the Biafra civil war, poised between making a clean break with the past or breaking up in all but name. That later undesired scenario can only be prevented by giving voice to the much abused humanity that ekes out a meager existence within that nation space.


172 HUMAN RIGHTS WATCH BULLET FOR EACH OF YOU: STATE-SPONSORED VIOLENCE SINCE ZIMBABWE’S MARCH 29 ELECTIONS June 2008 (documenting and discussing human rights abuses, repression and government sponsored violence against the opposition); Thomas Woods & Brett D. Schaefer, Africa Must Confront the Growing Crisis in Zimbabwe, available at [www.heritage.org/research/africa/wm1970.cfm](http://www.heritage.org/research/africa/wm1970.cfm) (Noting that Mugabe’s increasingly savage efforts to maintain political power have triggered economic and humanitarian crisis.).

173 BRIAN STEIDLE & GRETCHEN STEIDLE THE DEVIL CAME IN HORSEBACK: BEARING WITNESS TO GENOCIDE IN DARFUR (2007); WAR IN DARFUR AND SEARCH FOR PEACE (Alex de Waal ed. 2007).


wrong with Africa. African leaders unconstrained by law or public opinion and consumed by hubris ignore domestic demands for accountability and thumb their noses at the world community. Africa and indeed the entire world community will be better if the international community heeds Professor Rotberg’s advice:

Unless the United Nations or the big powers develop an effective series of mechanisms to forestall failure by diplomatic, technical, or military means — a highly unlikely proposition in the modern era — the phenomenon of nation-state failure will remain for years and decades, and the peoples of those deprived and depraved polities will continue to suffer at the hands of avaricious rulers. Their human rights will be abused, their civil liberties curtailed, their economic opportunities foreclosed, and their life expectancies limited until the forces of world order that despotism and tyranny are serious, overriding threats to global stability and prosperity. The precariousness of the Congos, Sudans, and Somalias of the current age are also, destined to be duplicated elsewhere around the globe in this decade and the next.176

The international community must respond urgently and effectively to arrest the gestating anomie in Africa. The international community can reclaim its credibility shriveled by the failure to prevent the genocide in Rwanda by acting decisively and preemptively to avert the gathering disaster in Africa.177 Concerns for Africa mean nothing if the world community cannot stop despots in their tracks before they set the continent ablaze. The warning signs of the coming anarchy in Africa are there for all to see.178 It is also clear, as made obvious by the debacle in Zimbabwe, that Africans are often powerless to confront


178 The coming anarchy is a phrase presciently coined by Stanley Kaplan in his 1994 article describing the social disorder that threatens to engulf the continent of Africa. See Robert Kaplan The Coming Anarchy, ATLANTIC MONTHLY, Feb 1994 at 44-76.
the despot without assistance from the international community. Support and encouragement from the international community and especially an indication of its willingness to intervene to prevent or preempt abuses “can give African people a powerful incentive to compel those who rule them to do so justly and efficiently or else give way to those who will.”

The international community publicly expresses concern for and interest in Africa but it has not been able to craft effective policies to deal with Africa’s problems. Moreover, the international community has a disturbing tendency to ignore human rights abuses and other signs of social disorder in Africa until such problems get to the atrocious level of mass violence or even genocide. Indifference or insufficient attention to Africa emboldens its many tyrants and exposes citizens to abuse. The international community must demonstrate in no uncertain terms that it is inexpugnably opposed to dictatorship in all its forms and manifestations in Africa and that it stands ready to intervene to subvert such evils whenever and wherever they rear their ugly heads.

Urging the international community to intervene and arrest the deteriorating social equilibrium precipitated by democratic lapses in Nigeria, especially the flawed 2007 elections, two international journalists expressed the views that resonate with a vast

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180 Ayitteh Africa Unchained supra note 76 at 53 (noting that “over the past decade, other western governments, international aid organizations and multi lateral financial institutions have crafted various initiatives to tackle Africa’s woes. Though well-intentioned, most of these initiatives came to ignominable grief.”)

181 Efforts to get the international community to intervene in Rwanda were notoriously ignored until the violence escalated to genocide.

majority of Africans “if Nigeria’s democratic failure passes without consequence from the international community, then the very idea of democracy in Africa is at serious risk.”

Failure to act preemptively to prevent disaster will diminish the international community’s standing in Africa and ultimately undermine efforts to deepen democracy. President Bush greatly encouraged and buoyed the spirit of Africans struggling to enthrone democracy when he grandly declared in his second inaugural address that:

> It is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture with the ultimate goal of ending tyranny in the world. . All who live in tyranny and hopelessness can know the United States will not ignore your oppression, or excuse your oppressors. When you stand for your liberty, we will stand with you. Democratic reformers facing repression, prison, or exile can know: America sees you for who you are: the future leaders of your free country.

The international community can match President Bush’s eloquent and flowery rhetoric with actions. The international community, especially the United States and the United Kingdom, can use Africa’s dependence on foreign aid as a lever to demand more accountability and democratic reforms from African leaders. The international community can help Africa in three important areas: containing African tyrants, fighting corruption and capacity building.

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185 The ECONOMIST *Nigeria: Will Africa Ever Get it Right*, April 28 2007 (noting that “western countries, vital donors of aid should make it clear they will give more help to countries whose governments are relatively clean and efficient – and hold fair elections.”); Aili Mari Tripp *The Changing Face of Authoritarianism in Africa: The Case of Uganda*, *Africa Today*, No. 3. p. 3, 6 (2004) (“Africa’s heavy reliance on international donor funds has demanded minimal levels of openness of the political process and has helped mitigate against the emergence of the kinds of dictatorship seen in the past.”)
A. Containing Africa’s Tyrants

Africa’s democratic aspirations have been thwarted by a collage of factors.\(^{186}\) But the failure of leadership has contributed more than any other factor in frustrating efforts to consolidate democracy. Most of Africa’s problems have roots in or are traceable to bad leadership.\(^{187}\) Overbearing, hubristic and underperforming African leaders remain unperturbed by domestic demands for accountability and better governance.\(^{188}\) They have the resources to negate institutional accountability mechanisms and to suppress agitations for democratic reform.\(^{189}\) They can, and often, rig and manipulate elections, co-opt the legislature and influence the judiciary, and subdue, sometimes violently, populist demands for accountability.\(^{190}\) Citizens continue to struggle, often violently and

\(^{186}\) See pages 2-4 of text *supra*.

\(^{187}\) Scholars and analysts have consistently located Africa’s problems in the leadership. See note 81 *supra*.

\(^{188}\) Id.

\(^{189}\) Describing the powers and inclination of Africa’s tyrants to blunt demand for reforms, Professor Ayitteh writes:

The leadership blocks the establishment of the institutions that will provide institutional checks against errant misrule and corruption . . . . Reform is anathema to the vampire elites. Ask them to open up the political system and they will hold coconut election to return themselves to power . . . . For more than 30 years, the ruling elites have engaged in this kind of vile chicanery and acrobatics. Each time they are asked to reform their abominable systems, they throw up all sorts of objections and obstacles.

Ayitteh, *AFRICA UNCHAINED*, *supra* note 76 at 432.

\(^{190}\) MARTIN MEREDITH *THE FATE OF AFRICA FROM HOPES OF FREEDOM TO THE HEART OF DESPAIR*, 218-248 (2005) (discussing efforts by Africa’s tyrants to muzzle dissent and resist demands for democratic reform.)
unavailingly, to bring their leaders to account for their actions.\textsuperscript{191} It has become tolerably clear that Africans have neither the powers nor the resources to compel their governments to govern according to law. They need help from the international community to constrain the leadership and initiate democratic reforms. Africans wholeheartedly endorse the views of Robert Keohane that “tyrants who murder their own people need to be restrained or removed by outsiders.”\textsuperscript{192}

The international community must speak clearly and unambiguously about its willingness and resolve to prevent African leaders from leading Africa into chaos.\textsuperscript{193} Fear of reprisals from the international community will have a profound chastening influence on African despots and make them more respectful of, and sensitive to the needs, rights and welfare of the citizens.\textsuperscript{194} Concerns of the international community will always affect the calculations of African leaders, most of whom want to avoid the fate that befell the former Liberian President Charles Taylor currently on trial for war crimes at the international criminal court at the Hague.\textsuperscript{195} Libya’s Mamur Gaddafi did not relinquish his obsessive bid to develop weapons of mass destruction because of a sudden epiphany

\textsuperscript{191} The current struggles by ethnic minorities in Nigeria for a more equitable distribution of the nation’s resources illustrate this phenomenon. See

\textsuperscript{192} Robert O. Keohane, Governance in a Partially Globalized World, 95 American Political Science Review, 23 (2001).

\textsuperscript{193} It is generally believed that emphatic denunciations of President Charles Taylor of Liberia caused him to agree to leave Liberia, thus paving the way for the restoration of social equilibrium and the reestablishment of constitutional democracy in Liberia.


or a new found desire to rejoin the comity of nations.\textsuperscript{196} The removal of Saddam Hussein brought home to him, vividly and decisively, the dangers of confronting a determined world community.\textsuperscript{197}

The recent indictment of Sudanese President Omar al- Bashir remains the most remarkable effort by the international community to hold a sitting African president responsible for abuses.\textsuperscript{198} Such decisive efforts to confront African leaders are essential to reassure citizens whose natural instincts are to accuse the international community of disinterest in Africa. The indictment of a sitting president will reassure African citizens that in their fight for justice and democratic reforms, the international community “will not ignore [their] oppression or excuse their oppressors.”\textsuperscript{199} Before the indictment, the operative presumption has been that the superpowers, motivated by selfish interests, or real politik limited themselves to criticizing and condemning Africa’s tyrants who committed atrocities against their citizens.\textsuperscript{200} African Presidents, buoyed and shielded from international pressures, by complicit super powers engaged in epochal repression

\textsuperscript{196} Peter Slevin & Glenn Frankel, \textit{Libya Vows to Give up Banned Weapons}, WASH POST, Dec. 20, 2003 at A01.

\textsuperscript{197} For an interesting collection of essays examining various aspects of the Iraqi invasion that led to the removal of Saddam Hussein, see \textit{IN THE NAME OF DEMOCRACY: AMERICAN WAR CRIMES IN IRAQ AND BEYOND} (Jeremy Brecher, Jill Cutler & Brendan Smith eds., 2005).

\textsuperscript{198} Betsy Pisik, \textit{U.N. Braces for Retaliation After Indictment: President Charged With Genocide and War Crimes in Darfur}, WASH. TIMES, July 15, 2008 at A19

\textsuperscript{199} President Bush’s inaugural Address, \textit{supra} note 184.

\textsuperscript{200} Carothers, The Sequencing Fallcacy, \textit{supra} note..at 21 (“certainly the United States, and to a lesser extent other western powers, have often talked grandly in the past several decades about their commitment to global democracy. But beneath the rhetoric is a long record of a very mixed policy reality. Where democratic change in a particular country or region aligns with western economic or security interests, it receives support. In many places however, the United States and Europe have been and continue to be quite happy to support or get along with autocratic governments for a host of reasons.”)
and abuse of their citizens.\textsuperscript{201} Rarely, if ever, did the international community confront or attempt to prevent African leaders from perpetrating atrocities against their citizens.\textsuperscript{202} The message and symbolism of this indictment will resonate loudly and clearly in Africa. Africa’s tyrants long accustomed to western indifference and empty threats will definitely feel the tremor of change and hopefully trim their sails to avoid incurring the wrath of the international community. Swift and decisive actions against sitting African tyrants could provide the springboard to launch Africa into a new era of greater respect for citizens’ rights, the rule of law, and democracy.

\textbf{B. Fighting Corruption}

As Robert Calderisi, former World Bank official with significant experience in Africa trenchantly observed, “the world’s great gift to Africa’s democrats would be to stop the amassing of illegal fortunes by its politicians and senior officials in foreign banks.”\textsuperscript{203} Corruption has become an almost ineradicable part of the culture in Nigeria and continues to threaten both constitutional democracy and the nation.\textsuperscript{204} Nothing enfeebles

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\item \textsuperscript{201} HELENA COBBAN, AMNESTY AFTER ATROCITY? HEALING NATIONS AFTER GENOCIDE AND WAR CRIMES 5-6 (2007) 
Too often throughout the centuries past, these abusive leaders did indeed enjoy a seeming impunity from any meaningful reckoning: This impunity was upheld, on the one hand, by a version of realpolitik that often cowed critics from inside and outside the countries in question, discouraging them from confronting the malefactors openly about their misdeeds, and on the other hand – at the international level - by adherence to a long-held interpretation of the concept of sovereignty that left every national-level ruler quite free to treat his own “subjects” exactly as he pleased

\item \textsuperscript{202} Prior to the indictment of the Sudanese President, the international community typically initiated indictment against Presidents after they have left office. Charles Taylor of Liberia and former Prime Minister of Rwanda were indicted after they left office.

\item \textsuperscript{203} Calderisi \textit{supra} note 14 at 208

\item \textsuperscript{204} See Okechukwu Oko \textit{Subverting the Scourge of Corruption in Nigeria: A Reform Prospectus}, 34.N.Y.U.J. INT’ L. & POL. 397 (2002)
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democracy more than corruption. It distorts governance, provides perverse incentives for dysfunctional behavior, and ultimately diminishes the quality of life by diverting funds for social services in private pockets. Senator Barack Obama perceptively observed during his 2006 visit to Kenya that:

Corruption erodes the state from the inside out, sickening the justice system until there is no justice to be found, poisoning the police forces until their presence becomes a source of insecurity rather than a source of security.

Corruption also sets the wrong example for citizens and undermines public confidence in the democratic process. Corruption in Nigeria has assumed an alarming proportion and continues to threaten both democracy and the nation. Some of the purloiners use their ill-gotten wealth to fund and arm militias to compete for legitimacy with the state. Public and social services, indeed the prospects of a better life implicitly promised by

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205 Susan Rose-Ackerman Controlling Corruption: Government Accountability, Business Ethics and Sectoral Reform, in THE CONSTRUCTION OF DEMOCRACY: LESSONS FROM PRACTICE AND RESEARCH 171 (Jorge Dominguez & Anthony Jones eds. 2007) (“corruption threatens the legitimacy of the democratic experiment by reducing public trust in government. Citizens may begin to view all the political participants as tainted and hence may limit their involvement in the project of state building by turning to purely private concerns. Indeed such disillusioned citizens may even become corrupt themselves out of cynicism and despair.”)

206 Alemika, Center for Social Science Research, supra note 21 at 9 discussing the impact of corruption on the country, Professor Alemika stated that the overall effect of corruption is that “the legitimacy of government is undermined because corruption violates the principles of democratic governance, leads to gross inefficiency, widens inequality, engenders and aggravates political instability and repression.”


209 HUMAN RIGHTS WATCH CRIMINAL POLITICS, VIOLENCE GODFATHERS” AND CORRUPTION IN NIGERIA 31-40 (2007) (describing how wealthy Nigerians popularly known as Godfathers use their private wealth to fund political violence).
constitutional democracy will never be realized so long as corruption continues to distort and disfigure governance and public service in Nigeria.\textsuperscript{210} 

Most of Africa’s stolen assets ultimately find their way to foreign countries, either stashed in private bank accounts or used to purchase vulgar mansions in choice neighborhoods.\textsuperscript{211} A country’s ability to locate stolen money ultimately depends on the cooperation of the host country which for the most part has been less than satisfactory.\textsuperscript{212} The international community, especially in this era of war on terror, has the resources and the technology to track movement of funds and the purloiners. What is dismally lacking is the willingness to help Africa locate the funds.\textsuperscript{213} Corruption will end or at least be significantly reduced if the international community can help Africa locate its stolen

\textsuperscript{210} Professor Larry Diamond paints a gruesome picture of the adverse impact of corruption on governance in Nigeria:

State incumbents at all levels use their power and office to appropriate resources for themselves and their families, cronies, clients and kin. State offices are distributed with the expectation and understanding that their incumbents will use them to accumulate wealth. Corrupt resources flow up and down chains of clientage in a vast cascading drain upon public wealth and honest effort. Corruption in these countries is not an aberration. It is the way the system works, the way people acquire power and wealth, and the way officials retain power and expand wealth. At its most extreme, locally or nationally, the state is little more than a criminal racket, and the police and organized crime may be one and the same.


\textsuperscript{211} Rotberg, \textit{supra} note 133 at 87 (“corrupt ruling elites invest their profits overseas, not at home, thus contributing yet further to the economic attrition of their own states.”) Ayitteh Africa Unchained, \textit{supra} note,, at 50 (noting that African leaders do not invest their booty in their own countries but choose to stash it in Swiss and foreign bank accounts.)

\textsuperscript{212} The Swiss Government has offered some assistance to Nigerian government in its bid to recover stolen funds stashed in various accounts in Switzerland by Nigerians. For example, in August of 2006, the Switzerland Ambassador to Nigeria announced that $700 million looted by former President Sani Abacha and deposited in Swiss Bank has almost completely been repatriated to Nigeria. See \textit{Global Integrity Report: Nigeria Corruption Time line} available at \url{www.globalintegrity.org/Nigeria/2007/timeline}

\textsuperscript{213} See Calderisi \textit{supra} note 14 at 208 (recounting Nigeria’s ultimately unsuccessful efforts to enlist the help of Britain in tracking and recovering the money stolen by the late dictator, Sani Abacha)
funds in foreign banks. \textsuperscript{214} The involvement of the international community in Africa’s fight against corruption will dramatically alter the climate of impunity in Africa and hopefully prevent future leaders from copying the shameful examples of their predecessors.

C. Building Capacity.

The international community can also help Non Governmental Organizations in Africa to build the capacity necessary to counter citizens’ apathy toward constitutional democracy and to encourage citizens to become more active and engaged in the democratic process. \textsuperscript{215} Local non governmental organizations have played and continue to play significant roles in educating the public about their roles in a constitutional democracy. But efforts to mobilize the masses are often inchoate, disjointed and ultimately ineffective because of the lack of resources to reach all segments of the society. Adequately supported and financed, non governmental organizations can orient the masses properly in issues of democracy, especially the rights, duties and obligations of citizens in a democracy. International assistance will provide the impetus and setting for Africans to revamp institutions and processes disassembled by rapacious tyrants and

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\textsuperscript{214} Calderisi, \textit{id.} at 220 (noting that a better mechanism for tracking graft and recovering stolen money will certainly help Nigeria reduce the tremendous corruption that infects national life)
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\textsuperscript{215} The role of Non Governmental Organizations was admirably stated by Professor Larry Diamond:

Non governmental organizations are teaching people their rights and duties as citizens, giving them the skills and confidence to demand answers from their rulers, to expose and challenge corruption, to resolve conflicts peacefully, to promote accommodation among ethnic and religious groups, to monitor government budgets and spending, to promote community development, and to recruit and train new political leaders.

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enable them to meet the challenges of governance and democratic consolidation.\textsuperscript{216} Africans fervently hope that the sentiments expressed by Senator Barack Obama will shape the policy of the United States toward Africa. He stated that America:

> Can help build accountable institutions that deliver services and opportunity: strong legislatures, independent judiciaries, honest police forces, free presses, vibrant societies... We need to invest in building capable democratic states that can establish healthy and educated communities, develop markets and generate wealth.\textsuperscript{217}

Several international agencies and organizations, including the USAID, UNDP and the World Bank, render various forms of democracy assistance to Non Governmental organizations in Nigeria.\textsuperscript{218} Democracy assistance takes various forms, including workshops and policy seminars, expert consultancies on specific polices and institutional designs and restructuring, skill training courses, study tours to benefit from others’ experience, equipment donation, small grants and infrastructure improvement.\textsuperscript{219}

These efforts, though essential, should be carried out with utmost care to ensure that the focus is placed where it matters— the local organizations. International agencies can contribute constructively to the activities of NGO’s by carefully structuring aid and assistance to empower and not to replace the Ngo’s. One hopes that Professor Francis Fukuyama is correct when he stated in a different context that:

> Long gone are the days when a team from Washington or Brussels would be air dropped into a developing country, do a “needs assessment” and

\textsuperscript{216} The military era witnessed the dislocation of democratic institutions in Africa. See Oko, Consolidating Democracy on a Troubled Continent, \textit{supra} note 146

\textsuperscript{217} Barack Obama, \textit{Renewing American Leadership}, 86 FOR. AFFAIRS 2 (2007)

\textsuperscript{218} For a discussion of democracy assistance programs by international agencies, see DIAMOND, \textit{THE DEMOCRATIC SPIRIT}, \textit{supra} note 120-133.

\textsuperscript{219} G. SHABBIR CHEEMA BUILDING DEMOCRATIC INSTITUTIONS: GOVERNANCE REFORM IN DEVELOPING COUNTRIES, 245 (2005)
then dictate to the locals what they were to do to help themselves. The current emphasis on “community-driven development” puts the burden on the recipients to assess their own needs and then take responsibility for implementation of a project that they themselves have designed. It is they who best understand local needs and constraints and it is they who must have incentives to help themselves.220

Donor agencies must resist the temptation or urge to dictate to local NGOs without considering their input. There is no blueprint for aiding democratic reforms; a one-size-fits-all approach will lead to unsatisfactory results. Problems of democracy may be the same in most African countries, but they often differ in intensity and scope. Local Non Governmental Organizations often have a prudent understanding of their environment and can more effectively identify and articulate pressing areas of need. It is therefore important for donor agencies not to dictate or pontificate but to listen to the local ngos to understand their problems and concerns and structure an appropriate assistance program to help them perform their tasks effectively.

IV. Conclusion

Democracy in Africa is flawed and problematic but Africans overwhelmingly and unquestionably prefer democracy to dictatorship.221 Consolidating democracy in Africa is tough and challenging but not entirely hopeless. Africa is a country with thriving democratic spirit but is ruled by tyrants and despots who have both the inclination and


221 Richard Joseph, Africa: State in Crisis, 14 J. DEM 159, 164 (2003) (“despite the tenacious economic and political problems that African democracies confront, their citizens continue pervasively to support democracy as a form of government.”)
resources to scupper agitations for democratic reforms. Africans, like citizens in established democracies, want constitutional democracy and all the rights, privileges and benefits associated with democracy. Their ultimate goal is to forge a society in which citizens live in peace, enjoy the rights and liberties and generally pursue and advance their interests and goals without unnecessary restraints. They understand that creating such a society takes time and a great deal of commitment but they are prepared and eager to meet the challenging but ultimately rewarding task of deepening democracy.

What seems to be lacking is effective leadership to galvanize and channel the desires and energies toward productive ends. Fareed Zaraki was resoundingly correct in his explicit remarks that “what Africa needs more urgently than democracy is good governance.” Other problems in Africa will easily be addressed once “leaders rise to the responsibility, to the challenge of personal examples which are the hallmarks of true leadership.” Effective leadership will salve citizens’ fears, and inspire them to display a greater commitment to democracy. Good leadership in Africa will be necessary to orchestrate fundamental and paradigm shifting changes in the culture and ethos that impede democratic consolidation. Good governance will immeasurably enrich the condition and quality of lives in Africa, transform the continent and ultimately smoothen the path to the creation of a continent so eloquently predicted by Professor Mentah:

Genuine excitement would be generated worldwide by an Africa in which governments demonstrate respect for the constitution and laws, state

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222 See Bates WHEN THINGS FELL APART, supra note 23 Meredith, supra note ..

223 Zakaria, FUTURE OF FREEDOM supra note 6 at 98

officials at all levels responsibly execute the duties of their offices, public institutions make efficient use of funds provided, political violence and corruption are sharply reduced, the people’s needs are dutifully addressed by public and private services, elections are fairly conducted, and the state once again becomes the collective property of its citizens. While none of these virtues are new in contemporary African context, they would be revolutionary and promote popular democracy.\textsuperscript{225}

\textsuperscript{225} \textit{Held Together by Pins, supra note... at 133}