

DESTINY IN THE BALANCE: MAPPING THE FUTURE OF DEMOCRATIC LEADERSHIP IN AFRICA

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I. INTRODUCTION

The restoration of democracy in Africa after decades of brutal military rule represents a significant development on the continent.¹ Unfortunately, however, African citizens' optimism over the potential of democracy to transform society and improve their lives has been disappointing.² At every turn, citizens who enthusiastically—sometimes heroically—fought for the restoration of democracy witness an increasingly growing chasm between their expectations and the conduct of leaders.³ The return to democracy merely assuaged citizens' angst and frustration with the military rule but has not changed citizens' circumstances⁴—nor has it changed leaders' approach to governance.⁵ Unlike military dictators who displayed their dictatorial bent unabashedly, several African leaders have merely masked their dictatorial practices with democratic pretensions.⁶ The new leaders in this

¹ See Rachel L. Swarns & Norimitsu Onishi, *Africa Creeps Along Path to Democracy*, N.Y. TIMES (June 2, 2002), <https://www.nytimes.com/2002/06/02/world/africa-creeps-along-path-to-democracy.html> (“Imperfectly, reluctantly, tentatively, democracy is inching across a continent better known for wars, disease, corruption and repression. Since 1990, 42 of the 48 countries in sub-Saharan Africa have held multi-party elections . . . Not since Africans began shaking-off colonial rule more than 40 years ago has the continent witnessed such broad political change.”).

² See *id.* (“For many ordinary Africans, the tangible benefits of the political change have remained elusive . . . [D]emocracy has often been followed by a period of deteriorating living standards. Many Africans are now freer but poorer than they have been in decades.”)

³ See LARRY J. DIAMOND, *ILL WINDS: SAVING DEMOCRACY FROM RUSSIAN RAGE, CHINESE AMBITION, AND AMERICAN COMPLACENCY* 158 (2019) [hereinafter DIAMOND, *ILL WINDS*] (“Across the eighteen countries that have been surveyed four different times from 2005 to 2016, the pattern is always the same: a whopping gap between Africans' demand for democracy (74 percent in 2015) and their perception that democracy is being delivered (47 percent).”).

⁴ See Stephen Brown & Paul Kaiser, *Democratisations in Africa: Attempts, Hindrances and Prospects*, 28 *THIRD WORLD Q.* 1131, 1142 (2007) (“It is true that impediments to democratization in Africa are stronger than in any other region. The state and civil society, two critical actors in a democracy, both tend to be weak. In addition, African countries generally suffer from longstanding economic crisis and extreme poverty, little experience with liberal democratic governance, and widespread societal alienation.”).

⁵ See Coulibaby Yacouba & Traore Sanibe Emmanuel, *Common Behavior in the Practice of Democracy in Africa*, 7 *OPEN J. POL. SCI.* 17, 19 (2017) (“No matter the regime is, parliamentary or presidential, regardless of whether it is exercised with democratic values, [sic] In Africa, in many countries we still have a funny democracy. The regime is at the same time oligarchic, aristocratic, dictatorial, monarchy. We have a tinted democracy, multicolored, unstable and inadequate.”).

⁶ See Kenneth Roth, *The Age of Zombie Democracies: Why Autocrats are Abandoning Even the Pretense of Democratic Rituals*, FOREIGN AFFS. (July 28, 2021), <https://www.foreignaffairs.com/americas/age-zombie-democracies> (noting that several African leaders “cloak their autocratic rule in the garb[s] of democracy—only to strip away this thin guise to the point of risibility in recent years.”); John Campbell & Nolan Quinn, *What's Happening to Democracy in Africa*, COUNCIL ON FOREIGN RELS., (May 26, 2021), www.cfr.org/article/whats-happening-democracy-africa#chapter-title-o-4 (noting that

bedraggled culture have been unwilling or unable to discard the authoritarian values and techniques used by military rule; they continue to act in ways flagrantly at odds with democratic imperatives.⁷ The mix of arrogance and belief in their invincibility fuels the grimly dictatorial posture of these post-military African leaders⁸ who merely “maintain a veneer of democracy while eviscerating its substance.”⁹

The evisceration of the substance of democracy creates a direct pathway to despotism, emboldening leaders to exercise power without regard for constitutional limits or citizens’ interests.¹⁰ Therefore, the vision of using democracy to transform society has turned into a mirage as these ineffective leaders replicate the pathologies of the very military despots they execrated and replaced.¹¹ The hope that authoritarian culture and practices would fade with the regimes and circumstances that produced them has not materialized.¹² Instead, they perdure, fueled, exacerbated, and sometimes exploited by leaders.¹³ Despair triumphs over hope as citizens grow restless and fearful because leaders have failed to address two significant challenges: the need to institutionalize democracy and economic development.¹⁴ Several African countries are disfigured by ineffective authoritarian

authoritarian and semi-authoritarian rulers, mindful of foreign opinion, have dressed their regimes with forms of democracy, such as regular (if rigged) elections and de jure (not de facto) separation of powers).

⁷ See Gedion T. Hessebon, *Some Major Themes in the Study of Constitutionalism and Democracy in Africa*, 7 VIENNA J. ON INT’L CONST. L. 28, 36 (2013), https://www.academia.edu/22300099/Some_Major_Themes_in_the_Study_of_Constitutionalism_and_Democracy_in_Africa (“The ‘Big Man’, the larger-than-life figure who dominates the political life of the nation and who wields almost absolute power, was the president in the post-colonial state. Power was concentrated in the hands of such presidents and exercised with very little restraint and accountability.”).

⁸ 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 African leaders as “Thugs in Power.” See ROBERT CALDERISI, *THE TROUBLE WITH AFRICA* 56-76 (2006) (providing detailed and at times disgusting accounts of their excesses).

⁹ STEVEN LEVITSKY & DANIEL ZIBLATT, *HOW DEMOCRACIES DIE* 5 (2019).

¹⁰ See Bobson Gbinije, *African Dictators: The Mechanics and Dynamics of Liberty*, VANGUARD (Jan. 7, 2019), www.vanguardngr.com/2019/01/african-dictators-the-mechanics-and-dynamics-of-liberty (“The skullduggery manipulation of democratic institutions like the Police, Judiciary, Legislature, Electoral Bodies, etc. by the powers-that-be, has led to the prevalence of Machiavellian travesty masquerading as democracy in Africa. . .”).

¹¹ See Swarns & Onishi, *supra* note 1. Capturing Africans’ disappointment with democratic leaders, the authors noted: “The enthusiasm has faded in many countries as elected leaders have found themselves confounded by entrenched poverty, ethnic tensions and corruption, some presidents have continued to repress journalists and political rivals, leaving people to question the differences between dictatorship and democracy.” *Id.*

¹² See, e.g., Roth, *supra* note 6; discussion *infra* Section I.B.

¹³ See discussion *infra* Section I.B.

¹⁴ See Peter M. Lewis, *Nigeria: Elections in a Fragile Regime*, 14 J. DEMOCRACY 131, 131 (2003) (“The much anticipated ‘democracy dividend’ whether construed as improvements in governance, stability, or economic welfare, has not materialized.”).

leaders who demonstrate troubling indifference or active hostility to democratic ideals.¹⁵ Citizens find themselves trapped in a struggle for democracy that seems unwinnable, yet must be won if they are to live better lives.¹⁶

Despite these problems, restoring democracy remains a monumental accomplishment in a continent with a dismal record of military dictatorship.¹⁷ Decades of uninterrupted democracy, once considered unthinkable, have become common in several African nations.¹⁸ But reestablishing democracy is not in and of itself a culmination. It is merely an indispensable first step towards transforming the continent and ridding it of the pathologies that prevent citizens from living in freedom, peace, and prosperity. Democracy cannot spring forth fully developed merely because of an end to military rule: it must be cultivated, nurtured, and sustained. Promoting it in a continent with scant experience with democracy has proven challenging.¹⁹ The most profound challenge is institutionalizing and consolidating democracy.²⁰ Democracy succeeds when leaders and ordinary citizens are committed to its principles and guided by its precepts.²¹

¹⁵ Campbell & Quinn, *supra* note 6 (noting that more Africans live under fully or partially authoritarian states today than at most points in the last two decades); *Tanzania's Rogue President*, *ECONOMIST* (Mar. 17, 2018) (“Mr. Mangufuli is fast transforming Tanzania from a flawed democracy into one of Africa’s more brutal dictatorships. It is a lesson in high easily weak institutions can be hijacked and how easily democratic progress can be undone.”).

¹⁶ See Yacouba & Emmanuel, *supra* note 5, at 23 (“The long march from Africa to democracy is sometimes challenging, sometimes unrealistic dream. It is a challenge because we are already committed, and we have to win the bet. It is utopia to the extent that our realities are contrary to democratic principles.”).

¹⁷ Swarns & Onishi, *supra* note 1 (noting that “the development of flawed democracies is still considered progress to people carrying the physical and mental scars left by authoritarian regimes.”); see also SAMUEL DECALO, *COUPS AND ARMY RULE IN AFRICA: MOTIVATIONS AND CONSTRAINTS* (2d ed. 1990).

¹⁸ See *id.*; Okechukwu Oko, *Partition or Perish: Restoring Social Equilibrium in Nigeria Through Reconfiguration*, 8 *IND. INT’L & COMP. L. REV.* 317, 337-48 (1998) [hereinafter Oko, *Partition or Perish*]. Nigeria’s initial democratic experiments lasted six years or less, from 1960–1966 and 1979–1983. *Id.* at 320, n. 21. Nigeria has been under democratic rule since 1999. John Campbell, *Nigeria’s Slide Toward Authoritarianism*, *COUNCIL ON FOREIGN RELS.* (Jan. 15, 2020), <https://www.cfr.org/in-brief/nigerias-slide-toward-authoritarianism>.

¹⁹ Thomas Carothers, *The “Sequencing” Fallacy*, 18 *J. DEMOCRACY* 12, 12 (2007), <https://www.journalofdemocracy.org/wp-content/uploads/2012/04/Carothers-18-1.pdf> (“When tried in countries poorly prepared for it, democratization can and often does result in bad outcomes—illiberal leaders or extremists in power, virulent nationalism, ethnic and other types of civil conflict, and interstate wars.”).

²⁰ Brown & Kaiser, *supra* note 4, at 1143 (“Even if a full transition to democracy does take place, the endurance of democracy is an even more difficult challenge.”).

²¹ See DAVID FRUM, *TRUMPOLYPSE: RESTORING AMERICAN DEMOCRACY* 38 (2020) (“Democracy does not fly on autopilot. If the people responsible for the institutions of democracy will not do the job, the job will not be done.”).

Citizens are democracy's most vital assets and the source of its vitality.²² The survival of democracy depends on the citizens' understanding and capacity to submit to its dictates and the qualities of those who assume leadership positions.²³ Diana Schaub sanguinely observed that: "Self-government begins with self. A well-ordered state cannot be formed out of disordered individuals."²⁴ This article focuses on how and why African leaders have contributed disproportionately to the distortion of democracy and even impeded citizens' understanding of democracy.²⁵ Some African leaders operate what former United Nations Secretary Kofi Annan called "Figleaf Democracy,"²⁶ where they "attempt to legitimize or perpetuate their powers by holding flawed elections that are not really free."²⁷ They "use all means possible to retain power and thereby diminish popular confidence in the meaning and merit of democratic governance."²⁸

Democracy may not be the panacea to Africa's myriad problems, but "democratic deepening is indeed a necessary condition for addressing Africa's predicaments."²⁹ As Peter Mutharika indicated, rule of law and respect for human rights are also needed to create stability conducive to economic development.³⁰ The primary threat and danger to democracy is no longer soldiers, but politicians who crave the powers of democracy but reject its imperatives and limitations.³¹ Incompetence, narcissism, and sometimes both account for the menace of bad

²² See Wonbin Cho & Carolyn Logan, *Looking Toward the Future: Alternations in Power and Popular Perspectives on Democratic Durability in Africa*, 47 COMP. POL. STUD. 30, 32 (2014) ("Democratic consolidation must be built on a broad and deep belief— among elites and the mass public—that a democratic regime is the most appropriate for the society."); see also Andreas Schedler, *Measuring Democratic Consolidation*, 36 STUD. COMPAR. INT'L DEV. 66, 68 (2001) ("Democracy is neither a divine gift nor a side effect of societal factors; it is the work of political actors.").

²³ See *id.*

²⁴ Diana Schaub, *The Pillar of the Temple of Liberty*, 20 NEW CRITERION 4, 10 (Apr. 2002).

²⁵ See, e.g., Robert I. Rotberg, *Strengthening African Leadership*, FOREIGN AFFS. (July 1, 2004), <https://www.foreignaffairs.com/articles/africa/2004-07-01/strengthening-african-leadership> ("Africa has long been saddles with poor, even malevolent, leadership; predatory kleptocrats, military installed autocrats, economic illiterates and puffed-up posturers.").

²⁶ Kofi Annan, *Why Democracy is an International Issue*, UNITED NATIONS (June 19, 2001), at <https://www.un.org/sg/en/content/sg/speeches/2001-06-19/cyril-foster-lecture-why-democracy-international-issue-secretary>.

²⁷ *Id.*

²⁸ Chris Fomunyoh, *Africa's Democratic Deficit*, 8 GEO. J. INT'L AFFS. 13, 16 (2005).

²⁹ Darren Kew, *Building Democracy in 21st Century Africa: Two Africas, One Solution*, 6 WHITEHEAD J. DIPL. & INT'L RELS. 149, 159 (2005).

³⁰ A. Peter Mutharika, *Some Thoughts on Rebuilding African State Capability*, 76 WASH. U.L.Q. 281, 283 (1998).

³¹ DAVID RUNCIMAN, *HOW DEMOCRACY ENDS* 45 (2018) ("Executive aggrandizement—when elected strongmen chip away at democracy while paying lip service to it—looks like being the biggest threat to democracy in the twenty-first century.").

leadership that threatens Africa's future.³² Leaders elected to transform Africa and address the continent's problems have become part of the problem.³³ Corrupt and uninspiring leaders stubbornly devoted to self-aggrandizement have failed to reverse the confluence of factors that impede Africa's search for progress and democratic consolidation.³⁴ Further, many African leaders rarely understand the enormity of the task of leading their countries.³⁵ The only part of the job they understand is "how to use the presidency for plunder and corruption."³⁶

Problems assailing democracy have become intractable because leaders who are supposed to lead and guide the nation have failed to lead effectively or are not leading at all.³⁷ Not much has changed in the more than five decades since Patrice Lumumba said: "The tragedy with Africa is that those with ideas are not in power, while those in power have no ideas. When the people have a chance, they still vote for those with no ideas."³⁸ Leaders who are supposed to make democracy useful to citizens, have instead turned it into an instrument for self-aggrandizement and oppression. Visionless and inept African leaders have inflicted significant

³² See discussion *infra* Section II; Fomunyoh, *supra* note 28, at 16 ("One of the primary challenges to democracy in Africa is the overwhelming scope of the predatory state. Despite a few cosmetic changes, the overly centralized state is not a phenomenon of the past; it is alive, and in some cases growing at a frightening pace in contemporary Africa. Political power in numerous countries remains in the hands of an exceedingly powerful individual and his cronies. These leaders rule the country with few, if any, checks and balances.").

³³ See discussion *infra* Section II; ABDI ISMAIL SAMATAR, *AFRICA'S FIRST DEMOCRATS: SOMALIA'S ADEN A OSMAN AND ABDIRAZAK H. HUSSEN 2* (2016) ("[N]early sixty years after independence the promise of Africa's liberation for the most part, is stuck in the quicksand of dictatorial leaders.").

³⁴ Luis Diaz-Serrano & Frank G. Sackey, *Do Leaders' Characteristics and Regime Transition in Africa Matter for Citizens' Health Status?*, IZA Discussion Paper No. 10338 10–11 (2016) ("The fundamental problem militating development in Africa is the poverty of leadership making it the key issue even in the process of democratization.").

³⁵ See discussion *infra* Section II.C.

³⁶ See FRUM, *supra* note 21, at 25 (discussing the narrowmindedness of authoritarians).

³⁷ See Joshua Hammer, *A Generation of Failure*, NEWSWEEK (Aug. 1, 1994). Hammer succinctly captures the failure of leadership in Africa:

A generation ago, Africa seemed on the brink of a triumphant new era. As one country after another shook loose from colonial rule, new leaders roused their jubilant countrymen with visions of prosperity and democracy. But while Eastern Europe and Southern Asia have moved toward these goals, in Africa, the hopes of the early 1990s have collapsed into ethnic violence, corruption, poverty and despair.

³⁸ Tajbol4splend, *African Legend, Patrice Lumumba's Sad Truth About Africans!*, NAIRALAND F. (Feb. 7, 2020, 10:57 PM), <https://www.nairaland.com/5675014/african-legend-patrice-lumumbas-sad>.

damage to the continent's democratic aspirations and, unchecked, will exact yet greater and possibly fatal mistakes.³⁹

This paper examines Africa's greatest malady—bad leadership—highlighting its causes, what sustains it, and what can be done to address it. Tragically, though generally proclaimed as the pathway to progress, democracy in Africa is mired in the quagmire of ethnic rivalries, political instability, social disequilibrium, and economic stagnation inspired or exacerbated by bad or ineffective leaders.⁴⁰ The democratic process has become distorted and banal because democratic leaders lack the gravitas, commitment, and sometimes the capacity to make Africa the democratic continent citizens dream of and so desperately desire.⁴¹ Larry Diamond stated, “If you ask ordinary Africans what the problem is with their countries, they are pretty clear: their rulers.”⁴² African leaders yield too easily to the corrupting influence of power and are scarcely concerned about serving the nation.⁴³ The propensities and ambitions of African leaders incline them to abuse their powers and ignore the important objectives of serving the country and improving the lives of citizens.⁴⁴

This paper is divided into three broad parts. Part I provides a historical background of Africa to enhance understanding of the contextual realities that shape the paradigm of leadership. Several African countries have traveled the same route: colonial rule, civilian rule following the attainment of independence, military rule that truncated and replaced democratic governance with military dictatorship, and

³⁹ See CALDERISI, *supra* note 8, at 56-76 (providing detailed and at times disgusting accounts of African leaders' excesses).

⁴⁰ See discussion *infra* Section I.C; Hammer, *supra* note 37.

⁴¹ Wole Soyinka, Noble 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 African strongmen. . . . One would be content with just a modern cleaning up of the environment, development of opportunities, health services, education, eradication of poverty. But unfortunately, even those modest goals are thwarted by power crazed and rapacious leadership who can only obtain their egotistical goals by oppressing the rest of us.

CALDERISI, *supra* note 8, at 77 (quoting Wole Soyinka).

⁴² DIAMOND, *ILL WINDS*, *supra* note 3, at 158.

⁴³ See JAMES DAVID BARBER, *THE PRESIDENTIAL CHARACTER: PREDICTING PERFORMANCE IN THE WHITE HOUSE* 12 (1972) (noting that “power may corrupt – or ennoble or frighten or inspire or distract a man. The result depends on his propensity for, his vulnerability to, particular kinds of corrupting or cleansing. . . . Political power is like nuclear energy: available to create deserts or make them bloom.”).

⁴⁴ See, e.g., Rotberg, *Strengthening African Leadership*, *supra* note 25 and accompanying text.

then civilian rule again.⁴⁵ Each such stop left its imprint on Africa and continues to impede the continent's search for a durable democratic order.⁴⁶ Balkanizing William Faulkner's statement, Africa's "past is never dead. It's not even past."⁴⁷ More disturbing, the ill winds generated by colonial and military rule do not blow behind Africa; they blow harshly in its face, shaping and distorting its approach to democracy and especially democratic governance.⁴⁸ The foundations of democracy in Africa are less stable because colonial and military rule left indelible historical scars, profound anti-democratic values, and ethnic divisions that inspired a cultural milieu inhospitable to democracy.⁴⁹ Because of the distortions and vicissitudes of colonial and military rule, several African countries have yet to experience what a healthy democracy looks like.⁵⁰ Moving Africa from its colonial origins to a more democratic and stable continent remains a major challenge for African leaders.⁵¹ This portion examines the past to explain why it is essential and challenging to transcend the damnable legacies of colonial and military rule.⁵²

⁴⁵ See, e.g., Oko, *Partition or Perish*, *supra* note 18 and accompanying text.

⁴⁶ Mathew Todd Bradley, "The Other": *Precursory African Conceptions of Democracy*, 7 INT'L STUD. REV. 407, 427 (2005) ("Colonial vestiges such as military rule and authoritarianism have wreaked havoc on the continent politically, socially and diplomatically.").

⁴⁷ WILLIAM FAULKNER, *REQUIEM FOR A NUN* 73 (Garland Pub. 1987).

⁴⁸ Fantu Cheru, *Democracy and People Power in Africa: Still Searching for the Political Kingdom*, No. 2, 33 THIRD WORLD Q. 265, 279 (2012) ("Colonialism should not be seen as a complete departure from the African past but as one episode in the continuous flow of African history. The colonial episode profoundly affected every aspect of African life.").

⁴⁹ See Richard Joseph, *Democratization in Africa after 1989: Comparative and Theoretical Perspectives*, No. 3, 29 COMPAR. POL. 363, 363 (1997) (suggesting Africa's contextual realities seemed inhospitable to democracy). Africa is shaped, perhaps trapped in distortions inspired by its history, especially colonial and military rule. Africa's contextual realities seem inhospitable to democracy leading Richard Joseph to conclude that:

Democratization was not supposed to happen in Africa. It had too little of what seemed necessary for constitutional democratic politics. African countries were too poor, culturally fragmented, and insufficiently capitalist; they . . . lacked the requisite civic culture. Middle classes were usually weak and more bureaucratic than entrepreneurial, and they were often co-opted into authoritarian political structures. Working classes, except in a few cases such as Zambia and South Africa were embryonic.

Id.

⁵⁰ See *Dictatorship Countries 2022*, WORLD POPULATION REV., <https://worldpopulationreview.com/country-rankings/dictatorship-countries> (last visited Sept. 26, 2022).

⁵¹ *Id.*; see also discussion *infra* Section II.B.

⁵² See A. ADEDEJI, *AFRICA WITHIN THE WORLD: BEYOND DISPOSSESSION AND DEPENDENCE* 208 (1993) ("A society which neglects the instructive value of its past for its present and future cannot be self-confident and self-reliant and will therefore lack internally

Part II examines leadership pathologies that disable African leaders from providing effective and competent leadership. Democracy offered African leaders a platform and opportunities for transformative changes that should have enabled the continent to transcend the preexisting decadent authoritarian culture.⁵³ Several African leaders have failed that challenge due to gravely distorted perceptions of their roles and the powers in a democracy.⁵⁴ They rarely appreciate the limits and constraints under which democratic leaders operate.⁵⁵ Their perception of power remains tied to old beacons laid by colonial and military rulers emphasizing self-aggrandizement as the animating impulse of power.⁵⁶ In some cases, authoritarian practices, self-aggrandizement, corruption, failure to incorporate the rule of law, and regnant during military rule remain in more virulent and debilitating forms.⁵⁷ Like their military predecessors, African democratic leaders manifest all the transgressions, excesses, and pathologies of traditional dictators.⁵⁸ These pathologies undercut the legitimacy of democratic leadership and ultimately loosen the nation's democratic moorings.⁵⁹

Part III offers suggestions and ideas for strengthening democratic leadership in Africa. A constellation of issues afflict Africa, but bad leadership is the central issue that inspires or exacerbates all the problems.⁶⁰ The quality of leaders—their competence, vision, and devotion—will profoundly and crucially influence the future of democracy in Africa, while continued incompetence and leadership excesses will unravel democracy. The leadership challenge appears most urgent in Africa, a continent without much democratic experience that is simultaneously trying to overcome its checkered history of dictatorship and deepen democracy.⁶¹ After years of uninterrupted democracy, African leaders have yet to

generally dynamism and stability. Dispossession and dependence, which amount to more than five hundred years have left a heavy imprint on Africa. Fifty years of independence is a very short time in which to reduce their impact, let alone transcend their legacy.”)

⁵³ See generally discussion *infra* Section II.

⁵⁴ See discussion *infra* Section II.C.

⁵⁵ See generally PAUL KENYON, *DICTATOR LAND: THE MEN WHO STOLE AFRICA* (2018) (detailing the misdeeds of African leaders).

⁵⁶ See SAMATAR, *supra* note 33, at 1 (noting that most of Africa labored under cruel and authoritarian rule for nearly a century and this in part laid the foundation for dictatorial rule in the immediate aftermath).

⁵⁷ See discussion *infra* Section II.

⁵⁸ See *Dictatorship Countries 2022*, *supra* note 50 (noting that there are currently twenty-two dictators in Africa. The report concluded that “most dictators adopt common appellations such as presidents or prime ministers so they must be identified via their actions and policies rather than their title.”).

⁵⁹ See DIAMOND, *ILL WINDS*, *supra* note 3, at 290 (“Aside from Ghana, democracy has been either decaying or failing to take root in most other larger African states such as Kenya, Tanzania and Nigeria.”).

⁶⁰ See *supra* notes 41–42 and accompanying text.

⁶¹ See JERZY WIATR, *POLITICAL LEADERSHIP BETWEEN DEMOCRACY AND AUTHORITARIANISM 142-43* (2022) (“There has not been a single case of a breakdown of democracy in countries where democracy has been at least 60-70 years old. The opposite is

develop the skills, attitudes, and values they need for democracy to flourish.⁶² African leaders need a profound and dramatic shift in the way they govern. They must take democracy seriously, use their powers to deepen and defend it, but more importantly, focus on transforming the nation to improve citizens' lives and living conditions. Democracy will be markedly different, and Africa would be a profoundly better continent if leaders governed wisely and responsibly with the national interest, commitment to citizens' wellbeing, and respect for the democratic imperatives of limited power and accountability as their lodestars.⁶³

Self-aggrandizement has become an ineradicable source of leadership excesses in Africa.⁶⁴ Therefore, I argue that Africa's quest for democratic consolidation and progress will remain illusory unless African leaders understand that they govern democratic societies and are not emperors presiding over empires.⁶⁵ They must decide whether their crucial ambition is to serve as shepherds of necessary changes that deepen democracy or instead continue to be self-serving wielders of power obsessed with self-aggrandizement.⁶⁶ The "choices they make or fail to make seemingly affect everything."⁶⁷ The beachhead of Africa's problems—the travesties of forcibly grouping warring and disparate ethnic groups under one nation, the damnable legacies of military rule, and economic stagnation resulting from bad leadership—can only be pushed back by good leadership. This section examines how Africa can address leadership problems that account for the continent's woes. It will address how leaders can push the continent past the damnable mix of political instability, ethnic rivalries, social disequilibrium, economic stagnation, and insecurity inspired by ineffective leadership.

true in new democracies, the very survival of which depends to a large extent on the quality of political leadership.”).

⁶² See discussion *infra* Section II.C (noting the lack of skills and capacity of African leaders).

⁶³ See GIOVANNI CARBONE & ALESSANDRO PELLEGGATA, *POLITICAL LEADERSHIP IN AFRICA: LEADERS AND DEVELOPMENT SOUTH OF THE SAHARA* 277 (2020) (noting that sixty years of politics and development in independent Africa show that leaders do matter for the progresses and failures of countries in the region).

⁶⁴ See discussion *infra* Section II.A (describing self-aggrandizement as a pathology of African leadership.)

⁶⁵ See Jude Devermont & John Temin, *Africa's Democratic Movement? The Five Leaders Who Could Transform the Region*, 98 *FOREIGN AFFS.* 131, 132 (2019) (“Devermont and Temin trenchantly observed that “the choices they make when it comes to navigating domestic challenges, pursuing reforms, and wielding their influence beyond their borders will go a long way toward determining whether the region stagnates or thrives.”).

⁶⁶ See Kingsley Moghalu, *Africa's Leadership Conundrum*, 41 *FLETCHER F. WORLD AFFS.* 171, 172 (2017) (“The definition and understanding of leadership may be quite different from what African countries today require of their leaders. Thus, although the word leadership is now in vogue, many African countries still have rulers rather than leader. It does not matter that many of these countries may be democracies in a formalistic sense.”).

⁶⁷ GLENN D. PAIGE, *THE SCIENTIFIC STUDY OF POLITICAL LEADERSHIP* 3 (1977).

A. Historical Perspective

The story of Africa can be divided into three broad categories: colonial rule, military rule, and constitutional democracy. The conditions and circumstances of colonial and military administration were different, but they share certain features: despotism, governing without the consent of the governed, selfishness as the animating impulse of governance, and slight or no concern for the welfare and interests of citizens.⁶⁸ The traumas of colonial and military rule profoundly shaped the ethos of leadership on the continent.⁶⁹

1. Colonialism

A unique feature of most African nations is that they are creatures of colonial administration.⁷⁰ African countries gained independence more than half a century ago, but the scars of colonialism linger and affect the psyche of Africans and their approach to self-governance.⁷¹ Colonialism affects Africa's search for durable democratic order in several ways: forcibly grouping disparate ethnic groups into one nation, failure to promote national unity, and authoritarian culture.⁷² These problems, alone or in concert, impede efforts to deepen democracy.⁷³ These problems persist due to the ineffectiveness or insouciance of leaders.⁷⁴

2. Artificial Boundary Lines

Colonial administration arbitrarily and forcibly grouped several ethnic groups into one country.⁷⁵ This was done without regard for inhabitants' feelings or

⁶⁸ Compare discussion *infra* Section I.A.4 (discussing the authoritarian basis of colonial rule) with Section I.B.1 (discussing authoritarian basis of military rule).

⁶⁹ See discussion *infra* Section II.

⁷⁰ Francis Deng, *Ethnicity: An African Predicament*, 15 BROOKINGS REV. 18, 18 (1997) [hereinafter Deng, *Ethnicity: An African Predicament*] ("The modern African state is the product of Europe, not Africa.").

⁷¹ See discussion *infra* Section I.A.1–4.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ See generally discussion *infra* Section II.

⁷⁵ See Makau Mutua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, 16 MICH. J. INT'L L. 1113, 1114–15 (1995) [hereinafter Mutua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*] ("The imposition of the nation-state through colonization balkanized Africa into ahistorical units and forcibly yanked it into the age of Europe permanently disfiguring it. Unlike their European counterparts, African states and borders are distinctly artificial and are not "the visible expression of the age-long efforts of [Indigenous] peoples to achieve political adjustment between themselves and the physical conditions in which they live.") (footnotes omitted); Chris M. Peter, *The Proposed African Court of Justice – Jurisprudential, Procedural Enforcement Problems and Beyond*, 1 E. AFR.

the pre-existing relationships among ethnic groups.⁷⁶ For example, the geographical area presently known as Nigeria consists of three major ethnic groups: the Hausas in the North, the Yorubas in the West, and the Ibos in the East.⁷⁷ Surrounding and within the perimeters of these three major ethnic groups were an array of minority ethnic groups: the Efik Ibibios, Ijaws, and the Ekoi-Yakuri surrounded the Ibos.⁷⁸ The Yorubas included Edos, Urhobos, and Ijaws, while the Hausa included Kanuirs, Tivs, and the Nupes.⁷⁹ Each ethnic group was largely homogenous, bound by a shared religion, traditional values, mores, and ethos.⁸⁰ Profound cultural, religious, and linguistic differences divided these ethnic groups.⁸¹ Yet, for political and economic reasons, the colonial administrators forced these varied ethnic groups together to create Nigeria.⁸² The transition from autonomous communities to an arbitrary nation-state remains a significant impediment to the search for national unity and democratic consolidation in Africa.⁸³ Though most African countries have acquired many attributes of a nation, ethnic groups remain indefatigably distrustful of each other, unable to subordinate ethnic loyalties to the overriding interests of the country.⁸⁴

Ethnicity remains central to African life and attempts to promote unity far too often succumb to the malaise of ethnic irredentism.⁸⁵ The influence of ethnicity shapes citizens' attitudes, assumptions, and behavior.⁸⁶ Politics, democracy's chief medium for mediating and managing internal conflicts and addressing national problems, has been thwarted by ethnic divisions.⁸⁷ Far too often, "political competition only generates patterns of political mobilization and conflict which

J. PEACE & HUM. RTS. 117, 124-25 (1993) ("At the Berlin Conference, Africa was regarded as terra nullius, subject to the possession of the European power exercising effective authority. They never took any account that there were people of vastly different backgrounds and cultures living on the continent.").

⁷⁶ See Deng, *Ethnicity: An African Predicament*, *supra* note 70, at 18 (noting that in the process of colonial state formation, groups were divided or brought together with little or no regard to their common characteristics or distinctive attributes).

⁷⁷ See JAMES COLEMAN, *NIGERIA: BACKGROUND TO NATIONALISM* 14-15 (1958)

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ See *id.* at 25 (describing Yorubas).

⁸¹ *Id.* at 14-15.

⁸² See ROBERT I. ROTBERG, *THINGS COME TOGETHER: AFRICANS ACHIEVING GREATNESS IN THE TWENTY-FIRST CENTURY* 9 (2020) [hereinafter ROTBERG, *THINGS COME TOGETHER*] ("Nigeria exists as Nigeria because Fredrick Lugard thought that the very different halves of the region would be better and more cheaply administered as one.").

⁸³ Jeffrey Herbst, *Is Nigeria a Viable State?*, 19 WASH Q. 151, 156 (1996) (noting that the inability of ethnic groups to subordinate selfish interests to the overriding interest of the nation results in a pernicious political dynamic in which control of the state became critical in order to regulate the flow of patronage).

⁸⁴ *Id.*

⁸⁵ See discussion *infra* Section III.B.

⁸⁶ *Id.*; See Anthony Anghie, *Human Rights and Cultural Identity: New Hope for Ethnic Peace*, 33 HARV. INT'L L.J. 341, 347 (1992).

⁸⁷ See discussion *infra* Section III.B.

threaten the very integrity of the nation itself.”⁸⁸ Warring ethnic groups compete against each other, sometimes violently, and leaders cannot maintain order or promote national unity.⁸⁹ The resulting style of politics in most post-independent African nations had no room for compromise and did not permit extending courtesies of good faith and civility to others. The ‘win at all costs, and by any means’ mindset has driven them to engage in violence.⁹⁰ Politicians’ uncompromising attitude and unwillingness to negotiate had their roots in colonial rule, which institutionalized authoritarian culture.⁹¹ Unable to confront colonial powers, citizens retired to their ethnic groups for comfort and solidarity.⁹² This generated an ethnic consciousness that no government has been able to dissipate.⁹³ Furthermore, the idea that the goal of every ethnic group is to dominate all others has grown into an article of faith.⁹⁴ It deprives ethnic groups of any belief in the possibility of peaceful coexistence.

3. Failure to Promote National Unity

In addition to arbitrarily forcing different and rival ethnic groups to become a nation-state, colonial administrators made little or no effort to forge unity among ethnic groups for selfish reasons.⁹⁵ They never desired harmony among ethnic groups and feared that unity and cohesion would undermine their power and control.⁹⁶ Maintaining a wedge between ethnic groups, atomizing them, and sowing seeds of discord provided colonial administrations with an effective counterweight

⁸⁸ RICHARD JOSEPH, *DEMOCRACY AND PREBENDAL POLITICS IN NIGERIA: THE RISE AND FALL OF THE SECOND REPUBLIC 185* (1987).

⁸⁹ See *infra* note 122 and accompanying text (discussing ethnic origins of various civil wars in Africa).

⁹⁰ See, e.g., Herbst, *supra* note 83; Caroline Elkins, *What’s Tearing Kenya Apart? History for One Thing*, WASH. POST, Jan. 6, 2008, at B3.

⁹¹ See discussion *infra* Section I.A.4.

⁹² See Herbst, *supra* note 83; Brown & Kaiser, *supra* note 4, at 1143; James Read & Ian Shapiro, *Transforming Power: Relationships: Leadership, Risk and Hope*, 108 AM. POL. SCI. REV. 40, 40 (2014).

⁹³ See, e.g., Peter Lewis, *Identity, Institutions and Democracy in Nigeria 1* (Afrobarometer, Working Paper No. 68, 2007), <http://www.afrobarometer.org/papers/AfropaperNo68.pdf>.

⁹⁴ See, e.g., Anghie, *supra* note 86.

⁹⁵ See LARRY DIAMOND, *CLASS, ETHNICITY, AND DEMOCRACY IN NIGERIA: THE FAILURE OF THE FIRST REPUBLIC 28* (1988) [hereinafter DIAMOND, CLASS, ETHNICITY, AND DEMOCRACY] (noting that colonial rule failed to develop institutions that could have integrated Nigeria’s common cultural, social and political symbols and structures); CARLENE J. EDIE, *POLITICS IN AFRICA: A NEW BEGINNING?* 49–50 (2003) (“Having created these boundaries, the colonial powers did little to help foster a sense of national unity within them. Instead, they often use a divide-and-rule tactic, favoring one ethnic group over others, especially in education and employment. Colonial policy aimed to intensify ethnic competition and to stimulate insecurity and conflict.”).

⁹⁶ See EDIE, *supra* note 95.

to any demands for independence.⁹⁷ Ethnic rivalries made it difficult for groups to forge consensus on essential issues and prevented them from demanding their rights and better treatment from the colonial administration.⁹⁸

Colonial administrations' success in maintaining ethnic animosity has cost Africa dearly in its search for unity and national development. Polarization enabled colonial administrations to rule without significant opposition from local inhabitants. Most African countries were created by colonial masters not to be one nation, but rather to be multi-ethnic, mutually antagonistic groups.⁹⁹ Just as independence released Africa from the clutches of authoritarian colonial administration, it also released ethnic hatreds and hostilities resulting from colonialism.¹⁰⁰ Some ethnic groups remain not only disinterested in national unity but also actively hostile to other ethnic groups.¹⁰¹ Ethnic groups primed by colonial administrators to treat each other as adversaries do not use democratic politics to mediate and manage conflict over policies.¹⁰²

Upon attaining independence, ethnic groups trained to fear and dislike each other engaged in an intense, often violent contests to control the machinery of the state.¹⁰³ The primary victim of such power struggles has been democracy, as governance degenerates into a bitter battle between wielders of power and those who feel cheated, maltreated, and marginalized. Though ethnic groups united in the struggle for independence, that unifying force is now gone. The capacity to forge consensus has been deeply impaired because there are no shared interests and assumptions upon which to build it. Democracy—its core institutions, processes,

⁹⁷ *Id.*

⁹⁸ *See id.*; discussion *infra* Section III.B; Mutua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, *supra* note 75 and accompanying text.

⁹⁹ *See* EDIE, *supra* note 95, at 49-50 (discussing the vast variety of ethnic groups in Africa and the colonial power's tactics in dividing them up for ease of ruling or exploitation of group characteristics).

¹⁰⁰ *Id.* at 50 (noting that many conflicts can be traced to colonial policies).

¹⁰¹ Caroline Elkins' assessment of the ethnic crisis in Kenya accurately identifies colonial administration's policies as the source of crisis in Africa. She stated:

If you are looking for the origins of Kenya's ethnic tensions, look to its colonial past. . . . It's no wonder that newly independent countries such as Kenya maintained and even deepened the old imperial heritage of authoritarianism and ethnic division. . . . Fears of ethnic ascendancies, power-hungry political elites, undemocratic processes and institutions—all are hallmarks of today's Kenya, just as they were during British Colonial rule. . . . In retrospect, the wonder is not that Kenya is descending into ethnic violence. The wonder is that it didn't happen sooner.

Caroline Elkins, *supra* note 90.

¹⁰² *See id.*; EDIE, *supra* note 95, at 49-50.

¹⁰³ EDIE, *supra* note 95, at 50.

politics, and norms—has been poisoned, corrupted, and undermined by ethnicity.¹⁰⁴ The colonial administration institutionalized ethnic conflict in Africa, making it difficult for ethnic groups to cooperate.¹⁰⁵ Its misguided and hegemonic policies steered Africa toward ethnic polarization and rivalry.¹⁰⁶ It also inspired citizens to put ethnic concerns ahead of national interest,¹⁰⁷ a problem that remains a bar to deepening democracy in Africa. Decades after independence, ethnic rivalries are growing more ferocious, eroding democracy and national unity.¹⁰⁸

4. Authoritarian Culture

In addition to the problems inspired by ethnicity and arbitrary nation-building, the third aspect of colonial rule that impeded the development of democracy was the use of force and intimidation as an acceptable mode of official conduct. The colonial administrative infrastructure depended on the subjugation of local inhabitants.¹⁰⁹ Colonialism was marked by exploitation and cultural condescension. European interests were primary, and their administrators engaged in grand schemes to ensure the domination of local inhabitants, using both force and manipulation to keep ethnic groups in check.¹¹⁰ Those who could be bribed were offered largesse to turn them into instruments of colonial power.¹¹¹ Those who resisted were brutally subdued.¹¹² That brutal treatment telegraphed to the community the fate that awaited anyone who dared challenge the colonial administration. Citizens watched colonial administrators disempower local chiefs, intimidate and harass those who opposed them, and osmotically soaked up what they saw.¹¹³ African leaders' penchant for brutality (in part) has its ancestry in the

¹⁰⁴ See generally BRUCE BERMAN ET AL., *ETHNICITY AND DEMOCRACY IN AFRICA* (2004); DIAMOND, *CLASS, ETHNICITY, AND DEMOCRACY*, *supra* note 95.

¹⁰⁵ See EDIE, *supra* note 95, at 49-50.

¹⁰⁶ See Read & Shapiro, *supra* note 92, at 40 (“Political communities marred by long-standing bitter conflicts find them extremely difficult to resolve, even if most members of the community suffer their effects and want them resolved. Such conflicts are chronically self-reinforcing: violent eruptions reproduce incentives for parties, leaders and ordinary individuals to perpetuate the dynamic.”).

¹⁰⁷ See Brown & Kaiser, *supra* note 4, at 1143 (“The ethnicization of politics often reinforced by politicians themselves promotes competition for access to resources rather than the institutionalized compromise that theoretically characterizes democracy.”).

¹⁰⁸ See Oko, *Partition or Perish*, *supra* note 18; Elkins, *supra* note 90; JOHN M. FOBANJONG, *STATE OF THE CONTINENT: A MID-CENTURY ASSESSMENT OF POLITICAL PERFORMANCE IN AFRICA* 22 (2018) (“Most Africans remain uncompromising and intolerant of the authority and rule of leaders that are not from their ethnic background.”).

¹⁰⁹ See FOBANJONG, *supra* note 108, at 13 (“In Africa, European rule was harsh, repressive, and autocratic. There was no tolerance for individual or group rights. Political freedom and the right to self-determination were simply unthinkable.”).

¹¹⁰ EDIE, *supra* note 95, at 50.

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ EDIE, *supra* note 95, at 50-51.

conduct of colonial administrators.¹¹⁴ Unlearning that attitude toward power has been challenging and sometimes nearly impossible.

Soon after independence, it became clear that some African nations were heading in the wrong direction.¹¹⁵ The political elites have not understood the demands and dynamics of the democratic self-governance they had fought valiantly to secure.¹¹⁶ Struggles for power infused relationships among ethnic groups with new and urgent tensions. Unlike colonial administrators that ruled with troubling indifference to the rights of citizens, concerns for national unity, or concerns for national development, African leaders “had to concern themselves with the kind of domestic issues that had not troubled their colonial predecessors—human rights, democracy, legitimacy, and territorial control.”¹¹⁷ These concerns posed formidable difficulties for African leaders. Political elites who had united in the fight for independence quickly turned against each other as politics degenerated into fierce ethnic contests for political power.¹¹⁸

These political disputes tore apart the fragile, newly-independent African states, ultimately destroying the democratic process.¹¹⁹ Issues, controversies, and problems long held in check by colonial administration found an outlet confirming Tocqueville’s observation: “Patiently endured so long as it seemed beyond redress, a grievance comes to appear intolerable once the possibility of removing it crosses men’s minds.”¹²⁰ Ethnic agitations and demands for fairness and inclusion,

¹¹⁴ See Bradley, *supra* note 46 (noting that colonial vestiges include military rule and authoritarianism).

¹¹⁵ FOBANJONG, *supra* note 108, at 3.

¹¹⁶ See discussion *infra* Section III.C; See Peter Fuseini Haruna, *Revising the Leadership Paradigm in Sub-Saharan Africa: A Study of Community-based Leadership*, 69 PUB. ADMIN. REV. 941 (2009)

¹¹⁷ Ian S. Spears, *When Good Governments Go Bad: Leadership and the Limits of Intervention in Africa*, 62 INT’L J. 344, 351 (2007).

¹¹⁸ See Elkins, *supra* note 90 and accompanying text (tracing Kenya’s problems to power hungry elites fighting for influence post-independence); EDIE, *supra* note 95, at 21 (noting that the elite and the general public were aligned during the fight for independence, but alignment fell apart after); NIC CHEESEMAN, *DEMOCRACY IN AFRICA: SUCCESSES, FAILURES AND THE STRUGGLE FOR POLITICAL REFORM* 32 (2015) (discussing the collapse of the post-independence coalitions).

¹¹⁹ See CHEESEMAN, *supra* note 118 (“The dominant story of the first decade of independence was the collapse of Africa’s democratic experiment. Having experienced a wave of euphoria following the overthrow of colonial rule, the continent rapidly descended into a political and economic depression characterized by the emergence of repressive and corrupt regimes.”).

¹²⁰ Krishan Kumar, *The Past in the Present: Mills, Tocqueville and the Necessity of History*, 6 J. HIST. SOCIO. 265, 279 (2015) (quoting Alexis de Tocqueville).

discontent, and dissatisfaction with leaders' unprincipled use of power grew precipitously and uncontrollably, leading to military coups¹²¹ and often civil war.¹²²

B. Military Rule

Africa's initial efforts at post-colonial democratic self-rule failed when military rulers stepped in, ostensibly out of a need to restore order.¹²³ Africa was overwhelmed by military despots who held nations together by force and preserved order by intimidation and violence.¹²⁴ Military coups were regular features of the African experience as Africa became a battleground for two despicable groups of military officers: those who held power and those who wanted to wrestle it from them.¹²⁵ At best, the military's attitude toward due process and individual freedom was cavalier. Neurotically insecure military rulers invoked national security to justify their egregious violations of citizens' rights and liberties.¹²⁶ While visionless, brutal, and vengeful military officers recycled themselves,¹²⁷ their despotic rule frustrated Africa's search for peace and durable social order in two fundamental ways: cementing an authoritarian culture and retarding the growth of democracy.

¹²¹ *The Rule of Big Men or the Rule of Law?*, ECONOMIST (Jan. 17, 2004), <https://economist.com/special-report/2004/01/17/the-rule-of-big-men-or-the-rule-of-law> ("Africa's first experiments with democracy did not last long. Elected governments quickly turned authoritarian or were swept aside by the army. The new regimes proved dysfunctional and unstable. . . . Before long, most African countries had rulers who ruled as arbitrarily as traditional chiefs, but were far less accountable.").

¹²² Civil wars in Nigeria, Somalia, Liberia, Rwanda were inspired by ethnic agitations for justice. See THE SOMALIA CHALLENGE: FROM CATASTROPHE TO RENEWAL (Ahmed Samatar ed., 1994); see also Stephen Ellis, *Liberia 1989-1994: A Study of Ethnic and Spiritual Violence*, 94 AFR. AFFS. 165 (1995); JOHN DE ST. JORRE, *THE NIGERIAN CIVIL WAR* (1972).

¹²³ See SAMUEL DECALO, *COUPS AND ARMY RULE IN AFRICA: MOTIVATIONS AND CONSTRAINTS* 1 (2d ed. 1990) (noting that military coup is perhaps "the most visible and recurrent characteristic of the post-colonial African political experience.").

¹²⁴ See Robin Luckham, *The Military, Militarization and Democratization in Africa: A Survey of Literature and Issues*, 37 AFR. STUD. REV. 23, 26 (1994) (noting that "for the first three decades of independence. Military coups were Africa's main mechanism for the circulation of elites. By early 1980s, coups, coup attempts, or military plots have occurred in nine out of ten African states.").

¹²⁵ See *id.*

¹²⁶ See generally Okechukwu Oko, *Lawyers in Chains: Restrictions on Human Rights Advocacy Under Nigeria's Military Regimes*, 10 HARV. HUM. RTS. J. 257 (1997) [hereinafter Oko, *Lawyers in Chains*].

¹²⁷ See WILLIAM REED, *THE MILITARY IN AFRICAN POLITICS* 1 (John W. Harbeson ed., 1987) (noting that the military has played a prominent, even dominating role in African politics during the continents first generation of independence).

1. Authoritarian Culture

Military tyrants had a well-deserved reputation for surliness, bullying, and intimidation.¹²⁸ The military typically dealt with problems by decrees rather than political deliberation.¹²⁹ The military used decrees, intimidation, and brute force to govern and force resolution rather than create dialogue and persuade.¹³⁰ Like colonial masters, military dictators imposed their will upon society using the twin ploys of intimidation and co-option.¹³¹ They were contemptuous of deliberation, negotiation, and consensus-building—all of which are the essential features of democratic governance.¹³² Contrary views irritated them, and they moved decisively to quash dissent by force.¹³³ Some saw themselves as messiahs with nostrums for all the nation’s problems.¹³⁴ Others exhibited prima donna traits of

¹²⁸ See Osam Edim Temple, *Democratic Leadership and the African Metaphysical Reality*, 14 no. 2 *PHILOSOPHIA AFRICANA* 125, 133 (2012) (describing the nature and background of military rulers, the author notes: “they were unimaginative, harsh and authoritarian. They imposed draconian rules on the people and brooked no opposition.”).

¹²⁹ Explaining the basis for the military government’s absolute power, Professor Nwabueze writes that:

The basis of the military government’s absolute power is, of course, force. A military government is a regime of force. It rules by the “barrel of the gun,” not by the people’s consent. What is of far greater significance is that, the authority exercised by the military government does not derive from the people. It robs the people of the most fundamental attribute of their sovereignty, the right, by means of a constitution, to institute a form of government for themselves and to define the extent of power being delegated.

BEN NWABUEZE, *MILITARY RULE AND CONSTITUTIONALISM* 5 (1990).

¹³⁰ Richard Joseph paints a gruesome picture of life under Nigeria’s military regimes. He stated that:

Arbitrary arrests and detentions, extrajudicial killings, endemic corruption, excessive use of force, torture of detainees, life-threatening prison conditions, imprisonment without charge or trial, harassment of journalists and democratic activists, corruption of the judiciary, arson attacks on media houses, seizure of passports—in virtually every sphere, Nigeria has become one of the world’s most oppressed nations.

Richard Joseph, *Democratization Under Military Rule and Repression in Nigeria*, in *DILEMMAS OF DEMOCRACY IN NIGERIA* 137 (Paul A. Beckett & Crawford Young eds., 1997).

¹³¹ See generally Oko, *Lawyers in Chains*, *supra* note 126.

¹³² See *id.* at 259–60.

¹³³ *Id.*

¹³⁴ The article, *Lawyers in Chains*, explains:

arrogance, impatience, and insensitivity.¹³⁵ Just as leaders and citizens were learning to shake off the negative attitudes and vices of the colonial era, the military reintroduced force and intimidation as legitimate instruments of state power.¹³⁶ Civilians consequently assimilated the military dictators' vices and antidemocratic behavior, as admirably explained by Jibrin Ibrahim:

Military rule has strongly impacted the country's culture and institutions. Our argument is that military rule ultimately impacts negatively on society by generalizing its authoritarian values which are in essence anti-social and destructive of politics. . . . Military regimes have succeeded in permeating civil society with their values—both the formal military values of centralization and authoritarianism and the informal lumpen values associated with “barrack culture” The specific legacy from the military is therefore neither corruption nor authoritarianism, as they took both to new heights. The military legacy is the fabrication of a political culture oriented towards the imposition of a command and control structure on the political process, which has the effect of destroying the residual democratic values that have survived in the Nigerian society.¹³⁷

2. Retarding the Evolution of Democracy

In addition to cementing authoritarianism, military rule retarded democratic development in Africa. Military intervention denied Africa's political

The Nigerian military has claimed to intervene for different reasons, often seizing power on the pretext of correcting the ills of the ousted regime. For example, they have justified coups with the need to avert a break-up of the country or to redress the nation's economic and social problems. They have typically made pious commitments to respect civil liberties, to attempt to correct the economic and social ills of the country, and to lay a solid foundation for enduring democratic rule. Upon seizing power, General Abacha, Nigeria's current head of state, claimed that “the military remains the only institution in a position to put an end to the drift towards the yawning abyss of total collapse of the nation.”

Oko, *Lawyers in Chains*, *supra* note 126, at 258 (internal citations omitted).

¹³⁵ See generally Oko, *Lawyers in Chains*, *supra* note 126.

¹³⁶ *Id.*

¹³⁷ Jibrin Ibrahim, *Obstacles to Democratization in Nigeria*, in *DILEMMAS OF DEMOCRACY IN NIGERIA* 155, 160–61 (Paul A. Beckett & Crawford Young eds., 1997).

elites the chance to learn from and correct their mistakes.¹³⁸ Had the military not supervened, the trajectory of democracy in Africa would have been different. The military ingrained the authoritarian culture that impedes efforts to develop democratic values and habits.¹³⁹ Frequent interruptions of the democratic process diverted public focus away from democracy, sapped public enthusiasm for developing democratic virtues, and encouraged the authoritarian culture that persists in Africa.¹⁴⁰ Self-governance skills, attitudes, and instincts for good democratic governance stagnated as citizens were repeatedly forced to surrender self-governance to military despots.¹⁴¹ Though military rule ended decades ago, African leaders and ordinary citizens still display the antidemocratic authoritarian values, habits, and culture developed under military rule.¹⁴² Military rule set the continent on a path to chaos, instability, and economic stagnation that it still travels today. Africa's significant woes of corruption, authoritarian culture, and weak and ineffective public institutions were exacerbated by military rule.¹⁴³ Military rule subverted justice and the rule of law, debased politics, retarded democratic development, coarsened the culture by encouraging moral decadence, and created an impulse towards totalitarian government.¹⁴⁴

After decades of military rule, Africans realized that military rule was no panacea for Africa's woes and demanded the restoration of civilian rule.¹⁴⁵ Citizens realized that the military seized power not to change anything; they wanted political power and the accompanying pomp, pageantry, and largesse.¹⁴⁶ Military rulers were less competent and far more corrupt than the civilian leaders they had replaced.¹⁴⁷ After years of costly struggles, military rulers relinquished power to civilian leaders.¹⁴⁸ Though Africa has since enjoyed decades of uninterrupted democracy, several African nations have been unable to break the dysfunctional habits created by military rule.¹⁴⁹ Virtually all the antidemocratic practices regnant during the military era still exist in Africa: paternalistic attitudes towards citizens, low regard

¹³⁸ See Moghalu, *supra* note 66, at 184 (noting that “decades of military rule . . . in retrospect achieved essentially nothing other than thwarting a democratic development trajectory that could by now have achieved maturity.”).

¹³⁹ See Ibrahim, *supra* note 137.

¹⁴⁰ *Id.*

¹⁴¹ *Id.*; REED, *supra* note 127 (noting the pervasive impact of military regimes).

¹⁴² Moghalu, *supra* note 66, at 172.

¹⁴³ See Okechukwu Oko, *Consolidating Democracy on a Troubled Continent: A Challenge for Lawyers in Africa*, 33 VAND. J. TRANSNAT'L L. 573 (2000).

¹⁴⁴ See discussion *infra* Section II.A–B.

¹⁴⁵ See Swarns & Onishi, *supra* note 1.

¹⁴⁶ TATAH MENTAN, HELD TOGETHER BY PINS: LIBERAL DEMOCRACY UNDER SIEGE IN AFRICA 287 (2007); Robert I. Rotberg, *The Roots of Africa's Leadership Deficit*, 1 COMPASS: J. LEADERSHIP 28, (2003) [hereinafter Rotberg, *The Roots of Africa's Leadership Deficit*].

¹⁴⁷ See Andrea Carboni & Clionadh Raleigh, *Regime Cycles and Political Change in African Autocracies*, 59 J. MOD. AFR. STUDS. 415, 416 (2021); *The Rule of Big Men or the Rule of Law?*, *supra* note 121.

¹⁴⁸ See Swarns & Onishi, *supra* note 1.

¹⁴⁹ See discussion *infra* Section II.

for citizens' rights, and lack of social welfare programs are a few damning examples.¹⁵⁰

C. A New Era

The military era in Africa predominated in the 1970s, 80s, and 90s,¹⁵¹ but the pendulum has since swung, and the tide reversed.¹⁵² Almost every country in the continent is under democratic rule.¹⁵³ In his famous 1947 declaration, Harry S. Truman, former President of the United States, remarked: “[N]early every nation must choose between alternative ways of life.”¹⁵⁴ Africans had two stark options: to live in freedom under a democracy or to remain under the clutches of dictatorship with their rights and liberties subject to the goodwill of a tyrant.¹⁵⁵ Discontent with the horrors of despotism pushed Africans to choose democracy, confirming professor Robert Fatton’s statement that “given the choice, African men and women would prefer the vicissitudes, doubts, and imperfections of democracy to the corrupting and paralyzing brutality of dictatorships.”¹⁵⁶ The growth and proliferation of democracy were predicated on an exuberant faith and optimistic hope that democracy offers the best platform to improve a nation and the well-being of citizens.¹⁵⁷ Africans envisioned a society where leaders would govern according to law and use power not for self-aggrandizement, but to transform society and improve citizens’ lives and living conditions.¹⁵⁸

¹⁵⁰ See discussion *infra* Section II.

¹⁵¹ See Staffan I. Lindberg, *The Surprising Significance of African Elections*, 17 J. DEMOCRACY 139, 140 (2006) (noting that in 1990 all but five of Africa’s 54 countries were dictatorships, either civilian or military).

¹⁵² See Richard Dowden, *Reflections on Democracy in Africa*, 92 AFR. AFFS. 607, 607 (Oct. 1993) (“The sudden rush to democracy rapidly knocked over the military and one-party state rule which dominated Africa from the 1970s.”).

¹⁵³ See Nsongura J. Udombana, *Articulating the Right to Democratic Governance in Africa*, 24 MICH. J. INT’L L. 1209, 1218–19 (2003) [hereinafter Udombana, *Articulating the Right*] (“The good news is that democracy is gradually supplanting outworn aristocratic and military regimes in Africa. The ‘roaring tide of democracy has drowned the sound of the AK-47 which once announced the arrival of yet another military “liberator.” . . . In many African countries, ‘the ballot is increasingly replacing the bullet as a means of attaining political power and maintaining legitimacy.’”) (footnotes omitted).

¹⁵⁴ HARRY S. TRUMAN, MESSAGE TO CONGRESS, H.R. DOC. NO. 80-171 (Mar. 12, 1947), available at www.archives.gov/milestone-documents/truman-doctrine.

¹⁵⁵ See Swarns & Onishi, *supra* note 1; see generally discussion *supra* Section I.B.

¹⁵⁶ Robert Fatton, Jr., *Liberal Democracy in Africa*, 105 POL. SCI. Q. 455, 455 (1990).

¹⁵⁷ See Swarns & Onishi, *supra* note 1.

¹⁵⁸ See DIAMOND, *ILL WINDS*, *supra* note 3, at 19. Describing some of the attributes of democracy, Larry Diamond stated:

But democracy is more than just the ability to choose one’s leaders. . . . It means strong protections for basic liberties, such as freedom of the

The tragedy of Africa is that colonial and military rule inspired an authoritarian culture that has been difficult or impossible to dislodge.¹⁵⁹ Africa's problems and challenges will not magically vanish because of the transition to democracy. Instead, the transition to democracy inevitably brings with it old habits, attitudes, and challenges that leaders must resolve for democracy to succeed.¹⁶⁰ American historian Arthur M. Schlesinger Jr. acknowledged the difficulties of transitioning from one era to another: "The beginning of a new political epoch is like the breaking of a dam. Problems which have collected in the years of indifference, values which suffered neglect, energies which have been denied full employment—all suddenly tumble as in a hopeless, swirling flood onto an arid plain."¹⁶¹ Democratic consolidation in Africa is flooded with problems: an authoritarian culture inspired by colonial and military rule;¹⁶² unassuaged ethnic rivalries resulting from the arbitrary grouping of disparate ethnic groups under one nation;¹⁶³ inept and visionless leaders who lack the talent and resolve to transform the society;¹⁶⁴ and tottery and ineffective democratic institutions unable to act as countervailing forces against abuse.¹⁶⁵ These problems implacably and relentlessly assail democracy, further complicating the difficult task of consolidating it.

The post-colonial waves of democracy came to an inglorious end, aborted by military rule.¹⁶⁶ After each military rule, nations reestablished democracy only to relapse into military dictatorship;¹⁶⁷ however, the current democratic wave seems to have lasted longer than previous ones. The question, therefore, is whether the current wave will fare better or unravel as it "confronts tremendous pent-up energies

press, association, assembly, belief and religion; the fair treatment of the racial and cultural minorities; a robust rule of law, in which all citizens are equal under the law and no one is above it; an independent judiciary to uphold that principle; trustworthy law-enforcement institutions to pursue it; other institutions to check the potential for high government officials to behave corruptly.

¹⁵⁹ Ibrahim Gassama, *Africa and the Politics of Destruction: A Critical Re-examination of Neocolonialism and Its Consequences*, 10 OR. REV. INT'L L. 327, 357 (2008).

¹⁶⁰ *Id.*

¹⁶¹ ARTHUR M. SCHLESINGER JR., *THE POLITICS OF HOPE AND THE BITTER HERITAGE: AMERICAN LIBERALISM IN THE 1960S* 119 (1963).

¹⁶² See Gassama, *supra* note 159 (noting that African communities are held back by the burdens of the past, including the history of colonial rule and the failure to develop enduring political systems).

¹⁶³ See *supra* Section I.A.2–3.

¹⁶⁴ See *infra* Section II.

¹⁶⁵ See Tjiurimo Hengari, *The African Democracy Charter at 11: Averting Democratic Deconsolidation*, S. AFR. INST. INT'L AFFS. 2 (2018) ("Many African countries have democratic institutions in place. The challenge is to make them work optimally.").

¹⁶⁶ See SAMUEL P. HUNTINGTON, *THE THIRD WAVE: DEMOCRATIZATION IN THE LATE TWENTIETH CENTURY* 13–16 (1991).

¹⁶⁷ See *DEMOCRATIZATION AND MILITARY COUPS IN AFRICA: POST-1990 POLITICAL CONFLICTS* (GEORGE KLAY KIEH JR. ET. AL EDS., 2021); see also John Mukum Mbaku, *Coups, Constitutional Democracy, and the Rule of Law: Why Africans Must Care*, 4 CARDOZO INT'L & COMP. L. REV. 35 (2020).

that threaten to blow it off course and even drive it onto the rocks.”¹⁶⁸ Faced with the question of whether democracy had a future, Arthur Schlesinger answered: “Sure it does, but not the glorious, irresistible, inevitable future . . . Democracy has survived the twentieth century by the skin of its teeth. It will not enjoy a free ride through the century to come.”¹⁶⁹

To some outsiders, years of uninterrupted democracy create the illusion that democracy is taking root in Africa.¹⁷⁰ The reality is that democracy in Africa rests on a very shaky foundation as several African leaders continue to hoist their warped and disfigured view of democracy upon citizens.¹⁷¹ Its success is neither imminent nor guaranteed as efforts to reinforce it continue to be stymied by bleak realities and severe challenges inspired by each nation’s particular circumstances.¹⁷² Condoleezza Rice, former United States Secretary of State, noted:

[T]here are plenty of malignant forces—some from the old order and some unleashed by an end to repression—ready to attack democratic institutions and destroy them in their infancy. Every democracy has near-death experiences, crucible moments when the institutional framework is tested and strengthened or weakened by its response.¹⁷³

Africans recognize that “democracy and respect for human rights [is] the only acceptable path forward,”¹⁷⁴ but the past continues to negatively impact Africa’s search for democratic consolidation because of bad leadership.¹⁷⁵ According to

¹⁶⁸ Arthur M. Schlesinger, Jr., *Has Democracy a Future?*, FOREIGN AFFS. (Sept. 1, 1997), <https://www.foreignaffairs.com/articles/1997-09-01/has-democracy-future>.

¹⁶⁹ ARTHUR M. SCHLESINGER, JR., WAR AND THE AMERICAN PRESIDENCY 116-17 (2005).

¹⁷⁰ See Nathaniel Allen & Alexander Noyes, *African Dictators Have Been Losing Power – Some to Democratic Governments. Militaries Can Tip the Scales Toward Democracy*, WASH. POST MONKEY CAGE BLOG (Sept. 16, 2019), <https://www.rand.org/pubs/commentary/2019/09/african-dictators-have-been-losing-power-some-to-democratic.html>.

¹⁷¹ *Id.* (“In many African nations, democracy rests on shaky foundations. Respect for civil and political liberties in Africa has been declining for years, as has the proportion of Africans living in a democracy. Authoritarians continue rigging elections, repressing political opponents and staging coups.”).

¹⁷² See Patrick J. Glen, *Institutionalizing Democracy in Africa: A Comment on the African Charter on Democracy, Elections and Governance*, 5 AFR. J. LEGAL STUDS. 119, 143 (2012) (“The challenges to democratization have been well-parsed. These include a lack of competent institutions, poverty and illiteracy, a political culture of exclusivity. Each challenge poses discrete problems to the goal of democratization.”).

¹⁷³ CONDOLEEZZA RICE, DEMOCRACY: STORIES FROM THE LONG ROAD TO FREEDOM 7 (2017).

¹⁷⁴ Spears, *supra* note 117, at 351.

¹⁷⁵ See DIAMOND, ILL WINDS, *supra* note 3, at 33 (arguing that countries are not captives of their histories and social inheritances, the author concluded that a country’s ability to become democratic depends on what political leaders do with the power they gain—in particular with how they design and operate the political institutions of democracy).

Nelson Mandela, former President of South Africa, the task of undoing that past rests on the shoulders of African leaders, “with the support of those willing to join us in a continental renewal.”¹⁷⁶ Tragically, a common theme runs through the continent: leadership failure. The combination of ineptitude and arrogance prevent African leaders from rising to Mandela’s challenge.¹⁷⁷ African leaders continue to steer democracy toward dictatorship and have failed to display the attributes of leadership aptly described by economist John Galbraith: “[A]ll of the great leaders have had one characteristic in common . . . the willingness to confront unequivocally the major problems of their people in their times.”¹⁷⁸

Africa’s challenges and myriad problems have neither inspired nor prepared bold, effective, or visionary leadership. A study by E. Gyimah and Joseph Asunka concluded that “[f]rom the people’s perspective, decision-makers are neither doing enough to help citizens meet their daily needs through jobs and adequate health care, nor fulfilling their aspirations to live in democratic, effective and accountable societies.”¹⁷⁹ Instead, democratic leaders allow their desire for power to overwhelm the crucial tasks of deepening democracy and national development.¹⁸⁰ The next section examines the dysfunctionalities of African leaders that impede efforts to deepen democracy.

II. STATE OF LEADERSHIP IN AFRICA

Across Africa, bad leadership remains the most significant obstacle keeping the continent from consolidating democracy and attaining its aspirations for progress, social equilibrium, and political stability.¹⁸¹ An assessment of Nigeria’s problems by celebrated Nigerian author Chinua Achebe applies equally to several other African countries: “The trouble with Nigeria is simply and squarely a failure of leadership.”¹⁸² The mode of operation of African leaders—personalizing governance, lack of commitment to the national interest, contempt for

¹⁷⁶ Nelson Mandela, President of S. Afr., Speech at the World Economic Forum’s Annual Meeting (Jan. 29, 1999), available at <https://www.weforum.org/agenda/2013/12/nelson-mandelas-address-to-davos-1999>.

¹⁷⁷ See discussion *infra* Part II.

¹⁷⁸ JOHN KENNETH GALBRAITH, *THE AGE OF UNCERTAINTY* 300 (1977); Yacouba & Emmanuel, *supra* note 5 (describing authoritarian, flawed democracy); Roth, *supra* note 6.

¹⁷⁹ E. Gyimah-Boadi & Joseph Asunka, *The Future Africa Wants: When Optimism is Power*, 14 EUR. UNION INST. SEC. STUDS. 4 (2021).

¹⁸⁰ See LARRY DIAMOND, *THE SPIRIT OF DEMOCRACY: THE STRUGGLE TO BUILD FREE SOCIETIES THROUGHOUT THE WORLD* 247 (2008) [hereinafter DIAMOND, *THE SPIRIT OF DEMOCRACY*] (discussing the reality of autocratic governments that appear democratic); see Carothers, *supra* note 19, at 15 (discussing the self-interestedness of governments).

¹⁸¹ See SAMATAR, *supra* note 33, at 1 (noting that “[t]wo intertwined specters are haunting the African continent They are the debilitating absence of leadership fit to meet the complex imperatives of citizenship and national development and the dearth of accountable and effective state institutions that can sustain civic life where leadership is lacking.”).

¹⁸² CHINUA ACHEBE, *THE TROUBLE WITH NIGERIA* 1 (1983).

accountability mechanisms, excessive solicitude for their cronies and own ethnic groups, and low regard for citizens' rights—is the antithesis of democratic governance and exactly what democracy was designed to prevent.¹⁸³ Leadership in Africa is deformed by self-aggrandizement, contempt for democratic ideals, and lack of capacity.

A. Self-Aggrandizement

None of the habits in Africa created by military rule have been more destructive and enduring than the attitude toward power.¹⁸⁴ Parallels exist between democratic leaders and military despots, most notably their fascination with self-aggrandizement.¹⁸⁵ Just like military despots, democratic leaders are scarcely concerned about national interest or the welfare of citizens.¹⁸⁶ What they care about is asserting their suzerainty.¹⁸⁷ The obsessive focus on self-interested and corrupt power endangers democracy and exacerbates the broader challenges of progress, social equilibrium, and political stability. Military rule's legacy of self-preservation as an animating impulse of power has not faded.¹⁸⁸ This underlying impulse leads the government to prioritize the preservation of power over all other considerations, including respect for the rule of law, citizens' rights, autonomy, and independence of democratic institutions.¹⁸⁹ It also distorts democratic governance as leaders engage in conduct antithetical to democratic government by expressing excessive solicitude for their cronies and ethnic groups.¹⁹⁰

¹⁸³ See DIAMOND, *THE SPIRIT OF DEMOCRACY*, *supra* note 180, at 247 (2008) (noting that post-colonial African states have been neopatrimonial because they combine the formal architecture of a modern bureaucratic state—constrained in theory by laws, constitutions, and other impersonal rules and standards—with the informal reality of personalized, unaccountable power and pervasive patron-client ties).

¹⁸⁴ See Carothers, *supra* note 19, at 15 (discussing the legacy of autocratic regimes on democracy).

¹⁸⁵ Dowden, *supra* note 152 (noting that power has revolved around individuals for most of Africa's history); ROTBERG, *THINGS COME TOGETHER*, *supra* note 82, at 32.

¹⁸⁶ ROTBERG, *THINGS COME TOGETHER*, *supra* note 82, at 32 (noting that African political leaders generally govern like kleptocrats, regardless of their nominal title or government.).

¹⁸⁷ See Makau Mutua, *Africa and the Rule of Law*, 13 SUR-INT'L J. HUM. RTS. 159 (2016) (discussing the marshalling of all branches of government below the executive).

¹⁸⁸ See Carothers, *supra* note 19, at 15 (“The terrible socioeconomic conditions and weak rule of law apparent in so many developing countries are, in many cases, a legacy of decades of misrule by autocratic regimes that claimed a deep commitment to developmental goals but in fact gave greater priority to narrower, self-interested, and countervailing concerns.”).

¹⁸⁹ *Id.*

¹⁹⁰ See ROTBERG, *THINGS COME TOGETHER*, *supra* note 82, at 59 (“Political leaders and ruling elites may in some circumstances, however, and certainly in Africa, utilize states for narrower purposes—to elevate an ethnic group over other ethnic groups; to gain privilege

The imperatives of good democratic leadership—the primacy of citizens’ wellbeing, respect for limits on power, and capacity to diagnose and address problems—have been relegated to the background by narcissistic African leaders, who are obsessed and sometimes fanatically committed to the belief that self-aggrandizement matters more than serving the people.¹⁹¹ Leaders fail to lead effectively, inspire or exacerbate ethnic rivalries, violate citizens’ rights and liberties, overwhelm democratic institutions and exercise power without any sense of restraint or accountability, muzzle the opposition, dominate citizens, and violate their rights.¹⁹² The alarm sounded by former ambassador John Campbell about Muhammadu Buhari, President of Nigeria, is unsettling and represents the trend in Africa. He noted: “President Muhammadu Buhari is reverting to his authoritarian style of the 1980s, growing intolerant of the press and civil society organizations that challenge his administration This recent authoritarian turn threatens progress made in Africa’s most populous country since the military left power in 1999.”¹⁹³

African leaders barter away national interests and pursue aggrandizement of power untroubled by the consequences of their actions on the nation and citizens.¹⁹⁴ They “use power as an end in itself, rather than for the public good; they are indifferent to the progress of their citizens.”¹⁹⁵ The result is an oddly narrow and unimaginative view of governance. For them, the government provides a vehicle for self-aggrandizement and machinery for rewarding cronies and punishing opponents. Robert I. Rotberg notes:

and power for a minority, a region or sets of particular believers; or simply to shift national resources and rents from public to private hands.”)

¹⁹¹ Rotberg, *The Roots of Africa’s Leadership Deficit*, *supra* note 146, at 28-32.

¹⁹² See MENTAN, *supra* note 146. Mentan succinctly captured the state of leadership in Africa:

Africa’s interminable and innumerable crises all share a similar origin. Each of Africa’s crises begins when someone power through an election or a coup d’etat. The new leader then proceeds to entrench himself in 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 powers in his hands, he transforms the state into his personal property to benefit himself his cronies and tribesmen, who all then 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 to his rule such as co-optation, bribery, infiltration, intimidation, and “divide and rule.”

Id. at 287.

¹⁹³ Campbell, *supra* note 18.

¹⁹⁴ See MENTAN, *supra* note 146.

¹⁹⁵ Rotberg, *Strengthening African Leadership*, *supra* note 25, at 14.

Leadership in Africa is typified more by disfiguring examples—the Idi Amin and Robert Mugabes—than by positive role models such as Nelson Mandela and Seretse Khama. . . . During the past three decades roughly 90 percent of sub-Saharan Africa’s leaders have behaved despotically, governed poorly, eliminated their people’s human and civil rights, initiated or exacerbated existing civil conflicts, decelerated per capita economic growth, and proved corrupt.¹⁹⁶

B. Contempt for Democratic Ideals

Several African leaders have refused to yield to the realities of democracy and govern within the boundaries of the law, instead bending or breaking democracy to suit their purposes and preferences.¹⁹⁷ African leaders transgress democratic ideals, abuse their powers, violate citizens’ rights, and mock the doctrine of separation of powers without scrutiny or consequences.¹⁹⁸ They are not interested in building democratic societies; they simply want to build empires and engage in unspeakable and atrocious abuse of power to further that end.¹⁹⁹

African leaders whose executive powers are predominant transform democratic governance into a virtual dictatorship through the control of their governments’ machinery.²⁰⁰ The ultimate trust of governance under these leaders is toward self-preservation.²⁰¹ This mindset leads them to manipulate elections, engage in corrupt activities, stifle accountability mechanisms designed to check their powers, repress the opposition, and violate citizens’ rights.²⁰² Their contempt for constitutional restraints rests on their ability to overwhelm accountability mechanisms and the nation’s system of checks and balances. Robert I. Rotberg best captures the disturbing state of leadership in Africa:

The political leaders of Africa come in all sizes, shapes, and persuasions. There are liberal democratic heads of state and

¹⁹⁶ Rotberg, *The Roots of Africa’s Leadership Deficit*, *supra* note 146, at 28.

¹⁹⁷ See Carboni & Raleigh, *supra* note 147, at 416 (“African authoritarian regimes have incorporated a variety of democratic institutions to regulate political competition and succession. Yet, autocratic practices of power are widespread across the continent, and incumbents often use institutions as a vehicle for elite management and power reproduction.”).

¹⁹⁸ *Id.*; Rotberg, *The Roots of Africa’s Leadership Deficit*, *supra* note 146, at 28 and accompanying text.

¹⁹⁹ See Dowden, *supra* note 152, at 607 (“Since independence power in Africa had evolved round individuals. Constitutions were ignored or changed or set aside. Many leaders had inherited the apparatus of the colonial state and used it for their own ends.”).

²⁰⁰ See, e.g., Carboni & Raleigh, *supra* note 147.

²⁰¹ *Id.*; Dowden, *supra* note 152 and accompanying text; MENTAN, *supra* note 146 and accompanying text.

²⁰² MENTAN, *supra* note 146 and accompanying text.

heads of government, presidents, and prime ministers; elected democratic leaders who become wily autocrats; strong authoritarians who brook no opposition and respect few freedoms; military men ruling because their followers are well-armed; kleptocrats who govern so that they can steal from the state and its citizens; a few who profess strong support for the public interest; and many who serve clan, family, and narrow conceptions of national “interest.”²⁰³

These notoriously dictatorial African leaders exercise suzerainty over the nation, just like their colonial and military predecessors.²⁰⁴ They effectively control their political parties, intimidate and muzzle the opposition, intimidate or coopt civil society, and compromise nascent democratic institutions designed to check their powers.²⁰⁵ The affirmation of leaders’ unopposed control over their nations is evident.²⁰⁶ Ghanaian lawyer H. Kwasi Prempeh notes:

The restoration and re-empowerment of parliaments and courts in Africa have not altered the presidentialist orientation of African governments As before, nothing good that needs done, and nothing bad that needs undone, in the African state seems likely to proceed without the personal initiative or intervention of the president. The pace and direction of progress or reform, on nearly every important issue, appears to depend on the level of a president’s personal interest and commitment.²⁰⁷

²⁰³ ROTBERG, THINGS COME TOGETHER, *supra* note 82, at 32.

²⁰⁴ Mutua, *Africa and The Rule of Law*, *supra* note 187, at 161 n.23. Describing the dominance of the executive over all arms of the state, Mutua stated:

Every arm of the state—executive, legislature, and judiciary—experienced contraction, dysfunction, or collapse. An overbearing executive was often the culprit. The men in power usually corralled the legislature and turned it into a rubber stamp. . . . Judges became extensions of the executive and served at its whim. Instead of becoming fountains of justice, courts were used . . . to crush political dissent and curtail civil society.

Id.

²⁰⁵ *Id.*

²⁰⁶ See ROTBERG, THINGS COME TOGETHER, *supra* note 82, at 68 (noting that presidents, prime ministers either rule peremptorily or with great authority; ordinary parliamentarians have less autonomy than they would have in established (developed world) parliamentary systems).

²⁰⁷ H. Kwasi Prempeh, *Presidential Power in Comparative Perspective: The Puzzling Persistence of Imperial Presidency in Post-Authoritarian Africa*, 35 HASTINGS CONST. L. Q. 761, 773 (2008).

This presidentialist pursuit of self-interest has become a central feature of democratic leadership in Africa. In practice, presidents control all three branches of government and thus have absolute powers.²⁰⁸ These blustering, ego-driven leaders are notoriously thin-skinned, prerogative-conscious, and resort to extra-legal measures and force to address perceived slights and citizens' demands for accountability.²⁰⁹ Driven by messianic impulses, they believe God ordained them to rule and save the nation, thus duplicating the arrogance, insensitivity, and impatient regnant seen during military rule.²¹⁰ Restraints and limitations are conveniently brushed aside, and leaders expect citizens to accept their policies and programs with robotic unanimity.²¹¹ The messianic mindset of African leaders has led them to elongate—or attempt to elongate—their tenures beyond constitutional limits.²¹² Democratic governance in Africa has degenerated into “cults of personality”—the entire society bent to the whims of a single leader. An article aptly titled *Africa's 'Leaders for Life,'* notes:

Since the turn of the century, at least two dozen heads of state have tried to remain in power by tweaking their countries' constitutions or evading term limits. Guinean President Lansana Conté did so in 2001, followed by Gnassingbé Eyadéma, president of Togo, in 2002. One year later, the Gabonese parliament voted to remove term limits from its constitution, allowing President Omar Bongo to run for a sixth term. Following these initial instances, attempts to extend terms became fairly regular occurrences, popping up every one to two years on the continent in countries including Angola, Burkina Faso, Burundi, Cameroon, Chad, Djibouti, Guinea, the Ivory Coast, Nigeria, the Republic of Congo, Rwanda, Senegal, Sudan, and Uganda.²¹³

²⁰⁸ See FOBANJONG, *supra* note 108, at 18 (“While power is in theory clearly defined and assigned to three branches of government, in practice, all three branches of government are controlled by the president. With supreme and unquestionable authority over the constitution and over the three branches of government, this gives the African rulers absolute powers.”).

²⁰⁹ See Valery Ferim, *Dictatorships in Africa*, 4 CONFLICT TRENDS 28, 33-34 (2012), www.academia.edu/4657478/Dictatorships_in_Africa (“Tyrannical powers and the ruthless use of force have been the backbone in the consolidation of power by African dictators.”).

²¹⁰ *Id.* at 31, 33.

²¹¹ See, e.g., Mutua, *Africa and The Rule of Law*, *supra* note 187 and accompanying text.

²¹² See Claire Klobucista & Mariel Ferragamo, *Africa's 'Leaders for Life'*, COUNCIL ON FOREIGN RELS. (Sept. 20, 2023), <https://www.cfr.org/background/africas-leaders-life>.

²¹³ *Id.*

C. Lack of Capacity

In addition to their focus on power and their disregard for democratic institutions, African leaders have proven incapable of understanding the depth and complexity of their nation's problems or the need to inaugurate transformative changes.²¹⁴ Beyond an obsession with self-aggrandizement, several African leaders have done little to banish or even mitigate the crushing effects of the various ills plaguing citizens.²¹⁵ Consequently, the problems they inherited from colonial and military rulers continue unabated, some even increasing in intensity. As Robert Rotberg assesses:

Overall, too many of today's transactionally focused sub-Saharan leaders project no vision, exude little integrity in their personal lives or in the manner in which they organize their regimes, and sometimes endanger the very chances of their constituents. They distribute patronage, however, to keep themselves in power They favor executive control, only now and then sharing some power with legislators or with officers and soldiers but never with the people.²¹⁶

Such African leaders have no clear strategy for dealing with issues and have no vision for the future. They merely muddle through problems without strategy or vision, relying on cooption and force—most times inappropriately—to deal with immediate crises. Consequently, insecurity is becoming more problematic in several African nations;²¹⁷ economic reforms have stalled or not taken off at

²¹⁴ See Haruna, *supra* note 116, at 941 (“From decolonization through the so called second liberation era, sub-Saharan Africa has suffered poverty of leadership. Whether in thought or in practice, leadership has been narrowly circumscribed, defined and operationalized. . . . As a result, the essence of leadership is construed narrowly in terms of transactions and exchanges between individual leaders and their so-called followers.”).

²¹⁵ See Aare Afe Babalola, *Awoism and the Unending Search for Transformational Leadership in Nigeria: Political, Economic and Social Challenges*, 10 J. SUSTAINABLE DEV. L. & POL’Y 133, 134 (2019) (noting that Nigeria has witnessed the rise of transactional leaders who view leadership from the narrow lens of self-aggrandizement, self-interest, short termism, and the suppression of the public will).

²¹⁶ ROTBERG, THINGS COME TOGETHER, *supra* note 82, at 42.

²¹⁷ See Paul Collier, *Security Threats Facing African and its Capacity to Respond*, 5 PRISM 31 (2015), <https://www.jstor.org/stable/26470395>.

all,²¹⁸ ethnic tensions and rivalries are rising;²¹⁹ and public institutions are dysfunctional, ineffective and crippled by nepotism, inefficiency, and corruption.²²⁰ Institutionalizing democracy, transforming the nation, and improving the lives of citizens remain subsidiary concerns for leaders—if they are concerned with them at all.²²¹

African leaders' ambitions often exceed their capabilities, and they are unwilling to use the instruments of power to pursue national interests.²²² More strikingly, the persistence of Africa's woes seems not to have caused any concern to leaders who wallow in the majesty of power blithely untroubled by their failures.²²³ African leaders inured to ignore citizens' demands for better governance continue to lead Africa down the oft-traveled road leading to perdition.²²⁴ As Agbaje and Roberts noted:

Post-independent leaders in Africa not only personalized power but also privatized the state for the purpose of primitive accumulation, clientelism, repression and all forms of opposition. Instead of using the state for initiating development, African leaders utilized it as a vehicle for terrorizing the citizenry, thereby leading to the disengagement of the populace from the public realm.²²⁵

Africa hardly boasts great visionary and transformational leaders: some are mediocre while others are downright brutal and vengeful dictators masquerading as democrats.²²⁶ With few exceptions like Botswana, Ghana,

²¹⁸ See Lewis, *supra* note 93 (“Since the transition to democratic rule in 1999, ethnic identity and mobilization have been prominent features of the political landscape, with serious consequences for political stability.”); U.N. Dev. Programme, *Human Development Report 2004: Cultural Liberty in Today's Diverse World* 52 (2004), http://hdr.undp.org/en/media/hdr04_complete.pdf (“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 since the return to civilian rule, whereas previously such conflicts were coercively suppressed by the military regimes.”).

²¹⁹ See U.N. Econ. Comm'n for Afr., *Economic Report on Africa 2005: Meeting the Challenges of Unemployment and Poverty in Africa* 1 (2005), <https://digitallibrary.un.org/record/693058> (“Poverty in Africa is substantially higher than in other developing regions. More enigmatic is that poverty in Africa is chronic and rising.”).

²²⁰ See generally John Mukum Mbaku, *Corruption and Democratic Institutions in Africa*, 27 *TRANSNAT'L & CONTEMP. PROBS.* 311 (2018) [hereinafter Mbaku, *Corruption and Democratic Institutions in Africa*].

²²¹ See, e.g., Haruna, *supra* note 116; ROTBERG, *THINGS COME TOGETHER*, *supra* note 82, at 42.

²²² Diaz-Serrano & Sackey, *supra* note 34, at 10.

²²³ *Id.*

²²⁴ *Id.*

²²⁵ *Id.*

²²⁶ See *infra* note 228 and accompanying text.

Rwanda, South Africa, Namibia, and Cape Verde,²²⁷ Africa is controlled by leaders who wield power for self-aggrandizement and ostentation, lacking any vision or talent necessary to move Africa forward. Sudan's Omar al-Bashir, Burundi's Pierre Nkurunziza, Nigeria's President Buhari, Cameroon Paul Biya, Uganda's Yowwri Museveni, Eritrea's Isaias Afwerki, and Equatorial Guinea's Teodoro Obiang Nguema Mbasogo²²⁸ have embraced the governing style of their colonial and military predecessors and continue to govern with troubling indifference to constitutional limits, the national interest, or the wellbeing of citizens.²²⁹ These leaders use power not for transformation but for self-aggrandizement, not to improve citizens' lives and living conditions but to maltreat them and denude them of their rights, not to heal societal wounds but to aggravate them, and not to douse ethnic tensions but to exploit them.²³⁰ Because of leadership failures, several African countries are displaying signs of democratic decline, as described by Larry Diamond:

Endemic corruption, recurrent high-profile scandals over graft, power abusing presidents, and governments that cannot deliver jobs, rising incomes, lower crime rates, or such basic services as electricity, water, roads, and decent schools. In such waning democracies, when things went bad, governments seemed to grind to a halt. Politicians were so busy scrambling after the remaining spoils of power or demonizing their opponents that little in the public interest was accomplished.²³¹

²²⁷ See GREG SAKO KAME, *Intellectual Leadership: The Alternative Leadership Paradigm for Africa's Advancement*, in PERSPECTIVES ON THOUGHT LEADERSHIP FOR AFRICA'S RENEWAL 130, 141 (Kwaniwe Kondlo ed., 2014) (noting that citizens of these countries are comparatively wealthier, literate, free of internal conflict and accustomed to solid rule of law performances with moderate levels of corruption).

²²⁸ The excesses of African leaders have spurred a litany of articles. See, e.g., Rotberg, *Strengthening African Leadership*, *supra* note 25 ("Africa has long been saddled with poor, even malevolent leadership: predatory, kleptocrats, military-installed autocrats, economic illiterates, and puffed-up posturers."); Robert I. Rotberg, *Africa's Mess, Mugabe's Mayhem*, 79 FOREIGN AFFS. 47, 48-49 (2000) (discussing Mugabe's excesses); Aili Mari Tripp, *The Changing Face of Authoritarianism in Africa: The Case of Uganda*, 50 AFR. TODAY 3, 3 (2004) (examining dictatorial attitudes of Uganda's president); see also Edward Kannayo, *Liberalization, Democratization and Political Leadership in Africa*, in TOWARDS AFRICA'S RENEWAL 63, 63-84 (Jeggan C. Senghor & Nana Poku eds., 2007).

²²⁹ See *supra* note 228 and accompanying text.

²³⁰ See *id.*

²³¹ DIAMOND, ILL WINDS, *supra* note 3, at 20.

III. STRENGTHENING DEMOCRATIC LEADERSHIP

Africa is at the edge of a precipice, buffeted by ethnic rivalries, poverty, political instability, insecurity, and economic stagnation.²³² Whether it falls off the cliff or pulls back depends on leaders who must find ways of creating order out of fractious, fractured, and dysfunctional societies. For better or worse, leaders profoundly influence Africa's search for democratic consolidation.²³³ They can either contribute significantly to a nation's progress or retard it through ill-conceived, visionless, poorly executed programs and policies. Tragically, good leadership that would drive democratic progress is, with rare exception, palpably missing in Africa.²³⁴ African leaders seem unable to resist the temptations of personal, corrupting power, which renders them immune to the human suffering and misery around them.²³⁵ They focus on their powers and privileges while ignoring the duties and responsibilities that go along with them.²³⁶

The confluence of factors that have retarded democracy in Africa is almost overwhelming, but the greatest strength of democracy is that it leaves room for self-examination, reflection, and self-correction.²³⁷ Democracies' most distinctive feature is not that "they always identify the best policy[,] but [that] they

²³² See, e.g., Homi Kharas et al., *The Start of a New Poverty Narrative*, BROOKINGS (June 19, 2018), <https://www.brookings.edu/articles/the-start-of-a-new-poverty-narrative/> (noting that Nigeria has overtaken India as the country with the largest number of people living in extreme poverty in the world).

²³³ See ROTBERG, THINGS COME TOGETHER, *supra* note 82, at 33 (noting that imaginative and responsible political leadership has the capacity anywhere, but especially in sub-Saharan Africa, to emphasize a ruling design that operates in the public, not private interest, that guides peoples, societies and states toward destinies that are more advanced, even more enlightened, than they know or have previously experienced).

²³⁴ See *Africa's Fragile Democracies*, ECONOMIST (Aug. 20, 2016), <https://www.economist.com/leaders/2016/08/20/africas-fragile-democracies> ("In parts of Africa autocrats are still in power. . . . African democracy has stalled—or even gone in reverse. Too often, it is an illiberal sort of pseudo-democracy in which the incumbent demonizes the opposition, exploits the power of the state to stack the electoral contest in his favor and removes constraints on his power.").

²³⁵ See HENRY ADAMS, *THE EDUCATION OF HENRY ADAMS* 126 (Ira B. Nadel ed., Oxford Univ. Press 1999) (1918) (Adams asserts the effect of power on men is: "the aggravation of self, a sort of tumor that ends in killing the victim's sympathies; a diseased appetite, like a passion for drink or perverted tastes; one can scarcely use expressions too strong to describe the violence of egotism it stimulates.").

²³⁶ See John Mukum Mbaku, *Deepening Good Governance*, in *FORESIGHT AFRICA* 23, 24 (Brahima S. Coulibaly ed., 2020) ("The absence of good governance in many African countries has been extremely damaging to the government's corrective intervention role, particularly in the maintenance of peace and security, as well as the promotion of economic growth and the creation of the wealth needed to confront poverty and improve human development.").

²³⁷ See Schlesinger, *Has Democracy a Future?*, *supra* note 168 (arguing that the greatest strength of democracy "is its capacity for self-correction.").

institutionalize the right to change leaders or policies when things go poorly.”²³⁸ The correction can begin by electing leaders who can rebuild the continent disfigured by rapacious military despots, introduce social, economic, and political changes that will deepen democracy, strengthen the ramparts that protect citizens from the state and influential citizens, and respond to the wide-ranging concerns and problems that affect citizens in a democratic society.²³⁹

The problems that assail democracy in Africa, while enormous, complicated, and often debilitating, are not insuperable. The encouraging thing is that the “bells and whistles” of democracy are in place—constitutions that delineate powers among the three branches of government, accountability mechanisms that forestall dictatorship, and a panoply of constitutionally guaranteed citizens’ rights and liberties.²⁴⁰ Therefore, the primary challenge is to elect talented, selfless, and visionary leaders who will aggressively and thoughtfully push the continent past the cultural vulnerabilities, adverse effects of colonialism and military rule, and past leaders’ follies that impede democratic consolidation and progress. Irving Babbitt was correct in observing that “[i]n the long run democracy will be judged, no less than other forms of government, by the quality of its leaders, a quality that will depend in turn on the quality of their vision.”²⁴¹ Bryce’s statement that “perhaps no form of government needs great leaders so much as democracy”²⁴² is true in Africa.²⁴³

Successful leaders typically possess three traits: vision, competence, and the ability to inspire others to attain their vision.²⁴⁴ The challenge is to rescue Africa from the scourge of bad leadership and, in the memorable words of Roosevelt, to bring about a “practical betterment of social and economic conditions throughout the land.”²⁴⁵ Africa needs leaders who will adopt the objectives of democratic governance eloquently stated by Nigeria’s President Muhammadu Buhari:

²³⁸ Joseph T. Siegle et al., *Why Democracies Excel*, 83 *FOREIGN AFFS.* 57, 66 (2004).

²³⁹ See Nannerl O. Keohane, *Leadership, Equality and Democracy*, 145 *DAEDALUS* 8, 15 (2016) (“Good leadership is a potential source of repair and reconstitution of our political system.”).

²⁴⁰ See Mbaku, *Corruption and Democratic Institutions in Africa*, *supra* note 220, at 320 (noting that many of Africa’s new democracies have constitutions that include a bill of rights and makes allowance for the separation of powers, with an independent judiciary).

²⁴¹ IRVING BABBITT, *DEMOCRACY AND LEADERSHIP* 38 (1979).

²⁴² James Reston, ‘*The American Commonwealth*’ Revisited, *N.Y. TIMES* (Oct. 12, 1975) (quoting Lord Bryce), <https://www.nytimes.com/1975/10/12/archives/the-american-commonwealth-revisited-washington.html>.

²⁴³ *Id.*

²⁴⁴ See RYO SAHASHI & JAMES GANNON, *LOOKING FOR LEADERSHIP: THE DILEMMA OF POLITICAL LEADERSHIP IN JAPAN* 19 (2015) (“[P]olitical leadership involves the capacity to articulate a vision that resonates with the public, to lay out clear priorities in keeping with that vision, to overcome competing interests to steer government policy in a direction that matches those priorities.”).

²⁴⁵ Theodore Roosevelt, Address at the Convention of the National Progressive Party (Aug. 1912), <https://www.ssa.gov/history/trspeech.html>.

It is much more important that the promise of democracy goes beyond just allowing people to freely choose their leaders. It is much more important that democracy should deliver on the promise of choice, of freedoms, of security of lives and property, of transparency and accountability, of rule of law, of good governance and of shared prosperity. It is very important that the promise embedded in the concept of democracy, the promise of better life for the generality of the people, is not delivered in the breach.²⁴⁶

Good leaders would serve as rudders for democracy as Africa continues its voyage of democratic self-governance.²⁴⁷ Creative, visionary, and dedicated leaders will enable the continent to navigate the challenges of democracy and build a better, more secure, and prosperous democratic continent.²⁴⁸ To meet the challenges of leadership, leaders must address the following issues: (a) repositioning government; (b) promoting ethnic justice; (c) instilling democratic culture; and (d) strengthening democratic institutions. Instituting these changes will ignite hope for citizens whose dreams of a better society have receded and rekindle their optimism about the transformative potentials of democracy.

A. Repositioning Government

Good governance is a significant challenge to Africa's nascent democracy.²⁴⁹ Unlike military despots, civilian leaders should be concerned more with citizens' welfare than with machinations of power. Leaders exercise power by authority derived from the people and are expected to serve the people's best interests.²⁵⁰ As John Ohirohenuan stated:

The African leader needs to engage the African people in the search for a long-term solution The starting point is

²⁴⁶ *Full Text of Buhari's Speech at Chatham House*, DAILY POST (Feb. 26, 2015) (quoting Muhammadu Buhari), <https://dailypost.ng/2015/02/26/full-text-of-buhari-speech-at-chatham-house>.

²⁴⁷ Leadership according to Kingsley Moghalu means "the ability to set out a vision of a desired state of things, set priorities, take risks, and mobilize society toward achieving such a desired end state." See Moghalu, *supra* note 66, at 172.

²⁴⁸ See Ronak Gopaldas, *Democracy in Decline in Africa? Not So Fast*, INST. SEC. STUDS. (Nov. 4, 2021), <https://issafrica.org/iss-today/democracy-in-decline-in-africa-not-so-fast> ("As Africa navigates internal and external threats to democracy, the pressing issue is not the system of governance but the quality of leadership. Leadership vacuums create fertile ground for anti-democratic tendencies and disorderly regime changes.").

²⁴⁹ See generally Chris Ekene Mbah, *Leadership Question and Development Crises: The 21st Century Challenges in Africa and Quest for Change*, 15 J. SUSTAINABLE DEV. AFR. 143 (2013).

²⁵⁰ John F.E. Ohirohenuan, *Don't Cry for Me Africa*, 102 TRANSITION 140, 155 (2010).

recognition that, in today's world, the legitimacy of the leader derives not from divine authority, nor from tradition, nor from the mere fact of having been elected. Legitimacy derives from the fulfillment of a social contract, from the delivery of what citizens want.²⁵¹

African leaders' capacity or desire to provide good governance has vanished in the face of self-aggrandizement and hegemonic ambitions.²⁵² In seeking to provide good governance, democratic leaders must: (a) rise above selfish interests and overcome the tendency to personalize power; (b) resist the tendency to pander to their ethnic group; (c) avoid manipulating democratic institutions to advance their hegemonic ambitions; and (d) avoid the illusory and seductive idea that they are masters not the servant of the people.²⁵³ The notion that leaders are masters, not servants of the people, inspires leadership excesses that undermine the search for democracy. Makau Mutua states:

Public officials are masters not servants of the people. This construction of public power goes against every norm of democratic governance. It stifles citizens, kills dissent, and dulls the public. It puts the state at perpetual loggerheads with the people. It creates deep distrust in the population toward public authority. This culture of dictatorship has been identified by Africans as the greatest hurdle to sustainable development. It breeds impunity and runaway corruption. It is unaccountable.²⁵⁴

The essence of democracy lies in the relationship between government and citizens, recognizing that the purpose of government is to serve the people. As

²⁵¹ *Id.*

²⁵² See Mbah, *supra* note 249, at 143 ("More than five decades after independence, African states have remained in a vicious circle of conflicts, stunted development and finally characterized by all indices of destructive governance; this time not as a result of colonial invasion but by the character of its leaders—power politics, endemic corruption, clientelism and politics of patronage.").

²⁵³ Listing personalization of power as one of the reasons for weak democratic governance in Africa, Mathias Kamp stated:

In many African states a strong leadership figure is at the head, towards whom the entire state apparatus is adjusted and who is at the centre of a patronage network. Political power is consequently seen more or less as a personal possession. The "strong man" at the top frequently stands above the law, in actual fact or at least in public perception.

Mathias Kamp, *Young Continent, Old Rulers*, in *THE FIGHT FOR DEMOCRACY* 52, 56 (2017), <https://www.jstor.org/stable/resrep10034.7>.

²⁵⁴ Mutua, *Africa and the Rule of Law*, *supra* note 187, at 168.

Madison stressed, good government “implies two things: first, fidelity to the object of government, which is the happiness of the people; secondly, a knowledge of the means by which that object can be best attained.”²⁵⁵ African leaders have failed to incorporate Madison’s insight and have been unable to affirm citizens’ wellbeing as the guiding force in governance. Good governance, argues Jennifer Schoeberlein, “is not a goal in itself but rather a means to an end. It refers to the rules, processes and institutions that are put in place to arrive at more inclusive and participatory societies, more accountable governments, and more stable and prosperous countries.”²⁵⁶ African leaders must prioritize the interest and well-being of citizens on whose behalf they wield power. They must introduce the following aims and make them new habits in order to reverse the factors undermining good governance: (a) governing according to law; (b) improving citizens’ lives and living conditions; (c) establishing probity in governance; and (d) improving the efficiency of government.

1. Governing According to Law

One of the most outstanding achievements of the transition from dictatorship to democracy is establishing a government bound by law.²⁵⁷ The rule of law is a combination of law and order and governmental limitations that place law above man—i.e. the rule of law and not of man.²⁵⁸ The imperatives of the rule of law are embedded in constitutions that contain elaborate mechanisms for protecting them.²⁵⁹ A constitution distributes and limits governmental powers to guard against abuse. Leaders must exercise their powers within the boundaries of

²⁵⁵ THE FEDERALIST NO. 62 (James Madison).

²⁵⁶ JENNIFER SCHOEBERLEIN, *National Strategies for Advancing Good Governance in Africa, Anti-Corruption Helpdesk Answer*, TRANSPARENCY INT’L 2 (May 27, 2020), <https://knowledgehub.transparency.org/helpdesk/national-strategies-for-advancing-good-governance-in-africa>.

²⁵⁷ See John Mukum Mbaku, *Threats to the Rule of Law in Africa*, 48 GA. J. INT’L & COMP L. 293, 295 (2020) [hereinafter Mbaku, *Threats to the Rule of Law in Africa*]

Certain values and characteristics have the power to make, break or define a democracy . . . adherence or fidelity to the rule of law is one of them and it is an important foundation on which democracy is built; it is not only the heart and soul of a democratic society, but without it, members of society would find it very difficult to live together peacefully.

²⁵⁸ See NADIA E. NEDZEL, *THE RULE OF LAW, ECONOMIC DEVELOPMENT, AND CORPORATE GOVERNANCE* 88 (2020). See generally FRIEDRICH HAYEK, *THE CONSTITUTION OF LIBERTY* (1978).

²⁵⁹ See John Mukum Mbaku, *Entrenching Constitutionalism in Africa: Lessons from America’s Founding Fathers*, 55 TEX. INT’L L.J. 89, 100 (2019) (noting that all African countries have provided themselves with relatively progressive constitutions, undergirded by separation of powers, with checks and balances.)

that law in ways congruent with democratic restraint and accountability.²⁶⁰ Respecting the dictates of the rule of law is the acid test of democratic governance. The rule of law, “by providing predictable order and reducing arbitrary conduct by the authorities, further facilitates an environment in which freedoms are safeguarded.”²⁶¹ The rule of law means that rulers govern according to law, respecting limits and restraints on their powers and respecting the countervailing and complimentary powers exerted by an independent legislature and the judiciary that buttress against abuse of power by any of the three branches.²⁶² As Madison wrote in Federalist No. 51: “you must first enable government to control the governed; and in the next place oblige it to control itself.”²⁶³ To do so requires that each branch be financially independent of the others, each be given the means and motives to resist encroachments by the others, and (most important for our purposes), national interest must be made to counteract personal ambition.²⁶⁴

Government controlling itself is a prudent goal, but its conditions require the government to be fully aware and compliant with constitutional restraints on its powers and that it be held accountable for any failure to do so. African leaders have little concern for their nations’ laws and have distorted their constitutional powers and hence the dictates of the rule of law for personal or political advantage.²⁶⁵ Neither constitution nor the rule of law means anything to them; they regard them as irritants to be ignored or remolded to suit their hegemonic ambitions and moods.²⁶⁶ The central tenets of the rule of law—transparency, accountability, restraint, and respect for constitutional limits on power—have been eviscerated by African leaders.²⁶⁷ Identifying government impunity as a major threat to the rule of law, John Mukum Mbaku stated:

²⁶⁰ See Michael Gerson & Peter Wehner, *A Conservative Vision of Government*, NAT’L AFFS. (2014), <https://www.nationalaffairs.com/publications/detail/a-conservative-vision-of-government> (“The constitution places meaningful limits on government power for a reason—to prevent tyranny.”).

²⁶¹ Ian Vásquez et al., *The Human Freedom Index 2021: A Global Measurement of Personal, Civil and Economic Freedom*, CATO INST. 14 (2021), <https://www.cato.org/human-freedom-index/2021>.

²⁶² See Mbaku, *Threats to the Rule of Law in Africa*, *supra* note 257 (“A governing process characterized or undergirded by the rule of law is the key to peaceful coexistence and development in Africa. Such a governing process is also the foundation on which a democracy is built.”).

²⁶³ THE FEDERALIST NO. 51 (James Madison).

²⁶⁴ *Id.*; see also NEDZEL, *supra* note 258, at 106-08.

²⁶⁵ See Fomunyoh, *supra* note 28 (“African efforts at democratization have been stifled in a number of cases by leaders who, though elected democratically, proceeded once in office, to revise the rules of the game or use other levers of powers to shrink democratic space and maintain themselves in power.”).

²⁶⁶ See generally E. IKE UDOGU, LEADERSHIP AND THE PROBLEM OF ELECTORAL DEMOCRACY IN AFRICA (2016) (noting that many leaders see the constitution as a nuisance—an obstacle to the way they wish to govern. In short, they fear that adherence to the provisions of the constitution could hinder their ambitions).

²⁶⁷ *Id.*; Mbaku, *Threats to the Rule of Law in Africa*, *supra* note 257, at 329-30.

One of the most important threats to the rule of law in the African countries is government impunity In each African country, “[i]mpunity usually arises from the failure by relevant public authorities, either through lack of capacity or political will, to bring perpetrators of crimes to account for those crimes.”²⁶⁸

Leaders who disregard the rule of law add mightily to the nation’s problems. An unwavering commitment to the rule of law inspires public confidence and deepens the legitimacy of democratic governance.²⁶⁹ A mere public profession of commitment to the rule of law counts for little unless a leader acts as if it matters, especially in a society actively trying to subdue authoritarian impulses inspired by military rule.²⁷⁰ Therefore, leaders must govern with scrupulous regard for the limits and restraints on their powers and do all they can to ensure the entire government does the same. The discipline, conditions, and attitudes that sustain the rule of law do not come naturally; countervailing institutions must induce them. The goal should be to strengthen accountability mechanisms that check and balance the executive and address the dysfunctional values that drive leaders to transgress the dictates of the rule of law.²⁷¹

2. Improving Citizens’ Lives and Living Conditions

The essence of democratic government is partly the maintenance of law and order but also limited government wherein the power source is the people themselves.²⁷² Leaders must solidify their commitment to the people by combining the exercise of their vast powers with anxious attention to the welfare and well-being of citizens. Citizens will support democracy if they “believe that it can work in the long run to solve their problems; to raise living standards, manage conflicts and create a better society.”²⁷³ Economic hardships—poverty, unemployment, and

²⁶⁸ Mbaku, *Threats to the Rule of Law in Africa*, *supra* note 257, at 329-30.

²⁶⁹ Vásquez et al., *supra* note 261.

²⁷⁰ Mbaku, *Threats to the Rule of Law in Africa*, *supra* note 257 and accompanying text; Mutua, *Africa and the Rule of Law*, *supra* note 187 (describing the dominance of the executive over all arms of the state).

²⁷¹ See Joanne Freeman, *Jan. 6 Crossed a Line. We Need to say so Before it’s too Late for Democracy*, WASH. POST (Dec. 10, 2021), <https://www.washingtonpost.com/outlook/2021/12/10/january-6-congress-line/> (“Accountability—the belief that political power holders are responsible for their actions and that blatant violations will be addressed—is the lifeblood of democracy. Without it, there can be no trust in government, and without trust, democratic governments have little power.”).

²⁷² See Kevin Ryan, *Madison Constitutionalism and the Challenge of Civic Education*, 34 VT. BAR J. 8, 10 (2008) (“All branches of government draw their limited powers from the people and all branches are equally responsible to the people. Rather than simply being a hired hand, the government as a whole acts as an agent or trustee of the people.”).

²⁷³ DIAMOND, *ILL WINDS*, *supra* note 3, at 16.

lack of adequate health care—provide dramatic evidence that restoring democracy is not enough; leaders must initiate changes that improve citizens' lives and living conditions. When the government fails to provide that, prospects of deepening democracy vanish.²⁷⁴ President Franklin Delano Roosevelt explained the impact of the government's failure to address societal problems on the search for democracy:

Democracy has disappeared in several other great nations—not because the people of those nations disliked democracy, but because they had grown tired of unemployment and insecurity, of seeing their children hungry while they sat helpless in the face of government confusion and government weakness through lack of leadership in government.²⁷⁵

Nowhere is the dictatorial bent of African leaders more apparent than their relationship with citizens. Leaders in mature democracies understand that citizens can influence their political careers and worry interminably about their needs and concerns.²⁷⁶ African leaders, on the other hand, believe that retaining power depends on manipulating elections, muzzling the opposition, and distorting democratic institutions to achieve preordained outcomes.²⁷⁷ Citizens' concerns and needs rarely feature in their calculations for power. Leaders profess commitment to citizens' well-being but make no meaningful effort to improve their lives.²⁷⁸ Leaders' lack of concern for citizens' well-being causes citizens to feel abandoned, less optimistic about their future, and disinclined to trust the government. The result

²⁷⁴ See *id.* (“[F]or people to believe in democracy, they must believe that it can work in the long run to solve their problems; to raise living standards, manage conflicts and create a better society. . . . If a democracy can earn people's trust through good governance, it will survive. If it cannot, it's in trouble.”).

²⁷⁵ Franklin D. Roosevelt, Fireside Chat (Apr. 14, 1938), <https://www.presidency.ucsb.edu/documents/fireside-chat-15>.

²⁷⁶ See CARBONE & PELLEGATA, *supra* note 63, at 43:

Because neither the incumbent nor the political party he or she belongs to can rule out defeat, they might both want to work hard to maximize their chances of being reelected. . . . an elected ruler who wants to retain power and offset the opposition will try to respond to bottom-up demands, need, and concerns by adopting vote winning policies and by furthering the government's overall performance.

²⁷⁷ See OKECHUKWU OKO, KEY PROBLEMS FOR DEMOCRACY IN NIGERIA 155–258 (2010).

²⁷⁸ See Richard Joseph, *Challenges of a “Frontier” Region*, 19 J. DEMOCRACY 94, 103 (2008) (“Africans are still overwhelmingly denied basic public goods of health care, education, clean water, electrical power, physical security, a salutary environment, and decent transport infrastructure because institutions required to provide them are . . . constantly being eroded from within.”).

is that citizens view the government with palpable disinterest, indifference, and even scorn.²⁷⁹

The craving for self-sufficiency, autonomy, and dignity is vitally important to citizens. Failure or inability to attain them inspires resentment from citizens and leaves them disconnected from the government and the political process. Citizens dealing with despair and the threat of poverty hardly care about the political process.²⁸⁰ Worse, they lack the resources to fight for their rights and often suffer their fate in silence.²⁸¹ Patrick Glen stated: “until basic human needs have been met, it is an illusory expectation that people will desire to play a meaningful role in governance. Meeting those needs frees citizens from the circle of wants that have kept so many Africans outside the sphere of political participation.”²⁸² Citizens creaking under government excesses and incompetence hardly trust the government. As Theodore Sorensen noted:

The middle class and poor constitute the great bulk of our citizenry. . . . If their sense of desperation breeds contempt for a society in which they no longer have a vested interest, contempt for its laws and institutions, and in time contempt for human life itself, then the sense of community and common purpose essential to capitalism, democracy, and political and social stability are gone.²⁸³

A second complementary task for leaders is to create an enabling environment for economic growth and prosperity.²⁸⁴ African leaders have done little to catalyze economic growth and provide an environment for citizens to thrive.²⁸⁵ Facilities, policies, and programs that promote economic growth are generally ineffective and crippled by incompetence, nepotism, and corruption.²⁸⁶ Leaders’

²⁷⁹ *Id.* at 104.

²⁸⁰ See Nsongurua J. Udombana, *Keeping the Promise: Improving Access to Socioeconomic Rights in Africa*, 18 BUFF. HUM. RTS. L. REV. 135, 157 (2012) [hereinafter Udombana, *Keeping the Promise*] (arguing that impoverishment is the greatest threat to peace, sustainable development, and democracy).

²⁸¹ See R.R. Reno, *Policies are not Principles*, NEW CRITERION (Jan. 2022), <https://newcriterion.com/issues/2022/1/policies-are-not-principles> (noting that unlike the poor who lack the resources or self-esteem to resist tyranny, the middle class will not be pushed around).

²⁸² Glen, *supra* note 172, at 144.

²⁸³ THEODORE C. SORENSEN, *WHY I AM A DEMOCRAT* 45 (1996).

²⁸⁴ See Frank Gyimah Sackey, *Impact of African Leaders’ Characteristics and Regime Transitions on Economic Growth in Africa: A Dynamic Model Approach*, SOC. SCIS. AND HUMANS. OPEN 4 (2021) (“Leaders matter in ensuring growth since more competent leaders are more likely to enact better policies for increased growth.”).

²⁸⁵ See *id.* (noting that lack of quality leadership has hindered the achievement of the desired growth and development).

²⁸⁶ See ECONOMIST, *Insurgency, Secession and Banditry Threatens Nigeria* (Oct. 23, 2021), <https://www.economist.com/leaders/2021/10/23/insurgency-secessionism-and->

ineptitude inhibits economic growth and productivity and blights any prospects of uplifting citizens' lives.²⁸⁷ A confluence of factors driven by the government's ineptitude led to the collapse of the middle class in several African countries.²⁸⁸ The absence of sound policies and strategies to improve the lives of citizens reflects more than insouciance: it results from ineptitude and lack of vision.²⁸⁹ This probably led Daron Acemoglu and James Robinson to conclude in their celebrated book *Why Nations Fail* that "poor countries are poor because those who have power make choices that create poverty."²⁹⁰ Similarly, Alan Schwartz observed that "what matters for economic growth is what a country does, not what it has."²⁹¹

Leaders souse in incompetence and ineptitude while unemployment mounts and poverty and economic hardships diminish the quality of life for citizens.²⁹² Robert I. Rotberg stated: "Poverty can hardly be alleviated without a leadership that understands the close connections among macroeconomic prudence, increased employment opportunities, good governance, the rule of law, media openness, attracting foreign direct investment, and strengthened prosperity."²⁹³ Leaders have been unable to reopen economic and social opportunities previously constricted by military rulers.²⁹⁴ Consequently, citizens have no opportunity to break the cycle of poverty.²⁹⁵ African nations have become a tale of two cities: one

banditry-threaten-nigeria ("Economic troubles are compounded by a government that is inept and heavy handed."); see Okechukwu Oko, *Subverting the Scourge of Corruption in Nigeria: A Reform Prospectus*, 34 N.Y.U. J. INT'L L & POL. 397 (2002) (discussing the effects of corruption on development).

²⁸⁷ See Mutua, *Africa and the Rule of Law*, supra note 187, at 165 ("The problem of development – underdevelopment – has been a major challenge for Africa. . . . Large populations continue to live in dire poverty. Inequality, discrimination, and violations of the most basic human rights are endemic. Bad governance and corruption eat away at the fabric of society.").

²⁸⁸ See generally *id.* at 161–62.

²⁸⁹ See JOHN MUKUM MBAKU, INSTITUTIONS AND DEVELOPMENT IN AFRICA 236 (2004) ("[P]ervasive poverty in the continent is due either to mistakes made by well-intentioned policymakers or to the ineptitude and incompetence of poorly educated and unskilled civil servants and politicians.").

²⁹⁰ Daron Acemoglu & James A. Robinson, WHY NATIONS FAIL 68 (2012).

²⁹¹ Alan Schwartz, *Getting at the Roots of Arab Poverty*, N. Y. TIMES (Dec. 1, 2001), <https://www.nytimes.com/2001/12/01/opinion/getting-at-the-roots-of-arab-poverty.html>.

²⁹² Robert I. Rotberg, *The Need for Strengthened Political Leadership*, 652 ANNALS AM. ACAD. POL. & SOC. SCI. 238, 244 (2014) [hereinafter Rotberg, *The Need for Strengthened Political Leadership*]; Swarns & Onishi, supra note 1.

²⁹³ Rotberg, *The Need for Strengthened Political Leadership*, supra note 292.

²⁹⁴ See Mbaku, *Threats to the Rule of Law in Africa*, supra note 257, at 328, 337 (noting that Nigeria's coup leaders, as was the case with their counterparts in other African countries, plundered their economies for their personal benefit, abused the rights of their fellow citizens, and promoted policies that stunted economic growth and development).

²⁹⁵ See Swarns & Onishi, supra note 1 ("[F]or many ordinary Africans, the tangible benefits of the political change remain elusive. . . . Democracy has often been followed by a period of deteriorating living standards. Many Africans are now freer but poorer than they have been in decades.").

vulgarly rich, the other desperately poor.²⁹⁶ The latter group is expanding with alarming rapidity.²⁹⁷ Signs of underdevelopment—economic decrepitude, poverty, stratospheric levels of unemployment—are obvious.²⁹⁸ Poverty, economic hardship, and despair increase susceptibility to manipulation by criminals who promise anything (e.g., food, shelter, and a better life), which explains why criminal elements, including terrorists and gangs, recruit members from predominantly poor communities.²⁹⁹ As late President Kennedy reminded us, “if a free society cannot help the many who are poor, it cannot save the few who are rich.”³⁰⁰

“Good governance is perhaps the single most important factor in eradicating poverty and promoting development,” stated Kofi Annan, former United Nations Secretary-General.³⁰¹ Citizens, especially the poor, weak, and vulnerable, need government “as a friend and protector to safeguard their rights to justice and liberty and to help them up the ladder of economic opportunity.”³⁰² A government garners public support by its commitment to citizens and its ability to transform the nation by addressing its pressing problems.³⁰³ Economic prosperity

²⁹⁶ See Richard L. Sklar, *Democracy in Africa*, 26 AFR. STUD. REV. 11, 13 (1983) (“[D]espite its vigor liberal democracy in Nigeria is debilitated by the effects of economic anarchy and distemper. A small minority of the population is conspicuously wealthy and privileged while the vast majority seethes with discontent.”).

²⁹⁷ See *Nigeria Country Report 2022*, BTI TRANSFORMATION INDEX, <https://bti-project.org/en/reports/country-report/NGA> (examining the situation in Nigeria, the report noted: “No government has ever addressed let alone seriously attempt to overcome socio-cultural dichotomy between the underdeveloped poor north and the rather advanced and better-off south, or even more striking divide between the small, but enormously rich elite and the vast majority of poor Nigerians.”).

²⁹⁸ See *Economic Freedom*, FRASER INST. (2019), <https://www.fraserinstitute.org/economic-freedom/map?geozone=world&page=map&year=2019>; Patrick Tyrrell, *Now More Than Ever, What Nigeria Needs is Economic Freedom*, HERITAGE FOUND. (Nov. 2, 2020), <https://www.heritage.org/international-economies/commentary/now-more-ever-what-nigeria-needs-economic-freedom>.

²⁹⁹ See Ivan Briscoe & Dr. Bibi van Ginkel, *The Nexus Between Development and Security: Searching for Common Ground in Countering Terrorism*, ICCT INT’L CTR. FOR COUNTER-TERRORISM (March 2013), <https://www.icct.nl/publication/nexus-between-security-and-development> (noting that above all, there is now growing evidence of linkages between the emergence of violent extremism and conditions of economic deprivation, bad governance and conflict); J.O. IRUKWU, NATION BUILDING AND ETHNIC ORGANIZATIONS: THE CASE OF OHANAEZE IN NIGERIA 245 (2007) (“[P]overty is easily the worst form of human misery and no human society with a high level of poverty will be secure, peaceful and stable.”).

³⁰⁰ *Inaugural Address*, JOHN F. KENNEDY PRESIDENTIAL LIBR. AND MUSEUM (January 20, 1961), <https://www.jfklibrary.org/learn/about-jfk/historic-speeches/inaugural-address>.

³⁰¹ *United Nations ‘Indispensable Instrument’ for Achieving Common Goals, Says Secretary-General in Report to General Assembly*, U.N. (Sept. 21, 1998), <https://www.un.org/press/en/1998/19980921.sg2048.html>.

³⁰² SORENSEN, *supra*, note 283, at 58.

³⁰³ See Cho & Logan, *supra* note 22, at 45 (“Africans associate democracy most strongly with expanding civil liberties and freedoms, so evidence of increasing elite

would free citizens from privations and poverty and produce a robust and engaged citizenry with the resources and capacity to demand accountability from leaders.³⁰⁴

Problems are compounded because government rarely has a roadmap or blueprint for change and progress, but only a poorly executed catalog of improvisations and ineffective nostrums with little or no positive impact.³⁰⁵ Leaders often ignore Yuval Levin’s observation that “one of the virtues of democracy is that it forces us to take the worries of our fellow citizens seriously and therefore compels us to confront real problems we might otherwise ignore.”³⁰⁶ Government must understand that its core mission is to serve the people. Otherwise, it alienates citizens. Improving citizens’ well-being is not just a moral imperative; it should be the government’s priority. According to President Lincoln: “The legitimate object of government is to do for a community of people whatever they need to have done, but cannot do, at all, or cannot, so well do, for themselves—in their separate, and individual capacities.”³⁰⁷ Many things in Africa require governmental intervention—public services, health care, roads, education, poverty alleviation, justice, and protection of the weak and vulnerable. The likelihood of deepening democracy rises exponentially if leaders engineer economic and societal changes that improve the citizens’ lives.³⁰⁸ Disraeli wrote in his novel *Sybil*, “power has only one duty—to secure the social welfare of the people.”³⁰⁹ An imbalance between rich and poor, wrote Plutarch centuries ago, “is the oldest and most fatal ailment of all republics.”³¹⁰

Government must provide and expand opportunities for citizens to realize the promises of democracy.³¹¹ When the economy falters, opportunities for prosperity constrict, frustrations mount, public confidence in government declines

commitment on these issues apparently carries over into greater confidence in democratic durability more generally.”).

³⁰⁴ See Vasquez et al., *The Human Freedom Index 2021: A Global Measurement of Personal, Civil, and Economic Freedom*, FRASER INST., at 16 (“[E]conomic freedom decreases the dependence of individuals on government or other potential forces in society that would restrict liberty or attempt to centralize power. As such economic freedom is not just inherently valuable; it empowers individuals to exercise other freedoms.”).

³⁰⁵ See generally Cho & Logan, *supra* note 22.

³⁰⁶ Yuval Levin, *Conservatism in an Age of Alienation*, 59 MOD. AGE 11, 18 (2017).

³⁰⁷ Abraham Lincoln, *Fragment on Government*, LINCOLN’S WRITINGS (July 1, 1854), <https://housedivided.dickinson.edu/sites/lincoln/fragment-on-government-july-1-1854/>.

³⁰⁸ See SHERI BERMAN, *DEMOCRACY AND DICTATORSHIP IN EUROPE: FROM THE ANCIENT REGIME TO THE PRESENT DAY* (2019) (arguing that democracy is the result of deep economic and societal transformations).

³⁰⁹ *Benjamin Disraeli Quotes*, ALLGREATQUOTES, <https://www.allgreatquotes.com/quote-40004/>.

³¹⁰ *Plutarch Quotes*, BRAINY QUOTE, https://www.brainyquote.com/quotes/plutarch_109440.

³¹¹ See Jack M. Balkin, *Constitutional Rot, in CAN IT HAPPEN HERE? AUTHORITARIANISM IN AMERICA* 19, 22 (Cass R. Sunstein ed., 2018) (“A democracy requires a broad-based, stable, and economic secure middle class to create the right incentives for government officials to pursue the public good. If economic inequality gets too pronounced, the wealthiest tend to grab disproportionate political power and they will use it to further entrench and enrich themselves.”).

precipitously, and citizens are less inclined to participate in the political process.³¹² Prioritizing commitment to citizens will generate support for leaders and make it easier for citizens to support democracy.³¹³ Without a sustained commitment to improving the lives of citizens, democratic governance means nothing. Fantu Cheru succinctly captures this point, stating that “for democracy to survive, let alone flourish, it should embody social and economic characteristics that are relevant to the aspirations of the majority of the people.”³¹⁴ Leaders, according to Robert Rotberg, “propelled or encouraged by constituents from the growing middle class, must focus with laser-like intensity on serving their people rather than serving themselves. That is the essence of good governance.”³¹⁵

3. Probity in Governance

African leaders have never been exemplars of integrity and probity.³¹⁶ Leaders preach the virtues of probity, accountability, and transparency, but their antecedents give them little credibility with the public.³¹⁷ Governance in Africa is pervaded and deformed by corruption, nepotism, and selfishness.³¹⁸ When citizens look at their government, they see failures, excesses, insensitivities, and derelictions of leaders using government machinery to advance their selfish and sectional interests.³¹⁹ Corruption has a baneful effect on the legitimacy of government and undermines the capacity of leaders to galvanize public support.³²⁰ As Robert Rotberg noted:

Corrupt practices lower the moral tone of a government and rapidly erode its legitimacy and the legitimacy of leaders. The loss of credibility and stature makes it hard for a government to be believed,

³¹² See Udombana, *Keeping the Promise*, *supra* note 280, at 177 (“[P]overty is a great hindrance to democracy and the enjoyment of human rights. Poverty leaves many people susceptible to manipulations by several forces and interests. Democracy will not thrive in instability or under conditions of excruciating and humiliating poverty.”).

³¹³ ROBERT I. ROTBERG, *AFRICA EMERGES: CONSUMMATE CHALLENGES, ABUNDANT OPPORTUNITIES* 187 (2013) [hereinafter ROTBERG, *AFRICA EMERGES*]; Ohiorhenuan, *supra* note 250 (noting that government legitimacy derives from the fulfillment of a social contract); see also Mutua, *African and the Rule of Law*, *supra* note 187, at 168.

³¹⁴ Fantu Cheru, *Democracy and People Power in Africa: Still Searching for the Political Kingdom*, 33 *THIRD WORLD Q.* 265, 276 (2012).

³¹⁵ ROTBERG, *AFRICA EMERGES*, *supra* note 313.

³¹⁶ See *supra* note 228 and accompanying text.

³¹⁷ *Id.*

³¹⁸ See Robert Rotberg, *Overcoming Difficult Challenges: Bolstering Good Governance*, 652 *ANNALS AM. ACAD. POL. & SOC. SCI.* 8, 12 (2014) [hereinafter Rotberg, *Overcoming Difficult Challenges*] (discussing corruption in South Africa).

³¹⁹ See *id.* at 13.

³²⁰ *Id.*

to pursue bold and purposeful initiatives or to be effective in delivering political goods to its constituents.³²¹

The government's most pressing task is to regain public trust by demonstrating its commitment and desire to be bound by the imperatives of democratic governance. Limits, restraint, and accountability represent democratic government's finest virtues and serve as mainstays that irrigate the wellspring of good democratic governance. Leaders must be forced to recognize that with power comes accountability; one cannot exist without the other in a democracy. Accountability distinguishes democracy from dictatorship, infuses the conduct of leaders with caution, and serves as robust checks on excesses and tendencies that lead leaders down the path of bad governance. Holding corrupt officials accountable—detecting, arresting, prosecuting, and convicting corrupt officials—will convince the public that the system works. John Mukum Mbaku argues:

The key is to ensure that the law fully constrains civil servants and political elites so they cannot engage in corrupt practices and other forms of political opportunism. If they manage to engage in corrupt activities, existing institutions such as the police and the judiciary should prosecute and bring them to justice in a timely fashion.³²²

More importantly, institutionalizing probity in governance safeguards public interest by ensuring that leaders act with heightened sensitivity to citizens' rights and welfare.³²³ Transparency is also crucial because it keeps government officials honest and deters them from making bad decisions and covering them up.³²⁴

Leaders must embody and exemplify democratic virtues of accountability, transparency, and honesty. They must introduce and rigorously implement policies and programs that curb corruption and establish integrity as their guiding principle. When leaders fail to set standards or demonstrate bad examples, other centers of power—civil service and public institutions—mimic their examples or feel free to substitute their own preferences for the imperatives of good democratic governance, further weakening an already weak government.³²⁵ Leaders must reform and

³²¹ Rotberg, *Overcoming Difficult Challenges*, *supra* note 318, at 13.

³²² Mbaku, *Corruption and Democratic Institutions in Africa*, *supra* note 220, at 322.

³²³ *Id.*; SCHOEBERLEIN, *supra* note 256 (positing that good governance is the “rules, processes and institutions that are put in place to arrive at more inclusive and participatory societies, more accountable governments, and more stable and prosperous countries.”).

³²⁴ Freeman, *supra* note 271 (noting that accountability is the “lifeblood of democracy.”).

³²⁵ See *Tanzania's Rogue President*, *supra* note 15 (noting how easily democratic progress and weak institutions can be undermined by leaders); DIAMOND, *THE SPIRIT OF DEMOCRACY*, *supra* note 180 (noting how the modern bureaucratic state exists in theory, but

strengthen institutions and processes that ensure accountability and probity in governance.³²⁶ Leaders must run an open government and lay bare to citizens the workings of their government. It is essential to do so because the government belongs to the people, and they have a right to know how their resources are managed and how the government operates. Also, transparency encourages the government to function with restraint and efficiency.³²⁷ Leaders know that citizens have access to the workings of government and can easily detect waste and excesses, thus motivating them to be more responsible.

4. Improving the Efficiency of Government

Governmental inefficiency in Africa constitutes a grave impediment to the search for progress and durable social order. Governance generally involves ill-conceived, makeshift fire brigade approaches, focusing on immediate problems without any vision or strategies for the future.³²⁸ Leaders muddle through from one crisis to another with a rudimentary understanding of the issues and far less appreciation for the efficacy of their solutions.³²⁹ Africa's problems from ethnic conflicts, declining economy, weak and ineffective public institutions, and social disequilibrium result from leaders' inability to initiate policies that respond effectively to society's needs and challenges.³³⁰

Citizens' wishes for good governance have been inchoate, unrequited, and fading. Just like Africans sought freedom and independence from colonial masters and military despots, citizens seek freedom from narcissistic civilian leaders who despoil the continent, denude them of their rights, and expose them to the debilitating triad of poverty, disease, and unemployment.³³¹ Africans identify with the purposes of government so eloquently described by former speechwriter to President Bush Michael Gerson and his colleague Peter Wehner:

The purpose of the state is to keep society safe and strong; to protect us from outsiders and from each other; to maximize freedom in a way that is consistent with security and order and that advances the common good; to provide society's "mediating institutions" the space they need to thrive; to encourage equal

in reality is subsumed to "personalized, unaccountable power"); *see also* discussion *supra* Section II.B.

³²⁶ *See* Rotberg, *Overcoming Difficult Challenges*, *supra* note 318, at 12 ("Corruption begets more corruption. If leaders tolerate even episodic personal enrichment, or wink and nod only once in a while, the flood gates will soon open. . . . What leaders do in this arena matters more than do formal mechanisms of accountability.").

³²⁷ *Id.*

³²⁸ Haruna, *supra* note 116 (discussing the transactional, narrowminded nature of many African leaders).

³²⁹ *Id.*

³³⁰ *See* discussion *supra* Section II.C.

³³¹ *See* discussion *supra* Section II.C; *see supra* notes 160-61.

opportunity for all citizens; and to make a decent provision for the poorest and most vulnerable. All of this is meant to allow people to flourish and to advance human happiness.³³²

Virtually all Africa's problems are attributable to or solvable by the government. There are a few problems for which citizens do not look to the government for solutions. Effective, competent government can change Africa's democratic landscape and create a conducive environment for progress and development. The government is a democratic society's chief vehicle for change and progress. According to Derek Bok, former Harvard University President: "The skill with which a government defines its role, constructs its policies, and carries out its programs has now become the chief factor that determines which modern democracies succeed best in building the kind of society that citizens desire."³³³ Multiethnic democratic African countries undergoing rapid modernization and its attendant complexities count on their government to "deliver results for the people by providing economic opportunity, jobs, and a rising standard of living."³³⁴ The government, especially the president, can frame the nation's agenda, initiate programs and policies, set the template for good governance, challenge, and inspire others—the legislature, public service, and ordinary citizens—to commit to their vision for a better country.³³⁵ More importantly, an affirmation and vindication of public interest over considerations of self-interest will prove incredibly reassuring to citizens. African governments should aspire to attain and maintain the attributes of good governance eloquently captured by Robert Rotberg:

[G]ood governance enables positive outcomes for citizens: enhanced security and safety, economic growth, solid infrastructures, access to speedy broadband, educational opportunities, the availability of clean water, advanced public health treatments and capable care, elevated standards of living, freedoms of speech and assembly, respect for human rights, and a variety of other political and social attainments that are only possible when the governed benefit from accomplished and responsive government.³³⁶

³³² Gerson & Wehner, *supra* note 260.

³³³ *Id.*

³³⁴ Hillary Clinton, Speech at the Headquarters of African Union in Addis Ababa, June 13, 2011.

³³⁵ See SCHOEBERLEIN, *supra* note 256, at 2 ("Good governance is paramount not only to tackle a country's corruption challenges but to achieve social and economic development goals, stability, security and inclusive growth.").

³³⁶ ROTBERG, THINGS COME TOGETHER, *supra* note 82, at 61.

B. Promoting Ethnic Justice

Ethnic irridentism that impedes efforts to consolidate democracy has a long provenance, dating back to the colonial era. Democracy and national unity are undermined by the colonial administrators forcing disparate ethnic groups into one nation.³³⁷ As the colonial administrations forcibly assembled disparate ethnic groups under one country, they forgot or conveniently ignored John Stuart Mill's observation that: "The two elements that define a nation were the desire on the part of the inhabitants to be governed together and the 'common sympathy instilled by shared history, values, and language.'"³³⁸ Most African nations consist of multi-ethnic groups with no shared history, no common bonds, and no desire to be governed together.³³⁹ Despite efforts to promote national unity, citizens still feel a deep and encompassing attachment to their ethnic groups.³⁴⁰ The seeds sown by the colonial administration have sprouted with devastating consequences.³⁴¹ Ethnic groups indefatigably distrustful of other ethnic groups seem incapable of subordinating their concerns to the national interest.³⁴² Some ethnic groups are disinterested in national unity and remain actively hostile to other ethnic groups.³⁴³ The views expressed in 1948 by Sir Abubakar Tafawa Balewa, Nigeria's first prime

³³⁷ See Mutua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, *supra* note 75, at 1147 (attributing Africa's problems on the colonial policy of grouping diverse ethnic groups under one nation).

³³⁸ Arthur M. Schlesinger, *The Disuniting of America: Reflections on a Multicultural Society*, https://instruct.westvalley.edu/kelly/Distance_Learning/History_17B/Readings/schlesinger.htm (last visited Nov. 16, 2023).

³³⁹ See, e.g., Mutua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, *supra* note 75.

³⁴⁰ See Anghie, *supra* note 86 (noting that citizens are unwilling to surrender the known and felt securities provided by their ethnic affiliations for the uncertain benefits of an emerging state).

³⁴¹ Francis Deng, a Sudanese diplomat, offers an explanation no one familiar with Africa can quarrel with:

Regional ethnic groups were broken up and affiliated with others within the artificial borders of the new states, with colonial masters imposing a superstructure of law and order to maintain relative peace and tranquility. . . . It can credibly be argued that the gist of these current internal conflicts is that the ethnic pieces put together by colonial glue and reinforced by the old world order are now pulling apart and reasserting their autonomy.

Francis M. Deng, *Africa and the New World Disorder: Rethinking Colonial Borders*, 11 BROOKINGS REV. 32, 34 (1993).

³⁴² See Oko, *Partition or Perish*, *supra* note 18, at 361 (arguing that many citizens perceive the nation-state as ethnically motivated and incapable of treating them fairly; therefore, they are reluctant to trade in the privileges of ethnicity for the doubtful, even dubious benefits of a nation state).

³⁴³ See *id.* at 361; Mutua, *Why Redraw the Map of Africa*, *supra* note 75.

minister, fairly represent the prevailing sentiments among citizens about their nation:

Since 1914 the British government has been trying to make Nigeria into one country, but the Nigerian people themselves are historically different in their backgrounds, in their religious beliefs and customs and do not show themselves any signs of willingness to unite . . . Nigerian unity is only a British invention.³⁴⁴

The forcible grouping of ethnic groups is a perennial source of African conflict, leading to fractured and fragile democracies and social disequilibrium.³⁴⁵ The mucilage that holds multiethnic nations together is the commitment to national unity.³⁴⁶ This virtue barely exists in Africa, where ethnic groups within a country typically have no common purpose, no loyalty, and no commitment to the country.³⁴⁷ Citizens conditioned by history and experience to distrust the central government and other ethnic groups have problems identifying with their nation's aspirations.³⁴⁸ The colonial administration granted independence to ethnicized,

³⁴⁴ MARTIN MEREDITH, *THE FATE OF AFRICA: A HISTORY OF THE CONTINENT SINCE INDEPENDENCE* 23-24 (2011).

³⁴⁵ See Thomas David Jones, *Africa: Many Challenges, Much Hope*, 89 AM. SOC'Y INT'L L. PROC. 484, 487 (1995) (“[T]he imposition of the nation state through colonization balkanized Africa into ahistorical units and forcibly yanked it into the age of Europe, permanently disfiguring it. Unlike their European counterparts, Africa state and borders are distinctly artificial and are not the visible expression of historical struggles by local peoples to achieve political adjustments and balance. Colonization interrupted this historical and evolutionary process. Since then, Africa has attempted, unsuccessfully, to live within the structural and conceptual confines of the post-colonial state, all too frequently the consequences have been disastrous.”).

³⁴⁶ See CHEESEMAN, *supra* note 118, at 23 (“The willingness of colonial governments to employ divide and rule politics in which different communities were played off against each other in order to stymie the emergence of a united nationalist movement, further served to solidify group identities.”).

³⁴⁷ See DIAMOND, *ILL WINDS*, *supra* note 3, at 32 (noting that “[e]thnic divisions can also make it harder for democracy to take root. When a society is deeply divided along largely binary identity lines—secular vs. religious, Christian vs. Muslim, Sunni vs. Shia, white vs. black . . . democracy is sorely strained.”); YASCHA MOUNK, *THE GREAT EXPERIMENT: WHY DIVERSE DEMOCRACIES FALL APART AND HOW THEY CAN ENDURE* 113 (2022) (“For diverse democracies to thrive, their citizens need to share a common identity. Without some sense of inclusive patriotism, they are condemned forever to regard one another as strangers or adversaries.”); Dipo Irele, *Alienation and the Problem of Loyalty in Africa*, 12 PRAJÑĀ VIHĀRA: J. PHIL. & RELIGION 97 (2011) (“Since independence many African countries have been bedeviled with the problem of the loyalty of their citizens. The problem of loyalty has been ascribed to the primordial attachment which people have for their ethnic units which has precluded them to have loyalty to the nation state.”).

³⁴⁸ See Rotberg, *Overcoming Difficult Challenges*, *supra* note 318, at 13 (explaining how corrupt practices lead to loss of credibility and belief in a government); Herbst, *supra* note 83, at 156–59, 162–63.

warring, distrustful ethnic groups jostling with one another to control the levers of government and the nation's resources.³⁴⁹ Independence set the stage for the eruption of ethnic controversies that colonial administrations had forcefully suppressed.³⁵⁰ It laid bare the debilitating consequences of arbitrarily grouping disparate ethnic groups under one nation.³⁵¹

The relationship between ethnic groups remains characterized by mutual dislike, unconcealed suspicion, and downright hostility.³⁵² Just as W.E.B. Du Bois observed, "the problem of the twentieth century is the problem of the color line."³⁵³ Africa's problem is the ethnic line. Dubois's celebrated statement about race in America applies with equal, if not greater, force to ethnicity in Africa. Ethnicity is the dominant force in the lives of citizens.³⁵⁴ It intrudes everywhere—public and private, official and personal; it has infested and deformed all fields of political and social endeavor.³⁵⁵ The obtrusive effect of ethnicity on national unity probably led The Economist to observe that "the virus of tribalism" is a disease that "risks becoming the AIDS of international politics—lying dormant for years then flaring up to destroy countries."³⁵⁶ Arthur Schlesinger frames a question that captures Africa's reality: "What happens when people of different ethnic origins, speaking different languages and professing different religions, settle in the same geographical locality and live under the same political sovereignty? Unless a common purpose binds them together, tribal antagonisms will drive them apart."³⁵⁷

³⁴⁹ See discussion *supra* Section I.A.2–3.

³⁵⁰ See *Blood and Earth*, *ECONOMIST*, Sept. 23, 1995, at 17, 18–20 (describing the struggle for power that followed the end of colonialism, the article states: "Under despotism or colonialism . . . it did not matter whether frontiers reflected ethnic reality. . . . Now in sudden liberty, it is easy to persuade people to care about these things a lot. Freed from a common yoke, peoples fight for a prime position. No one wants to wind up a surrounded minority.").

³⁵¹ See Makau Mutua, *Conflicting Conceptions of Human Rights: Rethinking the Post Colonial State*, in Thomas David Jones, *Africa: Many Challenges, Much Hope*, 89 *AM. SOC'Y INT'L L. PROC.* 484, 487 (1995) ("Unlike their European counterparts, African states and borders are distinctly artificial and are not the visible expression of historical struggles by local peoples to achieve political adjustments and balance. Colonization interrupted this historical and evolutionary process. Since then, Africa has attempted unsuccessfully, to live within the structural and conceptual confines of the post-colonial state; all too frequently the consequences have been disastrous.").

³⁵² See, e.g., Elkins, *supra* note 90 (describing ethnic violence in 2008 as the inevitable result of colonialism in Kenya).

³⁵³ W.E.B. DU BOIS, *THE SOULS OF BLACK FOLK* 2 (1903).

³⁵⁴ Brown & Kaiser, *supra* note 4 (noting the ethnicization of politics in Africa); ROTBERG, *THINGS COME TOGETHER*, *supra* note 82, at 62 ("Political leaders and ruling elites may in some circumstances, however, and certainly in Africa, utilize states for narrower purposes—to elevate an ethnic group over other ethnic groups, to gain privilege and power for a minority, a region or sets of particular believers; or simply to shift national resources and rents from public to private hands.")

³⁵⁵ See *supra* notes 352, 354 and accompanying text.

³⁵⁶ *War in Europe*, *ECONOMIST*, July 6, 1991, at 11.

³⁵⁷ Schlesinger, *supra* note 338.

The story of ethnicity has been the same in virtually all African countries.³⁵⁸ Politicians seek and secure their positions by trafficking in fearmongering and stoking ethnic fears with impunity and relative success.³⁵⁹ Once they attain power, they use the apparatus of state power to dominate and marginalize other ethnic groups.³⁶⁰ The fate of minorities depends on the generosity or forbearance of leaders.³⁶¹ In some cases, leaders from dominant ethnic groups seem less willing to address injustices or even acknowledge the inequities suffered by minorities.³⁶² Ethnic groups locked into existential battle with one another scarcely care about national unity or the democratic process.³⁶³ Theodore Roosevelt adroitly captured the effect of ethnic conflicts on national unity: “The one absolutely certain way of bringing this nation to ruin, of preventing all possibility of its continuing to be a nation at all would be to permit it to become a tangle of squabbling nationalities. . . . Each preserving its separate nationality.”³⁶⁴

Ethnicity predates current African leaders, but it has grown to alarming dimensions because leaders fan its embers: the winning ethnic group disproportionately benefits from the allocation of the nation’s resources and appointive positions by leaders who privilege their ethnic groups to cultivate their support.³⁶⁵ In such an environment, loyalty to the nation is counterintuitive.³⁶⁶ Skepticism, suspicion, and distrust are justifiable and deeply felt.³⁶⁷ Ethnicity complicates the calculations of power and provides perverse incentives for leaders to gain political advantage. Leaders pander to their ethnic groups without meaningful efforts to mediate conflicts and promote ethnic harmony. As Darren Kew observed, “rational politics remain fixed on the question of who governs, rather than moving to the question of how to govern.”³⁶⁸ Kingsley Moghalu noted:

Many African countries remain internally divided by ethnic and religious identities in their populations. The effect of these divisions on leadership selection and

³⁵⁸ Swarns & Onishi, *supra* note 1 (noting continued ethnic tensions in Africa).

³⁵⁹ ROTBERG, THINGS COME TOGETHER, *supra* note 82, at 62 (discussing African leader’s use of ethnicity in ruling)

³⁶⁰ *Id.*

³⁶¹ *Id.*

³⁶² Herbst, *supra* note 83 (noting that ethnic groups battling for control threatens the viability of the state); Elkins, *supra* note 90 (describing ethnic violence in 2008 as the inevitable result of colonialism in Kenya).

³⁶³ THEODORE ROOSEVELT, AMERICANISM 6-7 (1915), <https://www.gutenberg.org/files/68152/68152-h/68152-h.htm>

³⁶⁴ *Id.*

³⁶⁵ Anthony N. Aniagolu, *Keeping Nigeria one Through Visionary Constitutional Engineering: Philosophy Behind Some Provisions of the 1989 Constitution*, 21 CAP. U. L. REV. 1033, 1034 (1992) (“Instead of emphasizing and harnessing the richness of our cultural diversities, the British exacerbated and pitched our differences. While the ethnic groups were at each others’ throats, the British reaped their economic and political harvests.”).

³⁶⁶ *Id.*

³⁶⁷ *Id.*

³⁶⁸ Kew, *supra* note 29, at 151.

practice is that contests for political power in democracies on the continent are based not on ideology or clearly articulated leadership goals but are in reality contests for ethnic or religious dominance. Political power obtained on this basis can hardly be exercised as transformational leadership. This breeds a governance culture of patronage based on divisive identities.³⁶⁹

Upon attaining independence, African nations adopted several policies and techniques to promote national unity among the fractious and distrustful ethnic groups. These techniques included: constitutional democracy with emphasis on representative government;³⁷⁰ a federal system of government with considerable autonomy for the state and local governments;³⁷¹ a one-party state;³⁷² and constitutional rules that enjoin the government to ensure a fair representation of ethnic groups in government.³⁷³ Both legal and political strategies failed chiefly because their efficacies required a level of good faith from politicians and technocrats, which they were either unable or unwilling to display.³⁷⁴ Leaders' concern for self-preservation distorted and disfigured their efforts, ultimately

³⁶⁹ Moghalu, *supra* note 66, at 173.

³⁷⁰ See Fedion T. Hessebon, *The Fourth Constitution-Making Wave of Africa: Constitution 4.0?*, 28 TEMP. INT'L & COMP. L.J. 185, 210 (discussing direct election of senators in Kenya).

³⁷¹ See *id.* at 191, 200 (2014) (discussing how some African countries used federalism to alleviate marginalization).

³⁷² See Peter Anyang' Nyong'o, *The One-Party State and its Apologists, in 30 YEARS OF INDEPENDENCE IN AFRICA: THE LOST DECADES?* 3 (Peter Anyang' Nyong'o ed., 1992). Arguing the case for one party system, the author stated:

The single party would promote national unity; the peoples' efforts would be directed towards nation building and not wasted on politics; since people generally agreed that the government was to engage itself in development, party politics was not necessary; whatever differences would emerge, these could be freely discussed under the single party regime as democracy and human rights would be practiced.

Id. (originally formatted as bullet point list).

³⁷³ See, e.g., CONSTITUTION OF NIGERIA (1999), § 14(3):

The composition of the Government of the federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity and also to command national unity, thereby ensuring that there shall be no predominance of persons from a few states or from a few ethnic groups or other sectional groups in that government or in any of its agencies.

³⁷⁴ See discussion on self-aggrandizement, *supra* Section II.A.

causing more harm than good.³⁷⁵ The one-party system turned out to be a colossal failure in Africa as it enabled tyrants and despots to use the machinery of the state to oppress and silence dissidents.³⁷⁶ Too much emphasis on ethnicity unnecessarily injected ethnic sentiments into all matters of national concern, thus fracturing national loyalty.³⁷⁷ The scheme of ethnic representation designed to promote unity has ended up promoting counterproductive, even harmful, forms of ethnic resentment.³⁷⁸

Despite schemes and rules designed to promote national unity, politics remains a mortal, fierce contest in which the capture of power guarantees the progress of the ethnic group and in which losing control could only signal catastrophe.³⁷⁹ This view has seized ethnic groups so profoundly that they engage in schemes to attain or retain power.³⁸⁰ In such a cloying and mistrust-infested atmosphere, institutionalizing democracy is nearly impossible. The task of deepening democracy is further compounded because citizens do not trust leaders who are habitually viewed—and too often act accordingly—as tribunes of their ethnic groups who must advance and project the interest and concerns of their ethnic groups.³⁸¹ Instead of bridging ethnic differences, leaders have widened the chasms among them, causing further turmoil, further debasement of democracy, and increasing the threats against national unity.³⁸² Robert I. Rotberg, a well-informed scholar of Africa, paints a gruesome but accurate picture:

People feel threatened, especially when they believe that they and peoples similar to them are being preyed upon rather than protected by a central government—or by a ruling cabal that constitutes a regime in power. Likewise, if wealth opportunities are shared unequally or are channeled to a preferred group, anger intensifies and fuels antagonism.³⁸³

³⁷⁵ *Id.*

³⁷⁶ See FOBANJONG, *supra* note 108, at 19 (“Several African states adopted one-party systems on the pretext that one party systems were necessary in keeping diverse ethnic and religious populations together. Behind the façade of wielding together diverse ethnic populations, was a design to consolidate the president’s power and avoid political competition.”).

³⁷⁷ See A.A.M. Kirk-Greene, *Ethnic Engineering and the “Federal Character” of Nigeria: Boon of Contentment or Bone of Contentment?* 6 *ETHNIC & RACIAL STUD.* 457 (1983).

³⁷⁸ See B.Obinna Okere, *Fundamental Objectives and Directive Principles of State Policy Under the Nigerian Constitution*, 32 *INT’L & COMPAR. L. Q.* 214, 216 (1983) (“If ethnic and state considerations have to be the salient factors in determining public appointments, would hankering after power and high federal offices not lead to inordinate and aggressive identification with the ethnic group or the State to the detriment of higher loyalty to the Nigerian nation?”).

³⁷⁹ See discussion *infra* Section III.B.

³⁸⁰ See *supra* note 122 (discussing various wars driven by ethnic agitations for justice).

³⁸¹ See FOBANJONG, *supra* note 108, at 22 (“Most Africans remain uncompromising and intolerant of the authority and rule of leaders that are not from their ethnic background.”).

³⁸² See MENTAN, *supra* note 146 and accompanying text.

³⁸³ ROBERT ROTBERG, *AFRICA EMERGES: supra* note 313, at 69-70.

The endemicity of ethnicity reflects in the ambivalent position of leaders trying to govern fairly while dealing with the need to shore up their support base.³⁸⁴ Leaders who incongruously push for national unity while simultaneously privileging their ethnic group and maltreating minority groups, erode democracy and national unity. Ethnic differences thus become impassable barriers. The flagrant privileging of ethnic groups and the deliberate efforts by leaders to marginalize other ethnic groups consolidate the mounting anti-central government sentiments nursed by minority ethnic groups.³⁸⁵ Citizens obsessed with the necessities of ethnic justice scarcely care about democracy.³⁸⁶ Henry Kissinger, former United States Secretary of State, usefully advised:

It is particularly important to understand the obstacles to democracy in a multiethnic and multi-religion society In the west, democracy evolved in homogenous societies. There was no institutional impediment to the minority's becoming a majority But in societies with distinct ethnic or political divisions, minority status often means permanent discrimination and the constant risk of political extinction.³⁸⁷

The damages wrought by ethnicity are deep and pervasive but not irreversible. As Francis Fukuyama rightly observed, "although no democracy is immune from identity politics in the modern world, all of them can steer it back to broader forms of mutual respect."³⁸⁸ Leaders can repair the damage by inspiring trust. Filial piety inspires a conciliatory spirit that encourages citizens to rise above petty squabbles and focus on national unity. Africa needs leaders who can guide the continent past ethnic irridentism by fair and equitable treatment of all ethnic groups. Leaders must not only lead the country, but they must also heal it at the same time by addressing the inequities of the past. To heal old wounds, leaders "have to believe, and persuade others to believe that all parties lose if the conflict continues unabated (even if they lose unequally) and that all stand to gain if the conflict can be resolved."³⁸⁹ Crafting policies to accommodate and address ethnic imbalances and injustice will demonstrate leaders' honesty and seriousness and elicit a similar response to government from minority ethnic groups. Crafting these policies will reawaken citizens' patriotic spirit and commitment to the nation etherized by

³⁸⁴ See *Glen, supra* note 172, at 144 ("Favoritism to tribe or ethnicity or policies that bar distinct portions of the population from taking party in government means that the levers and institutions of government will be insular, self-serving and undemocratic.").

³⁸⁵ *Id.*

³⁸⁶ *Id.*

³⁸⁷ Henry Kissinger, *America's Assignment: What will we Face in the Next Four Years?*, NEWSWEEK, Nov. 8, 2004, <https://www.henrykissinger.com/articles/americas-assignment-what-will-we-face-in-the-next-four-years/>.

³⁸⁸ Francis Fukuyama, *Against Identity Politics: The New Tribalism and the Crisis of Democracy*, FOREIGN AFFS., 2018, at 106.

³⁸⁹ Read & Shapiro, *supra* note 92, at 42.

maltreatment and injustice by the central government. Steve Odero captures the impact of good leadership in Africa's search for ethnic harmony:

A leader is instrumental in creating the mood, ideals and general character that prevails in his or her country at any given time. When a leader not only speaks of reconciliation and unity, but also practices the same, then such practices spill over to the local population and a mood of peace and sense of unity takes center stage. Where a leader engages in ethnic politics either by publicly denouncing an ethnic group or remaining silent upon such denunciation or condoning the practice of the same in institutions, he only creates an atmosphere of animosity between ethnic groups in his country and suspicion.³⁹⁰

Due to Africa's history, trying to deepen democracy without addressing ethnic conflict is counterproductive and even naïve. Democracy thrives under conditions of fairness and cannot succeed unless all ethnic groups consistently share its benefits and are consistently treated fairly.³⁹¹ South Africa's Nelson Mandela was a shining example of how a leader's vision and leadership skills helped a nation to transcend its divisions and conflicts.³⁹² President Mandela showed that good leadership could navigate a nation away from ethnic controversies considered inevitable and insoluble and create a peaceful democratic society.³⁹³ Furthermore, he exemplified the fact that a leader becomes great not by overwhelming opponents and perceived enemies but by healing old wounds and promoting reconciliation.³⁹⁴ Describing Nelson Mandela, Nannerl Keohane stated:

His passionate commitment to South Africa, and his well-developed vision for its future, led him to feel a deep responsibility for all South Africans, white as well as black and colored. His sense of perspective and distance honed by the long years on Robben Island made it possible for him to lead without being distracted by parochial goals or petty loyalties.³⁹⁵

African leaders can copy Mandela's example and muster the political will to strengthen the foundational bases of democracy by assuring ethnic groups that all of their interests will be considered in identifying with national interests and purposes.

³⁹⁰ Steve Odero, *Reflections on the Causes of Conflict in Africa: Ethnicity or Failure of Leadership*, 13 *ILSA QUART.* 25, 28 (2004).

³⁹¹ See *DIAMOND, ILL WINDS*, *supra* note 3, at 19 (one attribute of democracy is "the fair treatment of the racial and cultural minorities.").

³⁹² See *ROTBERG, AFRICA EMERGES*, *supra* note 313, at 196-201.

³⁹³ *Id.*

³⁹⁴ *Id.*

³⁹⁵ Keohane, *supra* note 239, at 17.

Leaders' most significant contribution to democracy is to inspire ethnic groups with deep and long-standing animosity toward each other to forge a common spirit of nationhood.³⁹⁶ Arthur Schlesinger cautioned that “[c]ountries break up when they fail to give ethnically diverse peoples compelling reasons to see themselves as part of the same nation.”³⁹⁷ However, good governance has healing and transformative potential. Fair and equitable treatment will help assuage feelings of abandonment and injustice nursed by minorities and help tie nations together. Equitable treatment of all ethnic groups is not just a moral imperative; democracy demands it, and the search for national unity is enlivened by it. By their conduct and power of examples, leaders can lead the nation to unity and togetherness; they cannot bludgeon or intimidate citizens into togetherness.

C. Instilling a Democratic Culture

Democracy is the best form of government, but it is shaped by a nation's particular culture, political forces, and circumstances.³⁹⁸ Democracy in the United States is grounded in the customs and footprints of its predecessors.³⁹⁹ Tocqueville noted: “The great advantage of the American . . . is that he arrived at the state of democracy without having to endure a democratic revolution and that he is born free without having to become so.”⁴⁰⁰ The Anglo-American style of democracy evolved over centuries, beginning with the habits of the Germanic tribes of England, as described by the Roman historian Tacitus.⁴⁰¹ By an accident of history, the United Kingdom and its child, the United States developed strong independent institutions that mediate between citizens and government, a culture that sustains democratic imperatives, an active and vigilant civil society unafraid to hold government accountable, and a framework for the rule of law that emphasizes citizens' rights and liberties and sanctions leaders' transgression.⁴⁰² Americans enthusiastically embrace ethos, mores, and values that strengthen and reinforce their commitment to democracy.⁴⁰³ These factors enabled Americans to forge a nation out of multi-racial and multi-ethnic groups united by shared political beliefs.⁴⁰⁴

³⁹⁶ See MOUNK, *supra* note 347, at 43 (“Whether a conflict subsides or escalates depends on the choices of the powerful, the institutions with which they have to contend, and the extent to which ordinary people are able to build trusting and cooperative relationships with one another.”).

³⁹⁷ Schlesinger, *The Disuniting of America*, *supra* note 338.

³⁹⁸ See Bradley, *supra* note 46, at 407 (noting that democracy is a configuration of governance molded by the general values, biases and nuances of a given culture).

³⁹⁹ See NEDZEL, *supra* note 258, at 291.

⁴⁰⁰ SCHLESINGER, *supra* note 161, at 63 (quoting Alexis de Tocqueville).

⁴⁰¹ NEDZEL, *supra* note 258, at 16.

⁴⁰² See NEDZEL, *supra* note 258, at 291 (explaining how the rule of law developed first in England and how that tradition was interpreted in the United States).

⁴⁰³ See *id.* at 16-46, 88-125

⁴⁰⁴ See *id.*

None of this exists in Africa, where ethnic groups lack a sense of national identity and democratic values cannot take root.⁴⁰⁵ Ethnic groups conditioned by history and experience are deeply suspicious and implacably distrustful of each other and battle for the control of government and access to the nation's resources.⁴⁰⁶ Africans' attitude toward democracy is beset by ambivalence between enthusiasm for democracy and discontent with the conduct of leaders for understandable reasons.⁴⁰⁷ The leaders they have known are primarily autocrats seeking hegemony who have not acted within acceptable rules and limits of democratic societies.⁴⁰⁸ Consequently, as viewed by many Africans, democratic norms and institutions have made false promises and are irrelevant to their experience. Citizens have never experienced what democracy looks like.⁴⁰⁹ Most of the challenges they face are unprecedented and the actions of leaders offer no compass and leave them in uncharted waters without navigational aids.⁴¹⁰ Unlike Americans who thread the democratic path paved by their ancestors, there are no paths in Africa; Africans must create and thread their own path without the benefit of history or experience to guide them.

Democratic culture, norms, and values are the indispensable foundation of democracy. For democracy to succeed, citizens must internalize this culture and actively defend them. Attitudes and social forces that threaten democracy in Africa are strong, virulent, and pervasive, grounded in history just as the democratic values in the United States are grounded in its history.⁴¹¹ African citizens' attitudes toward their nations and democracy are demoralized: distrust is mounting, commitment is decreasing, and resentment and indifference are increasing.⁴¹² The overall perspective is moving from resignation to incipient panic.⁴¹³ The most troubling and potentially serious issue impeding democratic consolidation is the authoritarian culture developed during military rule.⁴¹⁴ The hope that authoritarian culture and practices would fade with the colonial and military rule that produced them has not

⁴⁰⁵ See DIAMOND, *ILL WINDS*, *supra* note 3, at 32.

⁴⁰⁶ See Herbst, *supra* note 83, at 156.

⁴⁰⁷ See discussion *supra* Section II.

⁴⁰⁸ See *supra* Section II.B.

⁴⁰⁹ See FOBANJONG, *supra* note 108, at 18 (describing the illiberal nature of Africa's democracies).

⁴¹⁰ See Ibrahim, *supra* note 137 and accompanying text (describing citizens' assimilation of leaders' antidemocratic behaviors).

⁴¹¹ See John Campell & Nolan Quinn, *What's Happening to Democracy in Africa?*, COUNCIL ON FOREIGN REL. (May 26, 2021, 9:51 AM) ("[T]he foundations of a political culture necessary to sustain liberal democracy have been weak for most of the postcolonial era (roughly six decades for most African states).") <https://www.cfr.org/article/whats-happening-democracy-africa>; NEDZEL, *supra* note 258, at 291.

⁴¹² See Mutua, *Africa and the Rule of Law*, *supra* note 187, at 168 ("[A culture of dictatorship] stifles citizens, kills dissent, . . . [And] creates deep distrust in the population towards the public authority.").

⁴¹³ See Lewis, *supra* note 14 and accompanying text.

⁴¹⁴ See discussion *supra* Section I.B.1.

materialized.⁴¹⁵ Authoritarian culture perdures, fueled by leaders who either exemplify it or cannot dislodge it.⁴¹⁶

Paradoxically, even as the condition of government and the conduct of leaders induce widespread despair and apathy, there is considerable faith in democracy as the best form of government.⁴¹⁷ Citizens do not dislike democracy; it is the political elites they distrust.⁴¹⁸ Public disappointment and frustration with leaders have not yet tipped over to public denunciation of democracy.⁴¹⁹ Despite leaders' excesses, citizens continue to demonstrate enduring resilience and support for democracy.⁴²⁰ A democratic society cannot sustain itself if its citizens lack a democratic spirit.⁴²¹ Anti-democratic culture is dangerous because, as Robert Hutchins cautions: "the death of democracy is not likely to be an assassination from ambush. It will be a slow extinction from apathy, indifference, and undernourishment."⁴²² Leaders must set the template for acceptable democratic behavior—exemplifying good democratic values, what is good for the democratic process and what citizens should aspire to.

Furthermore, as Larry Diamond emphasizes, "sustaining democracy begins and ends with culture. If people believe in democracy and are willing to defend it as a way of life, the level of economic development and the precise design of institutions matter a lot less. But if democracy lacks the kind of broad support, it will always be a fragile reed."⁴²³ Embracing and assimilating a democratic culture will change how citizens and ethnic groups deal with each other and the government.⁴²⁴ George Keenan, the late American diplomat, noted: "[T]he advantages of any governmental system lie largely in the degree to which the people who live under it accept it, are accustomed to it, understand its workings, and know how to express themselves through it."⁴²⁵ Developing a functioning democratic culture will inspire a more tolerant and accommodating spirit and encourage

⁴¹⁵ See Lewis, *supra* note 14 and accompanying text.

⁴¹⁶ *Id.*

⁴¹⁷ See Brown & Kaiser, *supra* note 4, at 1144 ("Despite the paucity of democratic success stories in Africa and the failure of democratisation to improve socioeconomic conditions, liberal democracy remains a widely shared popular aspiration across the continent.").

⁴¹⁸ See *id.*; DIAMOND, *ILL WINDS*, *supra* note 3, at 158 ("If you ask ordinary Africans what the problem is with their countries, they are pretty clear: their rulers.").

⁴¹⁹ See Christopher Fomunyoh, *Facing Democratic Backsliding in Africa and Reversing the Trend*, NAT'L DEMOCRATIC INST., Sept. 30, 2020 ("Opinion surveys by reputable organizations, such as Afrobarometer, continue to show that an overwhelming majority of Africans believe in democracy as the best form of government—even as they disapprove of the performance of their leaders.").

⁴²⁰ *Id.*

⁴²¹ See generally DIAMOND, *THE SPIRIT OF DEMOCRACY*, *supra* note 180.

⁴²² THE OXFORD DICTIONARY OF POLITICAL QUOTATIONS 186 (Antony Jay ed., 1996) (quoting Robert Hutchins).

⁴²³ DIAMOND, *ILL WINDS*, *supra* note 3, at 25.

⁴²⁴ See Kew, *supra* note 29, at 157.

⁴²⁵ George F. Kennan, *AROUND THE CRAGGED HILL: A PERSONAL AND POLITICAL PHILOSOPHY* 66 (1993).

citizens to rise above environmental factors that prevent them from extending the courtesies of good faith and civility to others—factors that prevent building consensus on issues important to national development and democratic consolidation.⁴²⁶

Citizens are becoming less involved in the democratic process through despondency and indifference.⁴²⁷ Disinterest and indifference are normal human emotions to disappointment, but neither is helpful to the search for democratic consolidation. Democracy will continue to falter, and leadership excesses will escalate so long as citizens remain apathetic and uninvolved, hoping to benefit from the efforts of others. President Taft noted the importance of citizens in the search for democracy:

The real solution of all our political difficulties is to be found in the stimulation of good citizenship. No machinery of any sort, whether by direct primary, referendum, initiative, or recall, will accomplish any real reform, unless the individual citizen himself is stirred to a better performance of his duty as a voter and as a member of his party. If the individual citizen improves his citizenship, then reform will follow, whether new machinery be adopted or not; and if the average standard of good citizenship is not improved, then new political machinery will not aid.⁴²⁸

Increasing public participation in the political process will promote accountability in a society battling to deepen democracy where citizens are acutely concerned about leadership excesses.⁴²⁹ Public participation is what makes democracy work. Citizens who participate actively and knowledgeably in politics can shape democracy and influence the quality of leadership. As Peter Wehner observed:

The qualities that the most active and engaged Americans demand in politicians is what they will get. If enough citizens lend their hands and hearts, their voices, and votes to men and women

⁴²⁶ See Kew, *supra* note 29, at 157 (“Political cultures must also change if African democracies are to flourish. National political cultures must develop prevalent values of compromise and respect, and national political identities need to increase in relation to subnational or religious identities.”).

⁴²⁷ See Mutua, *Africa and the Rule of Law*, *supra* note 187, at 168.

⁴²⁸ George Kennan, *Direct Rule of the People*, 198 N. AM. REV. 145, 151 (1913) (quoting William Howard Taft).

⁴²⁹ See Molly Beutz, *Functional Democracy: Responding to Failures and 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—the citizens. The ability of those affected by decisions to sanction the decision-makers functions as a powerful incentive for responsible and, more importantly, responsive decision-making.”).

who embody, even if imperfectly, intellectual rigor and wise judgments, mastery of government, and moral integrity, our politics will be transformed. But we have to care enough to act. We can't be a nation of onlookers.⁴³⁰

Weak and declining public participation enables leaders to operate without any sense of restraint or accountability.⁴³¹ The vigilance of the people keeps a president in check, in addition to checks and balances incorporated in the constitution.⁴³² It is more difficult for leaders to abuse their powers when citizens are actively involved in the political process and willing to condemn and criticize the government's excesses.⁴³³ The indifference that results from disappointment can impede the democratic process: if citizens with good ideas for making the nation better do not participate in the political process, that allows domination by those with bad or no ideas.⁴³⁴

Leaders derive legitimacy from the consent of the governed. Nonparticipation in the political process, in some perverse way, amounts to a passive endorsement of the defalcations of leaders. Citizens unwittingly become accessories to their abuse anytime they fail to participate actively in the democratic process. An active, alert, and engaged public is vital to the success of democracy because, as Cornel West persuasively argues, "Democracy is always a movement of an energized public to make elites responsible—it is at its core and most basic foundation the taking back of one's powers in the face of the misuse of elite power."⁴³⁵ In concert with an energized public as a watchdog, good democratic examples at the highest level of government will inspire and strengthen the morale and confidence of citizens and generate loyalty and support for democracy.⁴³⁶

⁴³⁰ PETER WEHNER, *THE DEATH OF POLITICS: HOW TO HEAL OUR FRAYED REPUBLIC AFTER TRUMP* 228 (2019).

⁴³¹ See Beutz, *supra* note 429.

⁴³² *Id.*

⁴³³ *Id.*

⁴³⁴ See D.C. Moehler & S.I. Lindberg, *Narrowing the Legitimacy Gap: Turnovers as a Cause of Democratic Consolidation*, 71 J. POL. 1448, 1463 (2009) ("Democracies typically die at the hands of elites. However, mass attitudes affect the incentives elites face and thus the strategies that elites are likely to choose.").

⁴³⁵ CORNEL WEST, *DEMOCRACY MATTERS: WINNING THE FIGHT AGAINST IMPERIALISM* 68 (2005).

⁴³⁶ See Stephen Holmes, *How Democracies Perish*, in *CAN IT HAPPEN HERE? AUTHORITARIANISM IN AMERICA* 387, 392-93 (Cass R. Sunstein, ed., 2018) ("In a severe crisis, disenchantment with democracy can undermine the willingness of ordinary citizens and political elites to fight tenaciously for the survival of their embattled political system. Democracy depends for its endurance not on fair-weather democrats but on *loyalty in adversity*. Those who have the capacity to defend a besieged democracy must also have the incentive and the disposition to do so.").

D. Strengthening Democratic Institutions

Central to democratic societies lies the belief that citizens enjoy rights and liberties that must be protected against governmental intrusion.⁴³⁷ Constitutions embrace this assumption from the rule of law and contain firewalls that (hopefully) make leaders accountable.⁴³⁸ Democratic institutions, notably the legislature and the judiciary, must help maintain and patrol the boundaries of executive authority.⁴³⁹ They perform the difficult but vital task of ensuring accountability and respect for citizens' rights. Democratic institutions exist to shield citizens from leaders' excesses and ensure that they observe the limits and restraints on their powers. The limits on power and habits of restraint are made possible and reinforced by democratic institutions, especially the legislature and the judiciary.⁴⁴⁰ Condoleeza Rice noted the importance of democratic institutions: "Democracy requires balance in many spheres: between executive, legislative, and judicial authority; between centralized government and regional responsibility; between civilian and military leaders; between individual and group rights; and ultimately between state and society. In functioning democracies, institutions are invested with protecting that equilibrium."⁴⁴¹

The legislature oversees the government activities, identifying errors, exposing waste and mismanagement, corruption, and insisting on compliance with the law.⁴⁴² The judiciary enforces citizens' rights, ensuring that leaders respect the limits on their powers.⁴⁴³ When performing its constitutional functions, the judiciary provides a forum for the citizens to vent their grievances and seek redress for wrongs, even against the government and its functionaries.⁴⁴⁴ It is generally regarded as the most potent mechanism for checking executive and legislative excesses and for protecting constitutionally guaranteed rights and liberties.⁴⁴⁵ In court, more than anywhere else, citizens can confront the government and assert a

⁴³⁷ See Rotberg, *The Roots of Africa's Leadership Deficit*, *supra* note 146, at 28-32 and accompanying text.

⁴³⁸ See Mbaku, *Corruption and Democratic Institutions in Africa*, *supra* note 220, at 320 and accompanying text (accountability mechanisms are one of the "bells and whistles" of democracy already in place in African countries).

⁴³⁹ See Mbaku, *Threats to the Rule of Law in Africa*, *supra* note 257, at 328 (discussing checks and balances, including an independent judiciary and a bicameral legislature, as required for effective democratic governance).

⁴⁴⁰ *Id.*

⁴⁴¹ RICE, *supra* note 173, at 8.

⁴⁴² See OKECHUKWU OKO, LEGISLATORS IN CHANGING AND CHALLENGING TIMES: AN ANALYSIS OF THE NIGERIAN NATIONAL ASSEMBLY 77-100 (2014) [hereinafter OKO, LEGISLATORS IN CHANGING AND CHALLENGING TIMES] (discussing the role of the legislature in a democracy).

⁴⁴³ See Okechukwu Oko, *Seeking Justice in Transitional Societies: An Analysis and Failures of the Judiciary in Nigeria*, 31 BROOK. J. INT'L. L. 9 (2005) [hereinafter Oko, *Seeking Justice in Transitional Societies*] (examining the functions of the judiciary in a democracy).

⁴⁴⁴ *Id.*

⁴⁴⁵ *Id.*

claim for justice without feeling disadvantaged or overwhelmed by powers typically vested in the government.⁴⁴⁶

Ensuring that leaders operate within the boundaries of the law is essential in Africa, where leaders are afflicted with the neurosis of self-aggrandizement.⁴⁴⁷ This malady provides the impetus for repression and violation of citizens' rights and encourages leaders' indifference toward citizens' welfare.⁴⁴⁸ The apotheosis of self-interest and leaders' penchant for transgressing democratic norms jeopardize everything good about democracy.⁴⁴⁹ It robs the nation of purposeful leadership, inspires contempt for constitutional limits on power, and undermines the prospects of building a prosperous and democratic society.⁴⁵⁰

African leaders understand that the dynamics of democratic governance—accountability, restraint, limits on power—undercut their hegemonic ambitions and therefore manipulate and turn them into pliable instruments of state power.⁴⁵¹ Constitutional democracy continues to falter not only because of the behavior of leaders but also because of inefficient, ineffective, decrepit, and corrupt public institutions.⁴⁵² Democratic institutions widely touted as countervailing forces against leadership excesses have lost their effectiveness because of the personal weaknesses of those who operate them, the conduct of leaders, or both.⁴⁵³ Virtually all the institutions that nurture and strengthen democracy show signs of disrepair and being overwhelmed by the president.⁴⁵⁴ Most are dead, dying, or comatose; they provide no counterweight to leaders' onslaught against democratic imperatives of restraint and accountability.⁴⁵⁵ The enfeeblement of accountability mechanisms raises the specter of leadership excesses and exposes the nation to the predations and excesses of selfish and narcissistic leaders.

The presidential government adopted by most African countries inadvertently has given new scope and magnitude to self-aggrandizement.⁴⁵⁶ The

⁴⁴⁶ *Id.*

⁴⁴⁷ See discussion *infra* Section II.A.

⁴⁴⁸ *Id.*

⁴⁴⁹ *Id.*

⁴⁵⁰ *Id.*

⁴⁵¹ See MENTAN, *supra* note 146 and accompanying text.

⁴⁵² See Udombana, *Articulating the Right*, *supra* note 153, at 1272 (noting that democratic institutions are dysfunctional largely due to neglect).

⁴⁵³ See DIAMOND, *ILL WINDS*, *supra* note 3, at 148 (“The main threat to democracy today is not the values or opinions of the people; it is the corruption and lust for power of the rulers (even many elected ones), as well as the weaknesses of oversight institutions like parliaments and courts.”).

⁴⁵⁴ See Nicolas van de Walle, *Presidentialism and Clientelism in Africa's Emerging Party Systems*, 41 J. MOD. AFR. STUD. 297, 310 (2003) (“Regardless of their constitutional arrangements, it is also a fact that power is intensely personalised around the figure of the president.”).

⁴⁵⁵ See Gbinije, *supra* note 10.

⁴⁵⁶ See van de Walle, *supra* note 454, at 309 (“[I]t is a fact that of Africa's 45 multiparty systems, only Botswana, Lesotho, Mauritius and South Africa are parliamentary regimes. The other states have presidential constitutions, except for Swaziland, which is a monarchy.”).

African presidency is a ponderous institution wielding vast, enormous powers, impervious to public opinion, operating without any sense of restraint or limitations, governed only by its sense of invincibility and less concerned about the nation's well-being and its citizens.⁴⁵⁷ The president has become a threat to the rule of law rather than its defender because most African constitutions vest so many powers in the president, which African leaders use to circumvent or neutralize the constitutional checks and balances that constrain their powers.⁴⁵⁸ Several African leaders pursue their hegemonic ambitions relatively unchecked and unconstrained because of weak and ineffective accountability mechanisms.⁴⁵⁹ A weak legislature enables them to govern shorn of checks and balances that are the hallmark of constitutional democracy.⁴⁶⁰ A corrupt or biddable judiciary enables them to violate rights and ignore constitutional limitations on their power without fear of sanctions.⁴⁶¹ Legislators seem more concerned with self-interest than with constraining the executive.⁴⁶² Legislators who typically act as watchdogs turn into lapdogs nodding acquiescently to every government action.⁴⁶³ Most of them become complicit in eroding democracy by abandoning the responsibilities mandated by the constitution.⁴⁶⁴

Because of legislative and judicial weaknesses, Patrick Henry's fear that "your president may easily become king"⁴⁶⁵ has materialized in Africa. A combination of personal weaknesses and party politics that stress loyalty to the

⁴⁵⁷ See Tony Leon, *The State of Liberal Democracy in Africa: Resurgence or Retreat?*, CATO DEV. POL'Y & ANALYSIS, Apr. 26, 2010, at 1, 23 ("Even in the most sophisticated democracies in Africa, the power of the president is so great that it tends to overwhelm the independent and democracy supporting institutions.").

⁴⁵⁸ See Muna Ndulo, *Presidentialism in the Southern African States and Constitutional Restraints on Presidential Power*, 26 VT. L. REV. 769, 770 (2002) ("The most striking feature of the presidency in African states is its tremendous power and consequent dominance of the political system. The presidency tends to expand and intensify personal rule, adopt authoritarian measures to repress systems of competitive politics and effective opposition and restrict free political activity at all levels of society.").

⁴⁵⁹ See Hengari, *supra* note 165 and accompanying text.

⁴⁶⁰ See OKO, LEGISLATORS IN CHANGING AND CHALLENGING TIMES, *supra* note 442; Prempeh, *supra* note 207, at 773 ("The restoration and re-empowerment of parliaments and courts in Africa have not altered the presidentialist orientation of African governments or diminished presidential supremacy within the political sphere.").

⁴⁶¹ See *Why Justice in Africa is Slow and Unfair*, ECONOMIST (July 1, 2017), <https://www.economist.com/middle-east-and-africa/2017/07/01/why-justice-in-africa-is-slow-and-unfair>, ("Courts that work and honest, independent judges are but two elements of the complex of rules, institutions and traditions that make up the rule of law. Among the other essential elements are governments that try to act within the law and when they fail to do so, obey the courts.").

⁴⁶² See discussion *infra* Section II.A.

⁴⁶³ *Id.*

⁴⁶⁴ *Id.*

⁴⁶⁵ Patrick Henry, *Speech of Patrick Henry (June 7, 1788)*, AMERICAN HISTORY FROM REVOLUTION TO RECONSTRUCTION AND BEYOND, [http://www.let.rug.nl/usa/documents/1786-1800/the-anti-federalist-papers/speech-of-patrick-henry-\(june-7-1788\).php](http://www.let.rug.nl/usa/documents/1786-1800/the-anti-federalist-papers/speech-of-patrick-henry-(june-7-1788).php) (last visited Sept. 21, 2022).

president undermines the legislature's ability to oversee and constrain the president.⁴⁶⁶ Legislators, especially members of the ruling party, know that their political fortunes depend on the president, who can end their careers.⁴⁶⁷ Eager to remain in the president's good books, they reflexively support the president, exhibiting a troubling level of deference.⁴⁶⁸ Similarly, some presidents turn the judiciary into a pliable instrument of state power to be deployed against opponents and critics.⁴⁶⁹ Leaders obsessed with self-preservation insulated from accountability debase democracy, and wield power in ways inimical to democratic governance.⁴⁷⁰

An unchecked and uncontrollable government harms both the nation and its citizens. Tremendous efforts and politics will be required to revamp democratic institutions, create effective checks and balances, and ensure that leaders respect the restraints and limitations on their powers. Accountability, respect for limits on power, and commitment to citizens' welfare distinguish democracy from military dictatorship. Africa's problems result from both the excesses of leaders and the ineffectiveness of its democratic institutions, especially those designed to check and balance the executive.⁴⁷¹ So long as accountability mechanisms—legislature and the judiciary—truckle to the executive, any hope of accountability, restraint, and respect for citizens' rights is chimerical. Countervailing institutions must be strengthened to check leaders' excesses because, as Niebur noted: "there is no ethical force strong enough to place inner checks upon the use of power if its quantity is inordinate."⁴⁷²

Democracy without effective accountability is sterile. The only counterweight to leadership excesses is a strong and effective accountability system. Goodwill and voluntary restraint are not enough to prevent narcissistic leaders from abusing their powers. The best way to protect citizens' freedom, rights, and liberties from abusive leaders is to strengthen the legislature, the judiciary, and other democratic institutions and motivate them to counter presidential excesses. John Campbell and Nolan Quinn argue that "[r]esilient institutions offer the best tonic to unscrupulous elites—present everywhere, but a particular scourge in sub-

⁴⁶⁶ See H. Kwasi Prempeh, *Progress and Retreat in Africa: Presidents Untamed*, 19 J. DEMOCRACY 109, 114 (2008) ("Despite the restoration of multiparty politics, Africa's legislatures have yet to emerge from the shadows of executive hegemony to which decades of military or presidentialist one-party rule have consigned them.").

⁴⁶⁷ See OKO, LEGISLATORS IN CHANGING AND CHALLENGING TIMES, *supra* note 442, at 149–66 (discussing the problems that undermine the effectiveness of the legislature in Nigeria).

⁴⁶⁸ *Id.*

⁴⁶⁹ See LEVITSKY & ZIBLATT, *supra* note 9, at 8-9 ("Institutions become political weapons, wielded forcefully by those who control them against those who do not.").

⁴⁷⁰ *Id.*

⁴⁷¹ See DIAMOND, ILL WINDS, *supra* note 3, at 88 ("Democracy is never vanquished by the actions of a lone autocrat. It takes a complicit and divided legislature, court system and civil society to let an autocrat get away with it.").

⁴⁷² ARTHUR SCHLESINGER, THE POLITICS OF UPHEAVAL 158 (1960) (quoting RHEINHOLD NIEBUHR, MORAL MAN AND IMMORAL SOCIETY: A STUDY IN ETHICS AND POLITICS 164 (1932)).

Saharan Africa, where institutions have been deliberately weakened during the colonial period and subsequently by ‘big men’ and their associated militaries.”⁴⁷³ Larry Diamond observed that “[w]ithout constitutional constraints on power, there is only a republic of fear.”⁴⁷⁴ Accountability mechanisms that lack the independence and capacity to act as a countervailing force against leadership excesses invite and encourage dictatorship.

Constitutional provisions establishing democratic institutions are mere paper barriers if they lack the finances, powers, and motivation to check each other’s abuses.⁴⁷⁵ Their legitimacy and efficacy depend on the degree to which they have the autonomy and independence to act as countervailing forces against abuse. Corrupt, compromised institutions truckle to the executive and are generally the least reliable to constrain leaders.⁴⁷⁶ Accountability mechanisms—legislature and judiciary—immune to manipulation provide an effective counterweight to presidential excesses.⁴⁷⁷ The legislature has vast powers, tremendous capacity, and ample means for constraining the president and holding him accountable; what is sorely lacking in Africa is the political will to do so.⁴⁷⁸ Many leaders are products and beneficiaries of compromised democratic institutions.⁴⁷⁹ Some finagled their way to power by exploiting or coopting pliable democratic institutions.⁴⁸⁰ They therefore have powerful incentives to weaken these institutions further to secure their power base and advance their hegemonic ambitions.⁴⁸¹ African leaders profess commitment to democracy, but their actions show their dictatorial inclinations.⁴⁸² Nothing emboldens leaders more than the inertia of accountability mechanisms, especially the legislature and the courts. The upshot of all this has been a highly arbitrary executive and one that is increasingly overreaching its authority and scarcely concerned about constitutional restraints on power.

Democratic institutions, when functioning properly, stand between the state and citizens protecting the latter from excesses and abuse. They provide avenues for redress should leaders trample upon their rights. When democratic institutions are ineffective, it becomes much more challenging to deepen democracy. The inertia or ineffectiveness of democratic institutions strengthens leaders’ already powerful inclination to transgress the limits of their powers. Revitalizing democratic institutions is a precondition for democratic consolidation.

⁴⁷³ Campbell & Quinn, *supra* note 6.

⁴⁷⁴ DIAMOND, *ILL WINDS*, *supra* note 3, at 6.

⁴⁷⁵ See, e.g., ROTBERG, *THINGS COME TOGETHER*, *supra* note 82, at 68 (discussing the lack of autonomy among parliamentarians in some African governments).

⁴⁷⁶ See *id.*

⁴⁷⁷ See Beutz, *supra* note 429, at 402.

⁴⁷⁸ See DIAMOND, *ILL WINDS*, *supra* note 3, at 88; OKO, *LEGISLATORS IN CHANGING AND CHALLENGING TIMES*, *supra* note 442, at 149-66.

⁴⁷⁹ See discussion *infra* Section I.B.

⁴⁸⁰ *Id.*

⁴⁸¹ See Eric A. Posner, *The Dictator’s Handbook, US Edition*, in *CAN IT HAPPEN HERE? AUTHORITARIANISM IN AMERICA* 6 (Cass R. Sunstein ed., 2018) (“Successful dictators who come to power in democracies need to push aside the legislature, which is the major institutional barrier to dictatorial rule.”).

⁴⁸² See Campbell & Quinn, *supra* note 6.

Democratic institutions—legislature and electoral management bodies—do not enjoy public confidence in Africa.⁴⁸³ And the judiciary elicits similar contempt for its inability to engage in fair and principled adjudication of disputes, especially those involving the government.⁴⁸⁴ There is nothing so corrosive of public confidence in the legislature and the judiciary as the notion that legislators and judges cannot stand up to the executive.

Prioritizing accountability and restraint is not theoretical; it requires a strong, independent legislature and judiciary with the capacity to act as countervailing forces against executive excesses. Strengthening democratic institutions should therefore be at the heart of any strategy to deepen democracy. If these institutions lack the resources to constrain the executive, then presidents will ignore the limits on their powers without consequence or sanctions. Democratic institutions must assert their independence in two vital areas: resisting overtures by importuning political elites trying to turn them into pliable instruments of state power; and rising above the sloth and mediocrity—corruption and selfishness that deform the society. This is very important because the ineffectiveness of democratic institutions results not only in schemes by the executive, but also in the character flaws of their members.⁴⁸⁵ The legislature needs to be unhooked from the executive to serve as a countervailing force to the executive. The judiciary needs to be independent to act as a bulwark against injustice and to stand athwart leaders and citizens, fairly and impartially administering justice.⁴⁸⁶

IV. CONCLUSION

Despite years of uninterrupted democracy, Africa is still struggling mightily to institutionalize democracy.⁴⁸⁷ More work still needs to be done to consolidate democracy, and the challenges are ponderous. Democracy often involves a long torturous process involving setbacks, conflicts, and failure.⁴⁸⁸ Democratization, according to Larry Diamond, is “bound to be gradual, messy, fitful and slow with many imperfections along the way.”⁴⁸⁹ Democracy in Africa will be significantly different if leaders bring certain qualities to governance: commitment to citizens' welfare, respect for limits and restraint on their powers, willingness to couple their powers with vision and conceptions that transcend self-aggrandizement—a vision that will usher in an era of social equilibrium, justice,

⁴⁸³ See Mutua, *Africa and the Rule of Law*, *supra* note 187, at 168.

⁴⁸⁴ *Id.*

⁴⁸⁵ See J. Harvie Wilkerson III, *Foreword: The Question of Process*, 98 MICH. L. REV. 1387, 1392 (2000) (“An institution is no more than the individuals who comprise it, and their decisions reflect nothing grander than themselves.”).

⁴⁸⁶ See Oko, *Seeking Justice in Transitional Societies*, *supra* note 443.

⁴⁸⁷ See Brown & Kaiser, *supra* note 4, at 1153.

⁴⁸⁸ See generally SHERI BERMAN, *DEMOCRACY AND DICTATORSHIP IN EUROPE: FROM ANCIENT REGIME TO THE PRESENT DAY* (2019).

⁴⁸⁹ Larry Diamond, *Beyond Autocracy: Prospects for Democracy in Africa*, in *BEYOND AUTOCRACY IN AFRICA 24*, (The Carter Center of Emory University, Atlanta, 1989).

prosperity, and durable democratic order. Commitment, focus, and tenacity are invaluable because most of Africa's problems are human and internal, thus amenable to correction.

Africa is at a new political turning point, trying to overcome its past and thread the democratic path mapped by established democracies, notably the United States and Britain that have explored this terrain. But the condition of leadership—corruption, the pursuit of self-interest, abuse of citizens' rights—threatens to eviscerate the hopes and enthusiasms inspired by the transition to democracy.⁴⁹⁰ What was supposed to be the dawn of a new era is inching perilously close to dictatorship because of leadership failures and excesses.⁴⁹¹ African leaders have offered no programs and policies that would unlock the pathologies that undermine efforts to deepen democracy and improve the lives of citizens.⁴⁹² Without a strategy and clear vision, leadership in Africa is driven and deformed by the ambition and personality traits of leaders. Africa's biggest challenge is to elect leaders who can drain the fetid swamp—authoritarian culture, leadership excesses, dysfunctional institutions, corruption, ethnic rivalries—and create the right conditions for democracy to thrive.

Unfortunately, forces that threaten democracy—leadership excesses, ethnic rivalries, ineffective institutions, authoritarian culture—are alive and thriving.⁴⁹³ Ultimately, the actions of citizens will influence the outcome of democracy as much as the conduct of leaders. African leaders' penchant for excess and abuse imposes a continuing obligation on citizens and democratic institutions to push back.⁴⁹⁴ In an era where leadership ethos points leaders toward excesses and abuses, citizens must labor valiantly to safeguard the foundations of democracy

⁴⁹⁰ See Nic Cheeseman, *State of Democracy in Africa: Changing Leaders Doesn't Change Politics*, CONVERSATION (Aug. 11, 2020, 11:20 AM), <https://theconversation.com/state-of-democracy-in-africa-changing-leaders-doesnt-change-politics-144292> (“For the last few years the African political landscape has been dominated by high profile changes of leaders and governments. . . . But do changes of leaders and government generate more democratic and responsive governments? . . . But ongoing political challenges and constraints mean that it is often a case of ‘the more things change the more they state the same.’”) (quoting Nic Cheeseman, *Kenya Since 2002: The More Things Change, the More Things Stay the Same*, in TURNING POINTS IN AFRICAN DEMOCRACY 94 (Abdul Raufu Mustapha ed., 2011)).

⁴⁹¹ See Hammer, *supra* note 37 and accompanying text.

⁴⁹² See Amos Sawyer et al., *African Politics and the Future of Democracy*, in AFRICA: FOURTH EDITION 250, 251 (Maria Grosz-Ngate et al. eds., 2014) (“The challenge of African politics well into the future is to transcend neopatrimonial rule and instead to develop and to institutionalize systems of democratic governance that will support development by unleashing and channeling the creative potential of African peoples as they participate in politics not as subjects or clients but as citizens and leaders.”).

⁴⁹³ See Yacouba & Emmanuel, *supra* note 5, at 19.

⁴⁹⁴ See Christian Welzel & Ronald Inglehart, *The Role of Ordinary People in Democratization*, 19 J. DEMOCRACY 126, 131 (2008) (“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.”).

from their distorting influences.⁴⁹⁵ Anne Applebaum noted, “[u]nless democracies defend themselves, the forces of autocracy will destroy them.”⁴⁹⁶

Sustaining democracy depends crucially on what citizens do. Citizens have the power and the ability to repair the damages inflicted on the nation by narcissistic leaders. Democracy has given citizens powerful resources and processes to sustain democracy and serve as a firewall against leadership excesses.⁴⁹⁷ Citizens must energize and strengthen these processes by participating actively in the political process to water the seeds of democracy and ensure its growth in Africa. The words of an Irish lawyer and politician John Philpot Curran bear repeating: “The condition upon which God hath given liberty to man is eternal vigilance.”⁴⁹⁸

⁴⁹⁵ See DIAMOND, *ILL WINDS*, *supra* note 3, at 88 (“Democracy is never vanquished by the actions of a lone autocrat. It takes a complicit and divided legislature, court system and a civil society to let an autocrat get away with it.”).

⁴⁹⁶ Anne Applebaum, *There is No Liberal World Order*, ATLANTIC, May 2022, at 9, 12.

⁴⁹⁷ See Nic Cheeseman & Jeffrey Smith, *The Retreat of African Democracy: The Autocratic Threat is Growing*, FOREIGN AFFS. (Jan 17, 2019), <https://www.foreignaffairs.com/articles/africa/2019-01-17/retreat-african-democracy> (“The only thing necessary for authoritarianism to triumph over democracy is for people of conscience—in Africa and worldwide—to do nothing about it.”).

⁴⁹⁸ RESPECTFULLY QUOTED 200 (Suzy Platt ed., 1993) (quoting John Philpot Curran, *Election of Lord Mayor of Dublin, July 10, 1790*, in THE SPEECHES OF THE RIGHT HONORABLE JOHN PHILPOT CURRAN 91, 94-95 (Thomas Davis ed., 1847)).